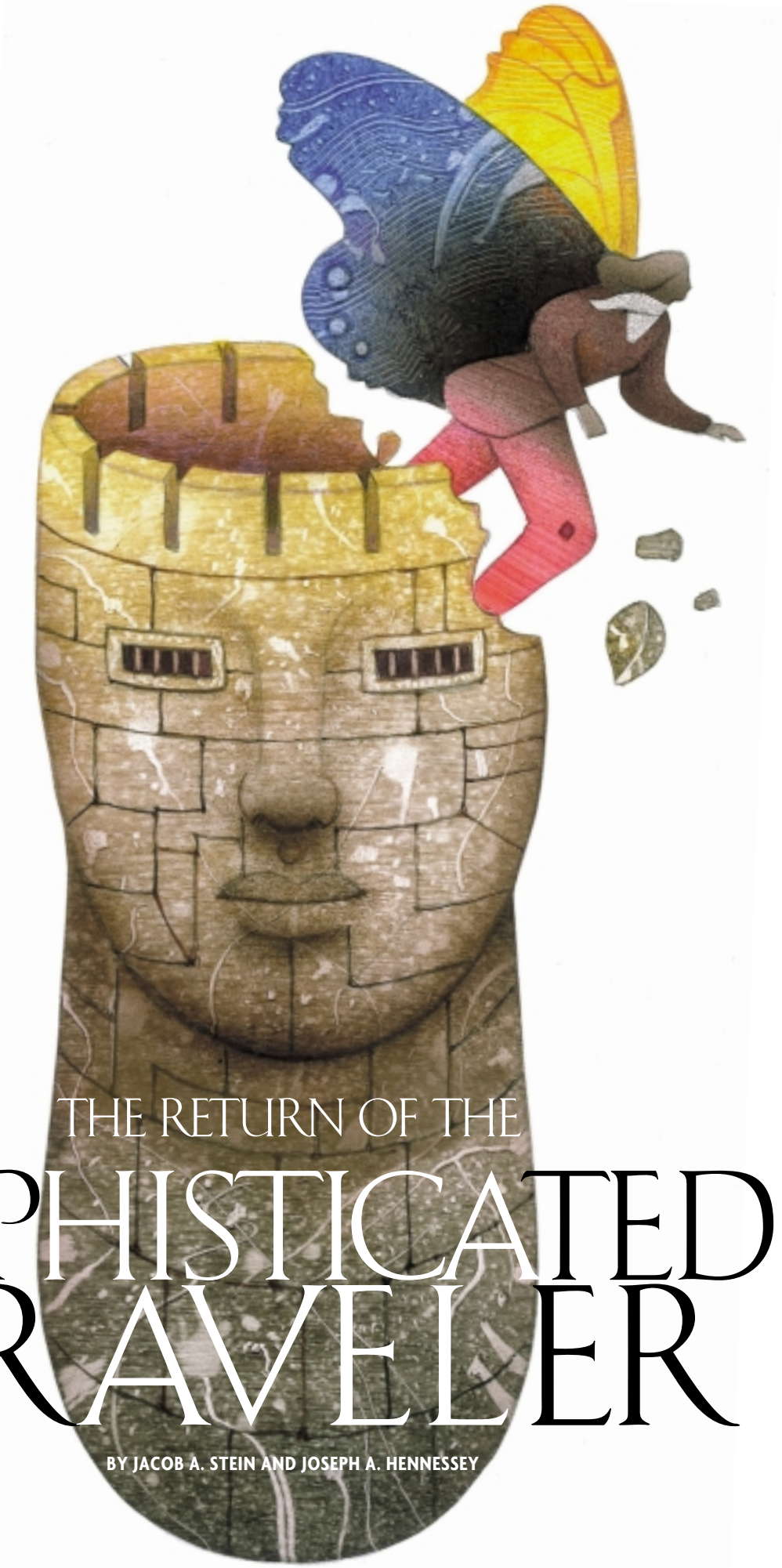


THE RETURN OF THE SOPHISTICATED TRAVELER

BY JACOB A. STEIN AND JOSEPH A. HENNESSEY

Illustrations by James Endicott/Images.com

More pointers for attorneys on the move

Traffic has steadily increased since "The Sophisticated Traveler" last appeared on these pages giving advice to lawyers changing firms.[1] Moving from firm to firm, in and out of private practice, in and out of government, with so many options lawyers need to look both ways before crossing over lest they run afoul of disciplinary rules. Here are some pointers to guide you on your way.

