GPSolo Podcasts – Hot Off the Press Series

Hire and Retire: A Plan for a Continuing Income Stream in Retirement from Any Practice
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OPERATOR: This is Conference #: 4873719.

(Mackenzie Copeland): Welcome to the ABA Solo Small Firm and General Practice Division Hot Off the Press Live Podcast. My name is (Mackenzie Copeland) and I’m the vice chair of the GPSolo publication board.

Today, we will be speaking with Gary Bauer. He is the author of the new book Hire and Retire: A Plan for Continuing Income Stream in Retirement from Any Practice. The presentation will conclude with a question and answer session which the operator will facilitate.

Hire and Retire brings together new attorneys or recent graduates and those in the practice of law who are approaching retirement. With the proper planning and direction that Hire and Retire offers, you can convert what you’ve built into a revenue stream that you can enjoy as you move into retirement.

Our speaker today, Professor Gary Bauer, has been a member of the full-time faculty at Western Michigan University Cooley Law School since 1998. He has worked as a criminal defense attorney and as a director of the school’s Sixty Plus, Inc, Elderlaw Clinic, where he teaches estate planning to third year law students.

He has serves as past chair of the practice management section of the State Bar of Michigan and chair of the Legal Educator’s Committee for the ABA’s GPSolo division and has been the recipient of several awards from the ABA and the State Bar of Michigan. He is an accomplished author, public speaker and educator with the desire to help all lawyers find success in their practice. I will now turn the call over to Mr. Bauer.
Gary Bauer: Thank you, (Mackenzie). I’m real pleased to have those of you who have joined us today to be here to talk a little bit about the book that was recently published by the American Bar Association.

It’s the second of two books that I’ve – that they’ve published on my behalf. The first one was Solo Lawyer by Design: Plan for Success in Any Practice, which is a start-up book for those who have graduated recently from law school and how to get themselves up and running into solo practice or into a law firm environment either way. The second book again ties the two books together with the closure of individuals’ law firms.

And why that’s important, it really is money matter as much as it is an ethical matter. Whether or not you’re aware of it, some 50 percent of lawyers – practicing lawyers in the United States are solo practitioners.

Now, you think about that. As a solo practitioner, how many of them have plans in place in the event that something should happen to them in an emergency or a situation where they become disabled or die suddenly.

My experience – and I surveyed many of these different attorneys, senior attorneys – is that very few of them actually have plans in place. Many of them will comment that well, “I plan to keep practicing until I die,” or “I’ll practice until I die at my desk.”

Well, that really is not a plan at all. Effectively what that does is leaves your family, your loved ones and friends and other attorneys to come in and clean up a mess that you’ve left behind. You have an ethical obligation, and we want to talk about ethics for a minute, to have a back-up plan.

Many of the state bars require that you have someone identified to take over in the event that something happens to you. But more than that, why would you work per year upon year building your practice to try and build it in a manner that is profitable, made – and make a good living and have a good client following only to, at your later years of life, decide that you’re going to retire and simply close out the files, wind down very slowly and effectively go off
into the sunset with no compensation whatever for all the work and effort you put in to building that practice?

So what – my point of the book is to try and help you understand how you might extract some of the value from that firm that you’ve built so hard – worked so hard to build and show you a methodology, a path, a step-by-step approach on how you might do that.

The book isn’t very long. It’s under 200 pages – just under 200 pages. But it gives you basically 20 different steps in how to plan, determine ahead how you want to retire and how you might turn your practice over in such a manner that you can extract some value from it.

And I have put together just before this meeting today what I call a 12-step plan to cure your addiction to the chains of solo practice. More than that, it’s a 12-step plan for you to be able to extract some value from the practice and not leave your family with a liability; leave your family instead with an asset.

So, it begins – the first step to review possible options that are available to you. And what I mean by that, I have heard many different scenarios in which some lawyers have sold their practice to other firms.

Many attorneys who are in an office chair arrangement will often wind down very slowly, transferring cases out to other members in the firm – not members of the firm, but places – individuals who are sharing office space with them.

