

Managing the Risks of Departing Attorneys

August 25, 2010

Introductions

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Poll?

- How many records? IT? Other?
- Do you have departure procedures?

Objectives & Takeaways

- Understand the risks associated with attorney departures, and how to minimize them.
- Learn how to develop procedures, best practices and workflows to support the process of transitioning attorneys out of the firm.

Partnership Between Records and IT

Records and IT bear the primary role for transitioning attorneys, but there are many critical players in the process.

- Importance of organized, harmonious process
- Records Manager as "Project Manager"; role of both departments
- Value of education for both groups
- Need for communication

It Takes a Village...

To effectively manage attorney departures

- Records – transition of electronic and hardcopy files (including emails)
- IT – management of accounts, hardware, “rights” administration
- HR – trigger for flow of departure tasks
- Accounting/Finance – address time and billing
- New Business Department – closing of matters upon transfer
- Docket/Calendar Department – updating of systems; court notifications
- Marketing – removal of information from firm resources (website, intranet, etc.); addition to any alumni program
- Facilities/Operations – removal of physical belongings
- Risk Management/General Counsel Involvement

Where to Start?

- Have checklists in place
 - Developing the checklist
 - What to do with the checklist once it's complete
 - How to address outstanding issues; prioritize tasks
- Have a standard, repeatable process

Exceptions

Not all departures are the same. Know how your firm handles exceptions.

- Attorneys going in house
- Retiring partners
- Entire practice groups leaving
- All departures are not equal more friendly departures may result in more leniency

Client File Transfers

- Related, but separate process
 - Need client authorization before any client material can leave (this includes email)
 - Address other high level relevant issues surrounding transfers (all information whether electronic or hard copy must be sent with a transmittal and acknowledgement, etc.)
 - What can be released immediately upon departure? Personal files; personal emails, contacts, calendar (?)

Timing

- Everything is not a rush
 - What is a rush?
 - What to do when "everything is a rush"
- Importance of prioritization
 - Working with attorneys to prioritize
 - Suggested best practices for prioritization
- Review takes time
 - What level of review is necessary? By whom?
 - What are obligations to review quickly?
 - Upcoming client deliverable? Trial? What types of practices involve higher risk? (i.e.) Patent & trademark prosecution.)

Email Management

- The mailbox needs to be organized
 - Who bears responsibility?
 - Strategies for organizing
- Review of emails before releasing to attorney
- Attorneys do not have the right to take client material without client authorization

Legal Hold

- Dealing with email and files of attorneys that may be subject to legal hold
 - Different methods for effectuating legal hold
 - Communications
 - With attorney
 - Internally

One Size Does Not Fit All

Different firms have different organizational structures, cultures and philosophies. In order to develop a process that is right for you,

- Determine what process is right for your firm. Some require extensive review. Others release with none, others fall somewhere in the middle.
- Establish review strategies for hard copy and electronic files.
- Understand the role and function each department performs.
- Don't be afraid to use your General Counsel or Risk Management Group

Preparedness

- Advantages of having clearly established and communicated policies, procedures and expectations so departing attorneys are aware of their obligations and potential consequences of not following them.
- Having clearly defined roles and responsibilities across all departments responsible for portions of the transfer process
- Establishing a clear workflow that allows for audits and accountability

Keys to Success

- Well developed procedures
- Clear communication and training
- Method of escalation for issue resolution
- Management champion(s)
- Assigned owner of process

Conclusion

- Summary
- Handouts
- Questions?