Conflicts of Interest

Confront all the confidences or secrets you must protect in making the move, from people to entities. The general theory underlying the rules concerning conflicts of interest is that a lawyer must do nothing that adversely affects client rights or appears to do so. You must not disclose a client's secrets or privileged matters. Nor must you put yourself in a position where there is a likelihood that one client will be injured to favor another or to favor you.

As the facts change, the interpretation of the rules changes. When you have a feeling that deep down inside you may be in a conflict situation, the thing to do is to read the rules. Under Rule 1.6 of the D.C. Rules of Professional Conduct, *confidence* refers to information protected by the attorney–client privilege under applicable law, and *secret* refers to other information gained in the professional relationship that the client does not want you to disclose. It includes matters that may be embarrassing or detrimental to the client even though the information is in the public domain. As Rule 1.6(f) makes clear, "[T]he lawyer's obligation to preserve the client's confidences and secrets continues after termination of the lawyer's employment."

You carry your current and former clients' confidences and secrets with you to the new firm. Rule 1.7(b)(1) governs conflicts of interest involving current clients. Rule 1.9 governs conflicts of interest involving former clients.

Rule 1.7(b)(1) is more stringent than Rule 1.9. It requires undivided loyalty to one's current client. It imposes an absolute bar against representing a new client in a matter that is adverse to a position taken by a current client. This duty of loyalty exists even when another law firm represents your current client in the matter that would be adverse to your new client. Thus Rule 1.7(b)(1) bars you from bringing a current client to your new firm if that firm represents clients in matters that are adverse to a position taken by your client unless waived under Rule 1.7(c).

Rule 1.9, by contrast, bars an attorney from representing a new client only if the attorney's representation of a former client was *materially* adverse to the same matter, or substantially related to the matter, for which the new client seeks services. Even if the representation was materially adverse, the attorney is allowed to ask the former client to waive the conflict.

Can you drop a current client like a hot potato in order to take advantage of the less stringent obligations of Rule 1.9? The D.C. Bar Legal Ethics Committee, in Opinion 272 (1997), addressed the so-called hot-potato issue and concluded that an attorney can only drop an existing client if withdrawal can be done without material adverse effect on the interests of the client (Rule 1.16(b)). The attorney must also provide reasonable notice to the client and otherwise fulfill the obligations of Rule 1.16(d), including allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of a fee that has not been earned.

Lawyers at your new firm might be conflicted out of representing their existing clients because of work you did for a former client. Specifically, if you previously represented a client whose interests were materially adverse to your new firm's clients, in a matter that was the same as or substantially related to the representation provided by your new firm, and you actually obtained confidential information or secrets that were pertinent to this representation, the conflict of interest will be imputed to your new law firm unless waived.[2]

Where you are personally disqualified from participation in a matter, the offer to screen the conflicted attorneys does not cure the disqualification. Although this waiver lets the firm continue its representation in the matter in question, the former client may condition the consent on *your* being screened.[3]