Some have actually given some thought to bringing someone in, a junior person, to come in and take over. Some – many lawyers really don’t have a desire to get out of the practice of law. They enjoy practicing law, but what they’re really looking for are blocks of time, flexibility and freedom that they don’t enjoy as a solo practitioner because, as you – as you know, as a solo practitioner, it’s a full time 24/7 job that requires your attention continuously.

But what I’m suggesting is, in step two, is to make a plan and determine which plan is right for you. What’s your vision of retirement? Is your vision of retirement working three more years and then retiring?
Is it work one more year, sell the practice, then retire? Is it basically to step down slowly staged out over a period of 10 years? Is it to kind of keep your fingers in the pot and continue working until you’re no longer able to work and maybe until your death or disability so that there’s no projected end time per se.

So, a lot of different possible plans are out there. The question is, which one is right for you? And I go through a number of different alternative ways and scenarios that you might develop that plan in the book. But you need to first review your possible options and then the second step is to make a plan.

The third step is to prepare your practice so you can extract the most value from the practice. What I mean by that – and I have students in the program called Solo by Design where they go out and interview attorneys out in the field to determine – to ascertain the good, the bad and the ugly of going solo and then they come back, we meet, we talk, and discuss what they’ve learned and they build a business plan from there.

Many of them come back to report to me that, you know, “I went into this attorney’s office and it smelled musky. The furniture was soiled.” They tell me that many of them look in total shock at the number of files, paper files, that are stacked up on the desk of the attorney and the cabinets. All around on the floor, they can’t believe all the paper. And they wonder how people even keep track of that.

Students that go into those practices and see that draw an impression and it’s not a very favorable impression. And you have to understand for many of your clients the same thing occurs. When they go in and they see a dated practice, when they see what they view as confusion with all the files sitting around and the lack of organization, many times that doesn’t bode well nor read well for the clients.

So, first, you need to prepare you practice to extract the most value and the fourth step is to upgrade, update, refresh your technology, your physical plan, your own training and your marketing.
So, again, I deal with this in the book in more detail. But basically, take a look at the furnishings in your office. Take a look at the physical plan. Does it need to be refreshed? Are you current in IT? One of the things I frequently hear is many lawyers are just waiting it out.

“I’m over 60 years of age. There’s no reason for me to bother getting into changing my process. Everything seems to work fine. So, why would I ever want to change it?” Well, you want to change it if you’re going to sell your practice so that you have developed systems and process that someone who’s coming in can take over and they demonstrate high efficiency and utilization of those managed resources.

So, it’s not good enough just to leave things as they are which you need to do in order to get more value out of your firm is to demonstrate that it’s current, that it’s fresh, that it’s clean, that you’re up to date on your training and current and that your marketing efforts are bringing in clients and that your growth revenues each year are increasing, but not declining or flat. Again, when you’re starting to value the practice, those kind of things matter.

The fifth step is to find the right candidate to replace you and to vet them, to make sure that they are the right candidate. And what I mean by that is you can find students or individuals who graduated from law school that are great attorneys, but a bad fit.

What I mean by that is they may have a different sense of how they want to manage money or spend it, they may have a different ethical sense of how they practice ethics with the clients. They may not believe in the type and process and protocols that you employ.

Very often it’s easier to bring somebody in brand new who knows nothing, to tell them black is white and they’ll believe you. But very often you’re going to find people that have been out there a while or are not so amenable to your suggestions.

So, what you’ve got to do is find not only a good lawyer and a good ethical lawyer, but one that’s a good fit. So, do your personalities, the new person,
the new associate coming in and yours, mesh? And how do you know that and where do you find this person?

Again, I get into that in more detail in the book. But one of the suggestions I make in there is many law schools have externship programs or summer internship programs where you can bring one of these new law students into your practice and test them out.

It works – it’s basically a working interview. It’s for – a sense for you to get an idea of how that person operates. And what you got to remember too in doing this is not to be too hard on this individual. You need to be firm and structured, but at the same time you need to understand they’re law students and they will make mistakes.

