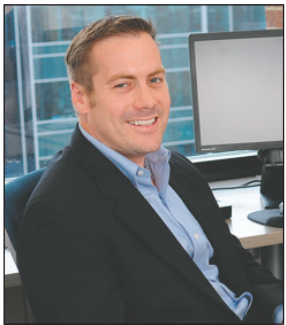




VIRTUAL ROUNDTABLE: Transitioning Your Practice

MEET OUR PANELISTS



**Tom
Lenfestey**

■ FOUNDER, THE LAW PRACTICE EXCHANGE, LLC

Lenfestey, a practicing attorney, CPA and Accredited Business Intermediary founded The Law Practice Exchange to help lawyers and law firms develop and implement ownership exit strategies and law firm succession plans. Whether through marketplace sales of law firms for solo or small group ownership or internal transfers and succession strategies for other firms, Tom and his team have built a proven transition-based process to successfully achieve the goals of all parties involved.



**Camille
Stell**

■ PRESIDENT AND CEO, LAWYERS MUTUAL CONSULTING AND SERVICES

Stell is a frequent author and speaker on the topics of ethics and professionalism, succession planning, marketing and business development and law firm trends of the future. She has 30 years of experience in the legal industry, including law firm experience as a paralegal and as a recruiting and marketing professional. She is a graduate of Meredith College and is a past member of the North Carolina Bar Association Transitioning Lawyer Commission and several other legal committees.



**Donalt J.
Eglinton**

■ BUSINESS AND COMMERCIAL LITIGATION ATTORNEY, WARD AND SMITH, P.A.

Eglinton's practice focuses primarily in the area of commercial litigation. This includes disputes involving patent, trademark, and copyright infringement; trade secrets; covenants not to compete; franchise and license agreements; construction; organizational and business matters; and the purchase, sale, and warranty of goods. He is a speaker for the North Carolina Bar Foundation and has been rated by his peers as being "preeminent" in his fields of law.

Sponsored by:



WARD AND SMITH, P.A.
ATTORNEYS AT LAW

We all understand the importance of planning for our individual retirement, ensuring that we will be on stable financial footing when we have left the full-time workplace. That kind of planning is equally crucial to the long-term stability of a law firm, a strategy of transition that will address future needs of the firm as senior partners move away from full-time practice and younger members take on those roles.

There are many reasons to have a firm succession plan in place, not the least of which is to ensure that client needs are met seamlessly and without interruption. The financial future of a firm also relies on a carefully rendered and implemented succession plan. Many firms build their business on the reputation of founding and senior partners, making it vital to have junior members in place that will carry on that same reputation and leadership.

This N.C. Lawyers Weekly question-and-answer roundtable brings together three transition experts to discuss the importance of a succession plan and how to implement it: Camille Stell, president of Lawyers Mutual Consulting & Services; Don Eglinton, director of transition, Ward and Smith, P.A.; and Tom Lenfestey, founder of The Law Practice Exchange and a partner with the firm of Adams, Howell, Sizemore & Lenfestey, P.A.

Is it necessary to have a succession plan in place for a law practice?

DON EGLINTON: Developing and implementing a carefully thought succession plan is critical to the long-term prosperity of all businesses. It is especially important to Ward and Smith. Two of the core values that we, as a group of professionals, share are a collective commitment to put the firm's clients first and an individual commitment to put the firm's and each other's interests ahead of our own interests. To make sure that the firm's clients are served well and rest on deep relationships, we encourage every attorney who establishes a relationship with a client to involve another attorney directly with the client. Additionally, we have a committee that meets confidentially each year with every attorney who is 60 or older and reviews, among other things, the status of relationships with the firm's clients and the attorney's practice plans.

TOM LENFESTEY: Definitely. Whether ethical responsibility, retirement value or a focus on professional legacy, each law practice owner should have a plan in place. If everyone needs a will, then every attorney needs a succession plan for his or her law practice. As the attorney has grown so has the dependency people and businesses have on that attorney or his or her law – individual clients, corporations, client's families, law firm employees, community or industry partners, younger attorneys and the own lawyer's family members all have become reliant on that attorney to some degree for continuation of the law practice.