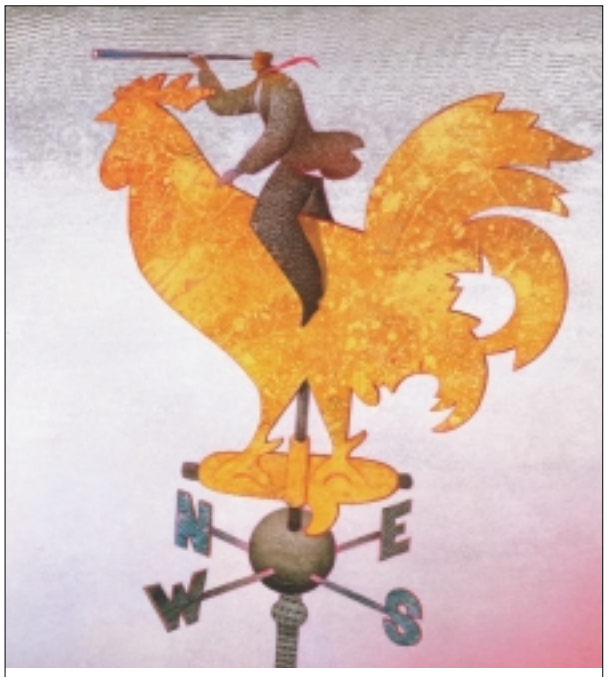
Neither you nor your new firm is precluded from representing a client whose interests conflict with those of a former client where you did not personally represent the former client while associated with the former firm.[4]

Even where you personally represented the former client, imputed disqualification of your new colleagues will not occur unless you "acquired information protected by Rule 1.6 . . . that is material to the matter."[5] This leaves open the possibility that

if you or your associate who joins you had only a peripheral involvement in a matter, neither one of you would subject the new firm to disqualification under Rule 1.10(b) because you did not learn any client confidences in the course of the representation.

You are not precluded from using legal theories developed or expertise gained during previous representations, even in those cases where you are representing a client whose interests are adverse to those of a former client.[6]

The D.C. Bar Legal Ethics Committee, in Opinion 299 (2000), makes clear that, unless one of the exceptions to the duty of confidentiality in paragraphs (c) or (d) of Rule 1.6 is applicable, you must preserve the client's confidences even though the corporate client has ceased operations.



It is unfair, and it may well be a fiduciary breach, for you to sit in on partnership meetings and vote to incur serious law firm debt when you know you intend to leave.

Cross-Check

Your highest priority is the protection of your client confidences and secrets. You break no rule by giving the prospective firm your earnings for prior years and the billings you hope to bring with you.[7] In general, a client list is not protected information.[8] However, when a client requests nondisclosure of the fact of representation, or when such disclosure could embarrass or injure a client, the very fact of representation is a client secret protected by Rule 1.6. You must not disclose the fact of representation unless you have permission or are required by law.[9] You must not disclose any secret or confidential information unless the client, after full disclosure, consents to its release.[10]

Protection of client secrets governs even the process of clearing conflicts with the prospective law firm. D.C. Ethics Opinion 312 (2002) cautions that you should avoid sharing anything other than the most general information about a prior representation in order to check for possible conflicts with your new firm. Where the fact of representation is a client secret, it would be a good idea to get from the prospective firm its list of clients and check for conflicts.

Saying Goodbye

The most difficult decision confronting you is when and how to say goodbye to your old firm. A healthy reference point is to assume you may be questioned in a deposition to defend the decision of when and how you said goodbye. Will you feel right about what you did?

Fair play, fiduciary obligations, and controlling agreements govern what you tell your partners concerning your decision to leave. It is unfair, and it may well be a fiduciary breach, for you to sit in on partnership meetings and vote to incur serious law firm debt when you know you intend to leave. It is unfair to deny your intention to leave when the question is put to you by another partner.

It is a fiduciary breach to obtain information from within the firm that is to be used against the firm in a competitive way. It is unfair to use law firm funds to travel around speaking in confidence to firm clients about changing firms.

If the law firm agreements require notice of intention to leave, the agreements must be honored. If you intend to form a new firm, you may rent office space, open bank accounts, and prepare documents to be used after leaving.[11]

Your associate must be prepared to defend his conduct. It is unfair and might constitute tortious interference to cultivate employee discontent, destroy information, misuse confidential information, or commit any tort that would interfere with the current employer or current law firm's contractual relations.[12] As with a partner, if an associate's employment agreement requires notice of intention to leave, the associate must honor the agreement.