That means step six of this is you need to test the waters with the new candidate. This is the acid test. This determines whether or not they’re a good lawyer and a good fit. And what I mean by testing the waters is you need to be willing to give them responsibility.

You need to be able to turn over tasks that you know you can do better, but you need to be willing to allow them to walk before they run and to test them out and to see with greater and greater levels of responsibility how far can they take it without blowing things up or, frankly, impressing you with their abilities.

So, when you’ve got the person in the firm, one of the hardest things to do if you are a solo practitioner or work in a small-term environment is to delegate. Nobody likes to delegate because, again, nobody can do the work as well as you.

So, what you need to do is give up some of that control and realize that what they do is not going to be practice perfect, that they’re going to make mistakes. At the same time, you may find that you learn a few things in the process by giving them the control.

The other thing you’re going to find when you bring in someone new who’s adept, who may be and probably is adept at technology, is very often they’re
going to look at the systems that you got in place and wonder or question whether or not you could do it better because they’re using technology in a manner that you’re maybe not comfortable with or haven’t used much in the past.

So, what I believe is many times bringing this person in who’s new to your firm can help, if you’re open minded, bring in new ideas and ways to approach the clients; to communicate; to rearrange the damn furniture for God’s sake; to take a look at how you’re doing things and be willing to listen to them in terms of their suggestions.

Part of what you’re doing here in testing the waters and finding the right candidate is to take full advantage of the resources that they can bring to bear. And sometimes it’s not so easy to see that. They’ll see what you have brought to bear in the sense of what you’ve built and the client following that you have.

They’ll see the intelligence and experience that you’ve gained over the years of practice so that you can show them ways to get things done effectively. But you also need to take the blinders off so you can see the capabilities and the resources that you have available from these individuals.

And many times what I’m finding is it’s an eye opener for the senior attorney when these juniors come in, if they haven’t had someone in for a while, that, wow, they’re teaching you guys some pretty good stuff in law school.

There’s an awful lot more effort to provide students with practical applications of the law in law school so that many of the students will come out better equipped than you were perhaps when you were a law student.

So, step seven of this – so, we’ve gone through step six and I’m going to (review those) quickly – review the possible options for your retirement. Second, make a plan. Come up with one that’s right for you.

Third, prepare your practice to extract the most value. Fourth, update, upgrade and refresh your IT physical plan, training and marketing. Five, find a candidate and vet that candidate that’s going to replace you. Sixth, test the
waters with the new candidate, give them authority gradually, more and more authority. They have to learn to walk before they run.

Now, we’re into step seven, expanding their responsibilities and slowly turning over control. I had occasion in the past to have met with a young lady who was at a seminar that I attended one year. And she was so excited telling me that she, having graduated, found a senior attorney who was interested in partnering up with her and they made a decision and agreed that they were going to pair up and he was going to turn the practice over to her after a couple of years.

And they were both extremely excited and I wished her the best. Sometime later I ran into the same young lady and she explained to me that the partnership was working out very well. In fact, the revenue stream coming into the firm, the number of clients was increasing consistently and she had actually come up with some additional profit areas – areas of practice that he’d not engaged in and they were proving to be quite profitable for the firm.

So, the growth revenues were really increasing rapidly. And she pulled me aside privately and she said, “Professor Bauer, how do I get rid of him? How do I get him to leave? You know, I never thought that I would have trouble with getting rid of him, but the problem is he won’t go.”

The idea was he was supposed to cut back, but I want this practice. I want to run it myself and I can’t do it with him holding me back. So, expanding the responsibility isn’t turning over control for many attorneys, again, who have been solos; operating on their own; able to think independently and not ask anybody for permission to do things.

It’s hard. It’s very hard to turn over that control, but you need to be able to do that and you have to have a willingness once you find the viable and appropriate candidate that’s a good lawyer and a good fit just to slowly turn over control to those individuals.

The next step is to value your practice. Before you can talk about selling your practice to someone else, you have to understand how to value that practice.
And valuing the practice, there’s a number of methods that are used, but the problem with many of the business methods, valuation – business valuation methods that are used is they often rely on past earnings, maybe three or five years’ average earnings; do a multiple of that or some portion of the percentage of it.