CAMILLE STELL: Yes. Succession planning is important for the exiting lawyer, the law firm and the clients. Having a succession plan puts a lawyer in control of their future. Succession planning doesn't necessarily mean retirement today. A succession plan includes developing a time frame for retirement, transferring ownership of the law firm (to an internal or external buyer), transferring management responsibilities, law firm leadership responsibilities and client relationships. Succession planning also helps the exiting lawyer determine how to spend time in retirement. Having something to look forward to during retirement may make retirement seem more attractive. Succession planning is key for the health of a law firm. Associates and younger partners often leave firms because they do not see a future for themselves because there is no succession plan, or at least not a plan that has been communicated with them. Clients benefit from succession plans as they do

not have to worry about where to find a new lawyer.

What transition options are available when a lawyer is ready to exit the profession?

TL: Historically, the most typical option used by attorneys was to slow down their practice over time and hope that nothing happened to them personally before they fully shut down their practice. However, life and law don't always allow for an easy transition without a successor in place. Client needs, financial needs and attorney's professional requirements kept them practicing longer than some wanted or longer than needed. Today, selling a law practice is the new focus for transitioning ownership to a new generation. Whether an internal sale or a marketplace sale to another law firm or lawyer, both options allow the practice owner to shift the obligations and risks of ownership and management and continue their personal and professional transition into retirement or other professional plan as desired.

CS: The traditional model of exiting the profession has been for a lawyer to die at his desk. While this sounds harsh, it's not an uncommon sentiment expressed by lawyers. There are plenty of reasons why lawyers avoid planning for retirement, but the good news is that more lawyers than ever before are creating succession plans. A quick wind-down of a practice does not allow the lawyer to reap the financial benefit of transferring ownership of their law practice or assisting their clients with a smooth handoff to another lawyer. A better option for the solo, the lawyer in a firm and the client is for the lawyer to develop a plan that includes a timeline and transition plan so that everyone has realistic expectations about the process.

DE: Transition from the full-time practice of law is a process. Attorneys who are in a position to make this transition often have had lengthy, distinguished careers practicing law. At Ward and Smith, those attorneys who decide to dial back the intensity of their commitment to practice have a range of transitional options. An attorney can continue either as an employee or contract worker in an of counsel role, or they can simply transition into retirement. These options are not mutually exclusive. Attorneys have the ability to start with one option, then move to another. We work with each attorney to select the most suitable transitional path with the objective of finding the appropriate balance between accommodating the professional and personal interests of the attorney and preserving for the firm the valuable and

meaningful continued contributions of the attorney.

How can the best transition plan for a practice be determined?

DE: Every law firm and attorney is different. Determining what plan is "good, better or best" on a "one size fits all" basis, therefore, cannot be done. However, a well-conceived transition plan in any context will consider and address in an intentional way proper succession of organizational leadership, the growth and preservation of meaningful client relationships, the continuous development of professional bench strength and expertise, and the anticipated transition of senior attorneys from the full-time practice of law.

TL: The best transition plan option for a lawyer's practice is largely dependent on that attorney, the law practice and the potential successor candidates. It is important to do a deep dive into the goals and objectives of each party from the beginning. For example, if an attorney desires a shorter transition timeline, but the law practice is greatly dependent on his or her work for client revenues and the potential successors don't yet have the legal competency or resources to take over those demands, then a sale to an outside firm through merger or otherwise may be the best fit. To the contrary, if legacy of the firm and its name in the community is a key goal, then an internal succession may be the best option. The right mix of time, financials and objectives of the law practice owner, the law practice and the potential next owner or successor should be viewed from the beginning to see which path makes the most sense for success.

CS: Lawyers often talk to their friends about how they handled their retirements and there are books available that offer advice and tips. Hiring a transition broker or consultant is a sure way to develop a law firm transition plan unique to your practice or firm.

What steps need to be undertaken in preparation for a practice transition?

CS: A law firm will need to hire a broker, financial adviser or valuation expert to prepare a business valuation – a financial review that provides the law firm value if the practice is to be sold. The exiting lawyer also needs to work with a personal financial planner to make sure he is financially ready to retire. The law firm needs to be in good shape from a financial and practice management position. When selling a home, a realtor recommends

home improvements and curb appeal.

While a complete firm overhaul may not be needed, it is important that the buyer can clearly see the value of the firm, key employees and that systems and processes are in place. If the exiting lawyer owns the firm, he needs to identify a successor. In a larger law firm, a plan to transition clients within the firm will need to be developed.