The solicitation by an associate of a current client could put the associate at risk for violating his duty of loyalty to the law firm.[13] Restraints on competition, however, generally lapse with the termination of employment. An associate should seriously consider resigning *before* soliciting the firm's client.

Competition for Clients

Under Rule 5.6, the client has unfettered choice in choosing who will represent it. Thus noncompete agreements and restrictions on the right to practice law are generally barred because they interfere with a client's free choice.

Increasingly, ethics committees and courts favor an open market for legal services and fierce competition for clients. Responding to an allegation that an existing client had been unfairly "grabbed" by departing associates, the Iowa Supreme Court stated that "disfavoring in-person 'grabbing' communications" by lawyers departing the practice "may deprive the client of the very information he needs to make intelligent choice of counsel."[14]

D.C. Ethics Opinion 273 (1997) reached a similar conclusion. An attorney has an obligation to keep a client informed of the status of a matter and to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." The D.C. Bar Legal Ethics Committee determined that not only is an attorney required to communicate his prospective change of affiliation to the client, "but such communication must occur sufficiently in advance of the departure to give the client adequate opportunity to consider whether it wants to continue the representation by the departing lawyer and, if not, to make other representation arrangements." Significantly, the committee noted that "[t]here appears to be no ethical significance to whether the client or the law firm is

first informed of the lawyers' planned departure."

The competition for clients, however, cannot be divorced from contract and tort obligations. A lawyer must not lie in order to get the client.[15] A lawyer may not exert undue influence or harass the client to secure future representation. A lawyer cannot defame another lawyer to win the client. The destruction of property by a departing lawyer might be actionable as tortious interference with the remaining lawyers' contracts and might also be a violation of criminal law.[16]

Partners owe fiduciary responsibilities to one another that, depending upon the jurisdiction, might be breached by talking behind a fellow partner's back to an existing client.[17] It is unfair to use reduced billings to the client in expectation of taking the client to another firm. At least one court has held that secret plans to contact and persuade clients to follow partners to a new firm violated the partner's fiduciary duties to the former firm.[18]

You should make an effort, in agreement with your firm, to write a letter informing clients that you are leaving the firm and advising them that they have the right to stay with the firm, go with you to your new firm, or go to someone else.

Finally, a disgruntled lawyer must think twice about filing a lawsuit to even the score against a former law partner or employer. The duty of confidentiality owed to current and former clients might prevent the lawyer from offering testimony in support of his own case.

Staffing

Once you join the new firm, you may want to bring your secretary, paralegals, and associates. The unrestricted practice of law has been said to include "the right to solicit both attorneys and those members of the paraprofessional staff that attorneys believe are necessary to provide the best legal service for their clients."[19] Under this view, partnership agreements that limit an attorney's ability to solicit firm employees are void.

As with any competitive exercise, however, you must not employ tortious tactics to entice your former employees to join you. You must not defame your employees' current employer, sow discontent, or use unfair tactics to encourage these employees to break their employment contracts to become your employees. Such conduct constitutes tortious interference with contract.

Client Files

You may not exclude your partners or your former employer from accessing client files until the client has directed, in writing, that the files be transferred to you. Removing files from your former firm or deleting computer files from your former firm's computers is prohibited under the rules of ethics and might be a criminal act. The District of Columbia criminal code establishes: "A person commits the offense of taking property without right if that person takes and carries away the property of another without right to do so."[20]

The issue of taking property without right figured prominently in *Attorney Grievance Commission of Maryland v. Potter*.[21] In this case the respondent entered his employer's office at 1 a.m., accessed the computer network, and deleted computer files in anticipation of leaving the firm with the clients he had been serving. He also took his clients' paper files, fearing a postdeparture fight over the files that would damage the clients. The circuit court cleared the attorney of ethics violations because the clients had not been damaged and it was reasonably foreseeable that the clients wanted the respondent to continue to represent them, given that the clients had not had any substantive contact with the respondent's employer.