That’s one method of assessing the value of the law firm. The problem with that is, when the principal leaves, effectively the value leaves. Many of the law firms’ value is based upon the good will that that attorney has generated and the reputation that that attorney has.

So, if that attorney leaves, what are you left with? The true value is gone and the person who’s coming in who’s the new junior associate has no experience, looks at this and says, “Well, if I’m going to have to work to build up the value myself, then why should I pay that person who’s no longer going to be here for the equity in the firm because there is no equity? They took it with them.”

So, part of this is understanding, when you value your practice, how you might build that value into it and part of this, in my opinion, is not to look at the short run, departing within a year. But look at staying on, in my opinion, you need five to seven years at least to build the value; to build the relationship between you and the new associate attorney to the point where your clients begin to see that new attorney as you.

And if you can make that transition possible, if you can convert their brains from thinking of the senior attorney more to thinking of the junior attorney as a substitute or even better, then the value continues to build and the firm, it doesn’t die or dissipate. But if you depart after six months or a year, it’s very possible that they may value your practice and you may have to value your practice for much less.

So, valuing a practice is not a value of the asset. So, physical assets generally aren’t going to be worth a heck of a lot. You know, you think about that law library that you’ve built and nobody wants. People are giving away those books.
That computer is dated. The furniture is warm. Maybe you own the building, OK. There are some real estate value there perhaps. But basically, most of the value of the practice is in the principle. And once the principle leaves, the value dissipates.

So, in terms of valuing your practice, there’s a couple of things that I suggest in the book and one is look at methods that you can build into your practice so that there’s continuity of client relationships that they’re pretty much guaranteed that they will continue.

And what I mean by that – and it’s going to be different from – for every practice. And the example I give in the book which is a fairly straightforward one is, in the case of estate planning, how would you continue to build the practice of the law firm.

Someone comes in, they execute the documents, the will or a trust that you drafted for them. It’s not uncommon for those people not to come back for another 5 years or 10 years. And that isn’t guaranteed return income. All that is is periodic or sporadic income.

So, that’s not going to show building value. But if you were operating an estate planning practice and instead of that type of relationship you built what we call a maintenance program with those clients, it’s much like a business – when somebody’s operating or starting up a new business or the attorney for a new business startup – generally that business relationship has to continuously – the attorney continues providing services.

Why? It’s because they know and they recognize the need for ongoing…

(Mackenzie Copeland): Gary?


Operator: Excuse me. This is the operator.

Gary Bauer: Yes?
Operator: Go ahead, sir. You’re still on.

Gary Bauer: OK. I thought I heard a break. I wasn’t sure if people could hear me. So, I was going back to recover what I was talking about (inaudible) is the maintenance program. So, an estate planning attorney might have what’s called a maintenance program where they do the estate planning documents for the clients up front, whatever they happen to be, but offer the clients an opportunity to have a continuing conversation with the attorney and have an annual review of their documents and not for a large amount of money.

It doesn’t have to be a lot. It might only be $100 a year and you think about it, maybe the initial document charge for the documents that you prepare might be, say, $3,000 and you offer the client the opportunity to – for another $100 a year for you to do a review of their documents and to provide them with, say, a monthly newsletter regarding changes in the law.

And when you get their documents or when you review their documents you review them in the context of any changes in the law plus you have them fill out a summary in terms of any changes that may have occurred in their life between the first plan and the second one that you’re doing the review for.

As you do that, if you find that there are changes necessary, then you would charge them for those changes as well. So, the $100 gives them an opportunity to tune up their documents. You buy an expensive sports car; you would never think of not doing maintenance on that vehicle.

And the same thing is true in the case of estate planning. It’s foolish to think that you can do an estate plan and not have to touch it again for another 5 years or 10 years because of changes in the law, family circumstances, divorces, children are born, dying, accessions and wealth and loss of property and wealth. Those kind of things happen almost annually.