TL: Lawyers are busy. Client, practice management and personal demands tend to get in the way of making positive steps forward on a practice transition plan. Hiring a law practice succession consultant or law firm broker serves the purpose of gaining knowledge for which path may be best, but also begins with discovery on your goals, the law practice's valuation, potential plan structure details and other items necessary to start planning. Overall, the accountability provided through a defined professional process offered by a succession consultant or law firm broker is sometimes the biggest value as the goal is not just to start the process, but to actually see it through to implementation.

DE: This question seems to be directed at the transition of an individual attorney from the full-time practice of law. I currently am chronologically "in the zone," so to speak. I, therefore, answer from my personal perspective.

- Time will be needed to make any transition. The process of transition necessarily will take time. I need to understand and accept that it will take time for me to implement and adapt to a "new normal." My watchwords: purposeful and patient.
- Attitude is important. An attorney persona has defined me for years. This will change with transition. I need to approach finding my new, somewhat modified, identity in a "glass half-full" way.
- Personal relationships are critical. Family and friends add meaning to my life. I need to embrace the richness of transition by nurturing these friendships and developing new ones.
- Health matters. Good health is something that often is taken for granted and sometimes ignored. I need to redouble in transition my commitment to my health.
- Failing to plan and act is not an option. I cannot know what tomorrow will bring. However, if I continue along the path I now am on without developing and acting on a plan for transition, I almost certainly will lose the opportunity to do things I am interested in doing.

How should the next generation be prepared for a transition?

DE: Transition is not imminent for the next generation. The attorneys in the next

generation I practice with and know are well-equipped intellectually, more aware and better informed than past generations, and deeply committed to the practice of law and maintaining balance on their personal lives. I am confident that they will take from their experience lessons that are learned and improve upon the manner in which transition is approached and managed.

CS: In many instances, the successor has been an associate in the law firm; in some cases, the successor is a new owner who comes in from outside the law firm. The successor will need to develop skills in leadership, management, rainmaking and negotiation, all while continuing to develop the legal skills necessary to provide services to clients. In order to prepare for transition, successors should seek mentoring from the seller, as well as coaching or consulting services to improve the skills they haven't yet developed. Books, podcasts and webinars are available on every topic from law firm management to leadership.

TL: The next generation of attorneys has the opportunity to build on what has already been done and to have a head start in the ownership part of their law careers. Being ready to have the conversation with current ownership about the desire to be a successor or being ready to examine those marketplace opportunities to acquire a proven practice need to be top of mind as the next generations continue their professional development. Preserving what has been built and adjusting it to today's professional landscape is much easier than starting a practice from zero with those same obstacles.

How can a firm determine whether acquiring another practice makes sense?

TL: Two types of potential buyers in the law practice marketplace are individual attorneys leaving a firm or those who have

either relocated to the area or are leaving in-house positions to enter private practice and firms looking for alternative growth opportunities. Regardless of which category of buyer, the key questions usually come down to: How strong are your or your law firm's systems and services; and can your or your firm's setup handle the increased demands and workflow to make it financially and professionally successful? Financials play a big part in the decision, and working with a practice broker or consultant to help through those projections is beneficial, but focusing on you or your firm's strengths and weaknesses should be the first question answered in deciding whether you are ready to acquire.

CS: Acquiring a practice may be desirable for a law graduate looking to enter the profession, for a lawyer who is leaving a law firm and going out on their own or for a law firm looking to expand their practice areas or geographic footprint. Each of these scenarios may be unique and require expert assistance during the process. For example, it may not make sense for a new graduate to buy a practice from a lawyer who wants to retire immediately. However, for a lawyer who wants to practice for a few more years, it may help with the hiring process to be able to negotiate with a newly licensed lawyer for the purchase of the firm within a few years.

DE: I've not been directly involved with this at Ward and Smith, so I asked Ken Wooten, our firm's Co-Managing Director, to address decision-making around practice acquisition for both lateral attorneys and attorneys transitioning toward retirement. Here are some of the major factors to consider: First, an acquiring firm would want to understand the revenue of the client base over the last three years; the current productivity level of the practice; information about collections and aged accounts; inventory what contingency fee work is outstanding; and what work is currently in progress.