The court of appeals reversed. In its view the respondent had committed a criminal act by accessing his employer's computer network, without authorization, for the purpose of destroying computer files. The court ruled that the former employer "was harmed because respondent's taking of the paper files extinguished whatever ability [the former employer] might have had to exercise a retaining lien on those files in order to secure any payment to which he may have been entitled." Because of his criminal destruction of property, his theft of paper files, and the damage he inflicted upon the former employer, the respondent was suspended for 90 days.

In Maryland an attorney "has a retaining lien on all papers, securities and money belonging to his client which come into his possession in the course of his professional employment."[22] In the District of Columbia, however, under Rule 1.8(i), "a lawyer shall not impose a lien upon any part of a client's files, except upon the lawyer's own work product, and then only to the extent that the work product has not been paid for. This work product exception shall not apply when the client has become unable to pay, or when withholding the lawyer's work product would present a significant risk to the client of irreparable harm."

The propriety of Potter's former employee placing a lien on the former clients' files might be analyzed differently were the same facts presented in the District. Yet where the respondent in *Potter* went astray of both D.C. and Maryland ethics rules was by excluding the previous attorney from client files without the clients' written authorization.

Can you make copies of client files? According to D.C. Ethics Opinion 273, "It would not be unethical for the lawyer terminating the representation to retain copies of documents from the client's file. . . ." Yet it might be a criminal act and an ethics violation for an attorney to gain unauthorized access to a computer network in order to make copies of client files.[23]

Do not attempt to make copies of files, or direct employees at the former firm to copy files, after you have terminated your relationship with the firm. Should the client provide written authorization for the transfer of files, the former firm should be given the opportunity to copy any files to be taken. Absent a different arrangement, the creation and cost of such copies are the responsibility of the prior firm.

Compensation

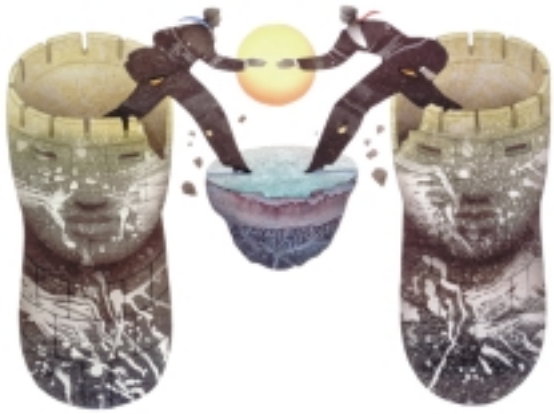
When you leave a firm, what happens to your capital contribution? Do you get it back? If so, under what circumstances and when? What about retirement benefits or 401(k) contributions? Have they vested? Is the firm entitled to a share? What does the partnership agreement say about your unpaid compensation?

Agreements that impose financial penalties on departing lawyers were once viewed with disfavor because they were thought to hinder a client's free choice of counsel.[24] Yet California now recognizes that agreements that impose financial obligations on departing lawyers serve a purpose in protecting the law firm's financial structure after lawyers leave and take business with them.[25] Nonetheless, where an agreement imposing financial obligations on departing lawyers is so harsh that the lawyer cannot continue competent representation of the client, the financial penalty might interfere with the client's choice of counsel.[26] A lawyer who gets little out of representing the client is not going to do a very good job.

You must account to the firm you left behind the fees you receive that belong to the firm. Contingent fee cases transferred to a new firm produce complications. The particular facts, the law, and the partnership agreement determine what happens.[27]

At a minimum, the former firm has a claim against the client for work performed and costs advanced. Such claims can be due upon departure rather than at the conclusion of the case.[28]

How is the value of the work calculated? The complications that arise are infinite and often lead to bitter litigation. If the law firm agreement has an arbitration clause, you are lucky. If you litigate, be aware that all you ever knew or did as a lawyer may be in play.



Wait until you have left your current firm before actively soliciting clients, or comparing services you could provide with the services your current firm is providing.