As an attorney, if you have only $100, you might (stay) in the pot for that client to come back. If you think about it, if you have them on for 10 years, that’s $1,000. If you have them on for 20 years, that’s $2,000, almost as much as you made on the first document.
But the truth of the matter is, if you sell the clients and you do the proper close, you not only get $100 a year from them, but you get $100 from every client that you have in that given year. In the first year, you might only have $20,000 of annual revenue from that; subsequent year, $40,000; third year, $60,000.

You see where I’m going. Basically, you can build upon that – continue to build upon that mountain of passive revenue and recurring revenue. And it’s that recurring revenue that built into it regardless of who the attorney is, they’re still on that maintenance program.

So, the senior attorney could leave tomorrow and you’ve got $80,000 of annual income that comes in as a consequence of your maintenance program. And the beauty of that is you do that in your slow times, you know, in December when people are going away on the holidays and you don’t have that much client work and the courts are closing, you have paralegals who can go in perhaps or part-time workers who can go in and do the reviews for you and to highlight those and you can make those changes to the documents.

And as a result of that, you become in the clients’ mind their attorney for life. Effectively, they’ll do referrals for other business to you as well. So, valuing your practice, part of this is building value, building value that’s continuing value.

So, taking a look at your practice in terms of ways that you can expand the opportunities that you have for ongoing business and continuing business with your clients and I touched upon that along with several other ideas and concepts of how to have that kind of continued passive income to come in to your firm to weigh upon the value of that firm when you go to sell it.

The ninth step of this after valuing your practice is to start what I call (the vents), that is negotiations with the junior. What you need to understand too there is you may not be the one with the most value to offer.

In fact, the junior may be the one coming in with greater opportunities for you to build your practice with greater understanding of technology, with the
willingness and the energy frankly to come in and reinvigorate the firm so that to generate the revenue that you’re generating actually increases over time.

Plus, once you work – enter into this agreement – you can get some revenue back. The capital investment that you’ve made and the time and effort that you’ve put into building the practice can be reflected in the amount of money they pay you out over time. And don’t expect to get that money up front.

When negotiating, here’s a couple of things you need to consider and I cover this. The new associate coming in is going to need to have continued oversight and association with you. But you can get what – and I believe many attorneys are really looking for and that is freedom and flexibility in your life to leave for large periods of time.

In other words, you could go away for a month or travel, take a Viking cruise for a couple of weeks and turn control over to that junior partner who you’ve already vetted and you know can handle it and come back to the firm not in disarray, but harmony.

The firm will continue to operate in total harmony because the person you picked is talented, capable and works consistent with what’s your values, your goals and your ideals are. So, the negotiations you need to keep in mind that this junior partner can free you up to do the kind of things that you want to do.

And rather than just closing down the firm that many lawyers do and slowly ratchet down your files or give away the files to other attorneys, you’re actually walking away with some revenue and a continuing stream of revenue and you can step back into the practice with this new junior, periodically as you can work out with – negotiate the terms with this junior. Maybe you work three months, maybe you work 18 weeks of the year.

Whatever it happens to be, that’s the kind of thing that you could set up with a junior partner that perhaps you have an agreement where you continue to work until you’re no longer able, but at a much reduced level, giving you, again, the freedom and opportunity to do the kind of things that you want to do in retirement.
So, negotiating with the junior to me is recognizing that they have to bring in to your firm greater value and they could give you greater freedom and flexibility. So, I wouldn’t price the firm – the value of the firm too high, again, if you got the right person with the right characteristics that you’re looking for and it gives you the quality of life that you’re looking for.

Just keep in mind you might have been willing to walk away from it and get nothing out of it. This new junior is coming in with a lot of student debt and no money. But if you were to work on an agreement that they pay you back over 10 years, 15 years if you’re around that long, that reduces the amount that they have to put out. Not the real question though.

And one of the (sticks bites) here and I’ve heard this time and time again is where the attorneys bring someone in, a junior, and in the process, they train the junior and the junior looks around and says, “You know what? I know how to do this. And I know all of – I got the secret handshake. I know all the tricks and tips that the senior lawyers have been using. So, what do I need the senior lawyer for?”