Second, the acquiring firm would want to quickly ascertain whether there are direct client conflicts involved. Additionally, firms would want to consider whether there are indirect or philosophical conflicts such that once a firm is identified with a certain position, clients on the other side of the table would be resistant to coming.

Third, the acquiring firm would want to understand what overhead is associated with the practice. Are leases associated with this transition? What is the current staff cost? What support personnel need to be in place to service those kinds of clients? Does the acquiring firm already have that support personnel or would the firm need to hire the people of the transitioning firm?

Fourth, an acquiring firm would want to be certain the client profile of the transitioning practice matches the ideal client profile for the firm, so there is a compatibility of client mix. Are the client billing rates similar? Is the leverage similar? Does the transitioning attorney's client base desire the new firm's services? Assuming so, how will that correspond to the firm's current excess capacity?

Fifth, assuming the attorney is transitioning toward retirement, an acquiring firm will need to consider whether the transitioning attorney wants to continue to practice, and for how long? In many ways, the acquiring firm is depending upon the transitioning lawyer to help with that transition, and to actively work to integrate his or her clients to the new firm.

What are the potential risks and rewards when acquiring a law practice?

CS: Life is full of risks and rewards, and acquiring a law practice is no different. Performing due diligence on the practice, careful review of the financials, and understanding the culture of the law firm are a few of the steps the buyer can take to

mitigate risk.

TL: The benefits of financial gains, client base or geographic growth are real and can be easily achieved through acquisition of a law practice. However, with the gains come financial risks in the loans or cash outlaid for the acquisition costs and the personal time commitment to make the acquisition successful for the long run. Acquisition provides a tremendous opportunity, but going through the buying steps and understanding the right way to acquire a practice can make all the difference.

What issues related to legal malpractice insurance require consideration during and after a transition?

CS: An Extended Reporting Endorsement (ERE or Tail Coverage) is important for retiring lawyers. When the lawyer plans to stay with the law firm, there are several options to consider, including advising your malpractice carrier about a reduction in hours when you move to a part-time status. Having a conversation with the underwriter who manages your account can help you begin to plan for the process. There may be a variety of ways to protect yourself in retirement and it may depend on how long you stay in the firm or whether the firm is under a new ownership structure. Your underwriter should be able to provide you with options, as well as quotes for pricing those options.

TL: Gaining a true understanding from your malpractice insurance provider on the difference between active practice of law and the coverage required as compared to ceasing the practice of law where a tail policy comes into play are key during due diligence of any transition plan.

How can a lawyer find someone to buy their practice?

TL: A law practice broker is sometimes

Succession Planning Doesn't Mean Retiring Today

Let us help you plan for life after law:

- transition ownership of your law firm to the next generation
- provide your client with continued representation
- protect your legacy by building a multi-generational law firm

Meet our Succession Experts:



Tom Lenfestey

Founder and Owner of The Law Practice Exchange



tom@thelawpracticeexchange.com
919.789.1931



Camille Stell

Founder and President of Lawyers Mutual Consulting & Services



camille@lawyersmutualconsulting.com
800.662.8843

the best way to perform a confidential search for a strategic buyer. Not only does it help in maintaining confidentiality of the inquiries, your identity and other non-public items, but the reach is far greater than one attorney's network. A law practice-specific broker has a database of prospective buyers as well as a national reach and marketing platform for seeking the best potential buyers for a law practice. The more options, the better in making sure it is the right successor partner for the lawyer and law firm.

How is the value of a law practice determined?

TL: Valuing a law practice really involves looking at two key elements: the attorney's personal value (his or her relationships, network, personal brand, etc.); and the law practice's entity value (its website, phone number, community popularity, systems, staff, firm wide brand, etc.). Depending on the firm and the lawyer, the attorney's personal value may far outweigh the practice's entity value or the opposite may be true. In examining each of these through the firm's financials and projecting out the transition plan needs, a value for the law practice can be determined by typically using an adjusted income approach when the lawyer is going to transfer their personal value as well as the practice's value ("transitioned value") or an asset approach where only the firm value is really being transferred ("wind down value").

What ethical considerations are there in selling a practice?