In-House Counsel

In-house counsel are subject to the same ethics rules as attorneys in private practice.[29] Given their location in the center of the corporation's business, in-house attorneys are often privy to far more confidences and secrets than an attorney at a law firm. Exposure to the business side of lawyering provides a body of knowledge that corporate counsel might want to broker in the open market. Yet the rules for safeguarding secrets and confidences will likely prevent them from doing so.

Confidential client information is not limited to active litigation matters. Information regarding strategic objectives and intellectual property matters are as much implicated by this rule as active litigation.

Government Service

A lawyer leaving government service for the private sector cannot accept other employment in connection with a matter that is the same as, or substantially related to, a matter in which the lawyer participated personally and substantially as a public officer or employee.[30] The attorney's new firm will be charged with any conflict of interest attributable to the lawyer.

In addition, there are 11 federal statutory prohibitions and related regulations addressing conflicts of interest on the part of present or former federal officers or employees, and in some instances of the District of Columbia government. These statutory provisions are found in chapter 11 of title 18 of the United States Code.

A lawyer leaving the private sector for government service is under less stringent restrictions than a lawyer traveling in the opposite direction. D.C. Ethics Opinion 308 (2001) establishes that though attorneys entering government service are obligated to safeguard confidences and secrets under Rule 1.6, lawyers in a government office, agency, or department who work with a personally disqualified lawyer are not charged with the same conflict.

Rule 1.11, governing former government attorneys, contains no provisions for waiver of the lawyer's disqualification. Such is not the case for those moving from private practice to government. An attorney's private sector clients can waive conflicts under Rule 1.9.

Choice of Law

You must determine what ethics rules apply to your particular case. Rule 8.5 and D.C. Ethics Opinion 311 (2002) govern the choice of law for the application of ethics rules. Lawyers licensed to practice in Maryland, however, should note that under current law, now under reconsideration, Maryland does not allow for a choice-of-law analysis. No matter where the conduct occurs or where the lawyer practices, Maryland will apply its own ethics rules, even if they are substantively different from otherwise applicable rules of another jurisdiction.

Attorney Grievance Commission of Maryland v. Hopp[31] demonstrates the danger. Hopp was admitted to practice law in Maryland in 1958. He moved to California in 1962 and practiced exclusively in that state thereafter. However, he never tendered his resignation to the Maryland Bar. In 1992 he was disbarred in Maryland because he violated Maryland ethics rules with respect to his administration of a California trust account. Thus a Maryland-licensed lawyer practicing in the District of Columbia involved in a client-grabbing conflict for a matter pending in California or any other state is obliged to refer to the choice-of-law provisions of Rule 8.5 of the D.C. Rules of Professional Conduct, yet the lawyer must also check his conduct or planned departure against the standards of Maryland rules of professional conduct.

PCs, LLCs, and LLPs

Before 1971 all law firms in the District of Columbia were general partnerships. Each partner was the agent of his partners. Each partner was personally and financially responsible for each other's wrongdoing. If the partnership was sued, each partner's personal assets were on the line even though only one partner was the wrongdoer. Partnerships bonded together.

That all changed in 1971 when the District of Columbia enacted the professional corporation (PC) statute. It gave lawyers (and other professionals) the right to form a corporation. It gave the stockholders of the professional corporation limited liability. No longer did the lawyers practice shoulder to shoulder. Each member was protected from the wrongdoing of another member unless the lawyer participated in the wrongdoing. As the statute states, "An individual shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by him, or by any individual under his supervision and control in the rendering of professional service on behalf of a corporation organized under this chapter."[32]

A disadvantage of the PC is that it requires the law firm to file corporate documents, issue stock, draft employment agreements, and have meetings with recorded minutes. It also has tax problems that a partnership does not have.

In 1994 the District of Columbia adopted a limited liability company (LLC) statute.[33] It did away with the need for issuance of stock, fixed meetings, and other burdens. It carried forward the limitation of liability of the professional corporation. Most law firms changed from PCs to LLCs. The LLC has the disadvantage of being separated from an established body of partnership law.

