

PLANNING FOR RETIREMENT

By Ted A. Waggoner



Your Indiana State Bar Association is building new resources to help its members as they continue the practice of law into their later years. A working group on retirement issues has formed and will offer suggestions and resources to members to assist them in making decisions on the ways to successfully conclude their practices. Ultimately the association will produce a guidebook to help members with this critical topic.

This is the first in a series of articles on retirement issues. The working group is not advocating a retirement age or a competency test for older lawyers. Instead, the group relies on the intelligence and understanding of competent lawyers to make decisions that recognize their fiduciary duty to clients and the obligations they have to others, including family members, law firm members, and themselves. Eventually the working group will share information on more in-depth issues, including financial planning before and during retirement, working with partners to create workable firm retirement agreements, and selling the practice as a part of a retirement plan.

Some of you fully intend to “die at your desk” and, if you successfully do so and aren’t overcome with an illness or disability that interrupts your plan, won’t have to worry about the matters we are discussing. But, if you need some planning, these thoughts may be of some benefit.

WAYS TO WRAP UP YOUR LAW PRACTICE

Although some don’t believe it, lawyers can’t practice forever. Even if you don’t plan to retire, you will still quit practicing one day. Let’s examine your options:

- A. Die at the desk. Some lawyers plan to die with their boots on. If their health, memory, and analytical skills stay strong, this possibility works for them and their clients. Most lawyers do not get to win the trifecta of health, memory, and analytic skills, though. As one falters, the lawyer’s production and output also falters, and the client suffers.

- B. Deal with unexpected health issues. Issues of health increase as lawyers age. According to the Council for Disability Awareness, 5% of adults suffer short-term disability annually, with that rate rising with age, and 25% of adults will suffer a long-term disability during their work life.¹
- C. Create a retirement plan, start on the road to retirement, and live out the plan.

There are resources to assist you (including the ISBA guidebook, coming soon). For now, though, here's what you need to know.

EARLY STEPS IN YOUR EARLY 50s

Evidence says the earlier you start planning, the more prepared you will be when the time comes to retire, to handle an unexpected illness, or to help your family prepare for an unexpected death.

Reviewing your finances with a financial professional is a necessary early step. Normally by your 50s, any children are grown, out of the house, and no longer relying on you for financial support. Your earnings are still growing, and you can invest funds into an investment account or some form of pre-tax retirement account. If you have already started your retirement savings, you're far ahead; but now is the time to seriously start if you have any plans to enjoy life after you stop working.

A second step is to set your proposed retirement age. Be flexible. Whether you estimate retiring at 60, 75, or older, the date can change. But by at least setting a date, you're making retirement a realistic goal rather than ignoring the issue. Consider the genetic information you have about parents and siblings. Did they have any serious illnesses that you may acquire? Were they long-lived

individuals? How healthy were they in their older years? How many years can you reasonably expect to spend in retirement?

There is no need to share this projected date beyond a few select members of your family. The date is only for your personal preparation, after all, to make you comfortable with the idea and to ensure that you will be psychologically and financially ready when retirement comes.

When the time does come to share your retirement date, make sure

to discuss it with your partners or managers first, before sharing with other lawyers, staff, and, ultimately, clients. If you are in a firm, the managing partner, office manager, and direct support staff should know early in the process, probably 6–12 months prior to the date. You will need to work out a retirement agreement (if the firm does not have an existing policy in place), start identifying replacement counsel for ongoing clients, and watch for upcoming events that must be resolved (like hearing dates and

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"Plus, turning to the next chapter of life, leaving the practice, moving into the second act of life's play (all popular themes of retirement cards) are reminders that the end of the book of life is coming."

deadlines for client events). Some firms start introducing clients to new lawyers a year or more before you actually retire.

Be aware that discussions with staff and clients may not go as you expect; they did not for me. Only one client asked me to hold off, as his estate would be complicated, and I needed to be there for his family. When he refused to go ahead and die on my timetable (we could talk that way), he understood. Others asked who would take over their legal matters, and I told them of the lawyers I had hired to keep the firm going. They were generally pleased to be handed off to qualified lawyers.

EMOTIONAL PREPARATION

It's also important to address the emotional ordeal you may face as you consider retirement, including issues such as:

- Fear of missing out on important matters
- Increased frustration with clients
- Leaving clients behind without solutions to legal issues
- Approaching end of life issues
- And more

Many of our clients approach retirement with anticipation and glee. It is part of their profession's culture—end a job, get the gold

watch and pension, quit the grind. Lawyers usually do not have that kind of culture, and many put off thoughts of retirement for years.

Lawyers approaching retirement are often in the most exciting parts of their careers, after all. They are involved in interesting matters that took decades to attain. Larger estates, more critical business plans, or more important litigation matters have finally landed on the caseload. They are in the middle of fun and interesting legal issues, and frankly do not want to step aside and miss out on the excitement.

As they achieve these milestones, it also seems unfair to walk away, and unfair to their clients to not be there with answers and invoices. Other emotions get wrapped up in the thought process as well. Turning hard fought cases over to younger lawyers who have not put in the time to "earn" the cases seems inappropriate, for example. And even if these new lawyers have the skills, they have not invested the sweat equity in building that client relationship. New lawyers looking holistically at a body of work can be critical of the preceding lawyer (who worked piecemeal on a variety of client matters over many years), which can come across as disrespectful. (We retiring lawyers need to recall when we did that kind of analysis for our predecessors, and that any succeeding lawyer will do the same.)

Plus, turning to the next chapter of life, leaving the practice, moving into the second act of life's play (all popular themes of retirement cards) are reminders that the end of the book of life is coming. End of life issues raise many questions about how we have lived, our successes and failures, the roads taken and not taken, and the choices we've made. Such issues are too weighty for this article, but it is critical that they be addressed by each of us as we look forward to, or back on, the retirement decision.

CONCLUSION

Every lawyer eventually leaves the practice of law. If you want to go out with a reputation for planning like a lawyer, then you should plan for yourself as well as you plan for your clients. Start early, stay focused, and know where your finish line is. Cross it with pride. ☯

Waggoner has been a frequent speaker at the Solo & Small Firm Conference and other gatherings, including for ABA and ALI webinars. He is speaking on retirement planning these days, after his recent retirement.

ENDNOTE

1. Disability Statistics, Council for Disability Awareness (September 20, 2021), <https://disabilitycanhappen.org/disability-statistic/>.