CS: North Carolina ethics rule Rule 1.17 governs the sale of a law practice. Sale of

a law practice, including good will, is allowed in North Carolina. The rule allows that the seller may continue to practice law with the purchaser. Lawyers must also consider other ethics issues such as confidentiality to clients, lawyer competence, and conflicts of interest. A review of the ethics rules or a conversation with a lawyer with knowledge about the ethics of sale of a law practice may be prudent.

What type of advisers are available to make the process go more smoothly?

TL: As a law practice succession and brokerage company, we do feel having a platform built for lawyers, by lawyers gives us and our clients the advantage of experience and specific knowledge of the law practice industry. We have the proven success and history to show what works for law firms and the process to get someone there. Once a lawyer is working through this process, other key advisers may be necessary to make it a success, such as a CPA, financial adviser, bank or funding partner, insurance adviser and others.

CS: Start with transition experts such as a broker or consultant who work closely with law firm transitions to help develop the succession plan and to hold the firm accountable for setting and meeting goals. This person can assist with succession planning, as well as finding a buyer for the firm (or transitioning ownership within the law firm). Hiring a business lawyer may be necessary to assist with legal documents needed to transition ownership of the law firm.

For solo or small firms, what is the

right time to begin consideration of selling a law practice, and what are the risks of waiting too long?

CS: Many lawyers have already begun to slow down their practice before reaching out to a broker/consultant or developing a succession plan. As a result, there may be a loss of some of the monetary value of the law practice. While every lawyer's situation is unique, depending on the area of practice and geographic location, some sellers may be more difficult to locate. Ideally, allow a three-to-five-year window and no less than 12-18 months.

TL: Five years, three years, 10 years? We have heard it all. The time to start is right now! Having a succession plan in place doesn't mean a lawyer is retiring. It means the lawyer has a plan for when he or she decides to retire or some other life event occurs. If a lawyer is trying to time things out to maximize income and profits for a perfect date to then start succession, it may end up being too late. A lawyer can retain control over the income and profits as needed in a succession plan, but putting a plan in place to show the potential successors the opportunities that lie ahead - and getting them committed to the law firm and the ownership for the long term while still controlling the timeline - is all achievable.

Does it make sense to buy an existing practice instead of starting one from scratch?

TL: Definitely. Mentorship, training, financial benefits, systems, trained staff, office space, equipment, community and professional connections and a number of other aspects typically outweigh the start-

ing from zero approach. However, it has to be the right fit and culture for your goals and needs. It is easy to see the benefits of walking in day one to a proven and financially successful firm if you are ready for the commitment.

CS: Starting a law firm from the ground level is difficult. Buying an established practice provides the opportunity to be mentored by the owner, get connected in the community and have access to an established client base.

How can a new attorney-owner make sure that the clients stay with a law firm through a transition?

TL: The transition plan is probably the most important aspect of any sale or succession structure. The transition plan is something that is a developed planning process within the deal structure itself. It involves the personal obligations and responsibilities as well as those contacts, relationships and other key value attributes a seller may have built up over the years of practice. Going through a strategic plan development for both the seller and buyer to agree on how to transition over these responsibilities and relationships after the deal is closed is key.

CS: Identifying a master list of clients and prioritizing clients by factors such as revenue and profitability is essential. Other elements of the plan include when to disclose succession plans to your client and how to transition the client relationship to your successor. Mentoring your successor in managing the client's legal matters as well as negotiating the relationship are key factors for the successor to retain the client's business.



WARD AND SMITH, P.A.
ATTORNEYS AT LAW

Asheville | Greenville | New Bern | Raleigh | Wilmington
1001 College Court, New Bern, NC 28562
wardandsmith.com | 800.998.1102

* WELCOME, ATTORNEYS CHRIS EDWARDS AND DANIEL GUNTER, NOW WITH THE WARD AND SMITH LEGAL TEAM

"Daniel and Chris are great additions to our firm," Brad Evans, Ward and Smith's Co-Managing Director, declared. "Daniel's significant corporate and securities experience, coupled with his experience representing both private and public companies, bolsters the firm's business and regulatory practices. Chris is joining a seasoned litigation practice, and will put his prior federal district and appellate clerkships and US Attorney's Office externship to excellent use."

SAY HELLO

Chris Edwards: csedwards@wardandsmith.com
Daniel Gunter: dcgunter@wardandsmith.com