In 1996 the District enacted the limited liability partnership

(LLP) law. This statute carried with it the established law of the Revised Uniform Partnership Act. Most firms have converted to a limited liability partnership. It has the best of everything: limited liability, no need to treat itself as a corporation with those attendant burdens, and favorable tax treatment.

The LLP seems to be the end of the line with respect to changes in structure. Despite the informality of an LLP, some firms have very detailed limited liability partnership agreements that are signed in a spirit of optimism and read later with astonishment followed by a case of depression.

When you join a new firm, you may join as a nonequity partner, which is code for meaning that you are not really a partner. A true partner participates in profits and losses. You may be a contract partner, which, again, means that you are not a real partner.

You should see whether the firm you are with requires arbitration to resolve disputes and whether the firm you are going to requires arbitration. Some arbitration clauses these days contain a statement stressing that if you make a claim under the arbitration cause, you will be charged attorney's fees if you lose. This is an unfair provision and should be stricken.

Beyond the Compass

In connecting with new partners or employers, the sophisticated traveler should consider factors that are beyond the compass of this article. First, the lawyer might speculate on whether he would be better off as a so-called contract partner with a fixed salary rather than assuming the complications and financial obligations of a partner. The contract arrangement protects him from the lean months and years that are inevitable in the law practice.

The lawyer would want to know of any obligations, including bank loans, that he may be obligated to pay when due. The lawyer would want to know of any suits pending or threatened against the new firm. And finally, the lawyer would want to know if there have been recent defections from the new firm and, if so, why.

In-house counsel should try to negotiate a fixed-term employment agreement. Otherwise they will likely be considered "at will" employees and may be fired for any reason or no reason at all.

Countdown

Attorneys like checklists. Here is one that might be helpful as you consider whether to stay or go:

- Identify all possible conflicts.
- Read the partnership agreements and any employment agreements for notice provisions, monetary issues, and obligations to return fees.
- If you decide to leave, inform your clients and your partners of the fact of your pending departure.
- Wait until you have left your current firm before actively soliciting clients, or comparing services you could provide with the services your current firm is providing.
- Do not disparage in order to get or keep clients.
- Do nothing unprofessional. One day in the future you may be deposed on everything you did in the months preceding your leaving.
- Do not use unfair tactics to entice staff to go with you.
- Check the sustainability of your malpractice, health and life insurance, and retirement benefits before deciding to leave.
- Make sure the firm gets your assistance in collecting fees belonging to the firm.

Notes

1 *See* Jacob A. Stein & Susan D. Gilbert, *The Sophisticated Traveler*, Wash. Law., May/June 2002, at 36.

2 *See* D.C. Rules of Prof'l Conduct R. 1.10(b) (disqualification of lawyer is imputed to new firm where lawyer previously represented client in same or substantially related matter) & cmts. [10]–[21]; *see also* D.C. Ethics Ops. 273 (1997), 279 (1998).

3 *See* D.C. Ethics Op. 273 (1997); *see also* D.C. Ethics Op. 174 (1986) (a private law firm that would be disqualified from a representation because of its affiliation with a new lawyer can continue the representation upon obtaining consent from the lawyer's former client).

4 D.C. Rules of Prof'l Conduct R. 1.10 cmt. [19].

5 D.C. Ethics Op. 273 (1997).

6 D.C. Ethics Op. 175 (1986) (a lawyer may use legal theories developed during an initial representation in a subsequent representation provided the lawyer can adequately represent the second client while maintaining the first client's confidences and secrets).

7 *See Montgomery v. Leftwich, Moore & Douglas*, 161 F.R.D. 224 (D.D.C. 1995) (fee arrangements are not protected); *see also In re Osterhoudt*, 722 F.2d 591 (9th Cir. 1983), and cases cited therein.

8 *United States v. Hunton & Williams*, 952 F. Supp. 843 (D.D.C. 1997) (absent special circumstances, client identity is not protected by the attorney–client privilege).

9 *See* D.C. Ethics Op. 124 (1983) (a lawyer cannot voluntarily disclose a client's identity where the client desires confidentiality); *see also* D.C. Ethics Ops. 214 (1990) (reaching same conclusion where client requests that name not be revealed pursuant to an Internal Revenue Service summons), 219 (1991) (disclosure to federal tribunal), 288 (1999) (complying with congressional subpoena).

10 *See* D.C. Ethics Op. 290 (1999) (a lawyer may release an insured's protected information, including detailed work descriptions, to the insurer or an outside auditing firm only after informed consent of insured).

11 *Meehan v. Shaughnessy*, 535 N.E.2d 1255 (Mass. 1989) (distinguishing between departing partners' logistical arrangements to establish new firm versus same partners' concerted, surreptitious predeparture efforts to lure clients to new firm).

12 *See, e.g., Reeves v. Hanlon*, 130 Cal. Rptr. 2d 793 (Cal. Ct. App. 2d Dist. 2003), *petition for review granted*, 135 Cal. Rptr. 2d 63 (Cal. June 11, 2003).

13 *See* Restatement (Second) of Agency §§ 387, 396 (1958).

14 *Phil Watson, PC v. Peterson*, 650 N.W.2d 562, 566 (Iowa 2002) (quoting Robert W. Hillman, *Law Firms and Their Partners: The Law and Ethics of Grabbing and Leaving*, 67 Tex. L. Rev. 1, 14–15 (1988).)

15 *See Graubard Mollen Dannett & Horowitz v. Moskovitz*, 653 N.E.2d 1179, 1183–84 (N.Y. 1995) (discussing range of acceptable and unacceptable preresignation solicitations of law firm clients by departing partners).

16 *Reeves*.

17 *Meehan*.

18 *Id.*

19 *Jacob v. Norris, McLaughlin & Marcus*, 128 N.J. 10, 31–32, 607 A.2d 142, 153 (1992) (citing as authority D.C. Ethics Op. 181 (1987)).

20 D.C. Code § 22-3216 (2001).

21 2004 WL 422548 (Md. Mar. 9, 2004).

22 *Attorney Grievance Comm'n of Maryland v. Sheridan*, 357 Md. 1, 31, 741 A.2d 1143, 1159 (Md. 1999); *see* Md. Lawyers' Rules of Prof'l Conduct R. 1.8(j).

23 *See* Md. Code, Crim. Law § 7-302(c)(1) (2002).

24 *See* D.C. Ethics Ops. 181 (1987), 194 (1988), 241 (1993), and cases cited therein.

25 *Howard v. Babcock*, 863 P.2d 150 (1993); *see also Groen, Laveson, Goldberg & Rubenstone v. Kancher and Shaffer, Bonfiglio, Scerni & D'Elia, LLC*, 362 N.J. 350, 354, 827 A.2d 1163, 1165 (N.J. Super. Ct. 2003); *Capozzi v. Latsha & Capozzi, P.C.*, 797 A.2d 314, 318 (Pa. Super. Ct. 2002).

26 *Groen*, 362 N.J. at 354, 827 A.2d at 1165.

27 *Kaushiva v. Hutter*, 454 A.2d 1373, 1375 (D.C.), *cert. denied,* 464 U.S. 820 (1983); *In re Waller*, 524 A.2d 748 (D.C. 1987); *Camenisch v. Martens*, 1995 WL 461928 (D.C. July 7, 1995); *see also Groen*.

28 *Mager v. Bultena*, 797 A.2d 948, 957 (Pa. Super. Ct. 2002) (upon discharge of firm the contingent fee contract no longer existed and the firm had an immediate right to quantum meruit compensation determined by multiplying the hours worked by a "fair" fee).

29 ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 415 (1999).

30 D.C. Rules of Prof'l Conduct R. 1.11. Compare with Maryland Rule 1.11, omitting the "substantially related to" test and conflicting a former government attorney only where the matter is "the same as" that of the previous representation.

31 330 Md. 177, 185 (1993).

32 D.C. Code § 29-411 (2001).

33 D.C. Law 10-138, Act 10-243.

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