And they leave. They bolt. The problem is you now train someone to be your best competitor. How do you avoid that? Well, there are a couple of ways. One is you don’t want them to leave because they just don’t want to leave in your state or your city. They’re moving away to be closer to their family.

When you’re vetting this individual, you want to make sure that the person has a reason to stay to that location, OK. First, do they have connections in the community? Second, do they have reason to want to stay financially?

And one way of doing that – and in the book I provide actually a sample agreement for transition with a successor attorney. And what I suggest in there – one possibility is to provide them with equity in your firm.

Now, you’re not just going to give away the firm up front. But what you can do is provide them with some equity sharing early on. How you might do that? Well, say your plan is to depart after 10 years and then you see a 10-year relationship.
So, in each of 10 years, they can gain an additional 10 percent of equity in the firm. You might start out in the first year giving them 10 percent of the profits or losses. The second year another 10 percent, so they’re up to 20 percent.

Now, the problem is you’re not just going to give that away. You don’t want to give up control until you know that this person is a viable asset to the firm and they’re going to stay and provide you with the outcome that you’re seeking.

So, what you could is provide them that 10 percent the first year, 20 percent the second year, but not vested. In other words, it’s unvested 20 percent. In other words, they get nothing unless, at the end of that two-year period or three-year period, whatever you set it at, where you’re confident that that person has met the standards and is going to stay with you, then it becomes vested.

The beauty of that is, until that point in time, they don’t share in profits. They don’t get any return on it, but at the same time, they see it’s like working for a company where you have an unvested retirement plan. People stay until they’re vested.

And so, what you would do there is provide this individual with an incentive to stay with the firm to get vested. And the longer you wait and the higher equity they have, the more likely they’re going to stay because they want the firm to succeed.

So, they’re not going to be likely to bolt and to go elsewhere and start another firm if they own – have a partial ownership in your firm. But that also requires that they pay you back and purchase that equity also over time. So, they don’t get it and they don’t own it unless they’d actually paid you for it. But again, that can be done in installment payments.

So, you negotiate with the junior. That’s step number nine. Step number 11 is you have to institute processes to notify those who are clients of yours and
that this person is now your substitute. Not only are they your substitute in an
equal to you, but they’re actually better than you.

So, that requires some communication with your existing clients. It means
indoctrination, but it also means involving that junior in the meetings that you
have with those clients and over time begin to help them understand and meet
this individual, introduce them properly so that they begin to accept that
individual just like they do you.

Step number 11 is to establish a back-up and disaster planning alternative.
And what I mean by that is you and the junior have now worked out an
agreement, say, over 10 years that person is going to transition out or
transition down to part time, whatever it happens to be.

But it’s possible before that 10-year period comes up that you pass away
before that happens or the junior that. Accidents can happen. So, what you
want to do is have a back-up plan in the event that that occurs and that might
be purchasing a term insurance policy on the life of either or both of you
rather so that upon the death of one or the other the firm has some additional
capital built back into it to pay the firm back for whatever equity share they
have or to help float the boat, so to speak, for a period of time that they need
to get themselves re-established in the case of unexpected or sudden death or
disaster.

So, you need to also – the ethical requires – ethical requirements of all estate
borrowers are that you have a back-up plan of some sort. And this then
constitutes this agreement with this junior, a back-up plan that you can put
into play.

That person will have access to your accounts, to your passwords, will know
what the status of all your files are. So, you’re not only meeting your ethical
obligation. You’re also meeting your personal responsibilities for you and
your family and not leaving a mess behind. So disaster planning is also part
of this.
Finally, part 12 is you leave on schedule and enjoy your life. For many attorneys, that’s going to be hard to do because you so associate with your professional status that to leave the firm or no longer practice law in the firm becomes very difficult and it’s hard to let go.

(So I give) some suggestions in the book on how you might separate yourself from the firm and the responsibilities of the firm and start looking into your own personal mental health and physical health and to take advantage of the opportunity that you got someone who is backing you up, who is there at the firm, who will keep it going even in your absence.

So, those are the 12 steps. Essentially, again, in the book, I detail these quite a bit more, but also provide some foundational forms and things like newsletter formats and content you might use in terms of developing the marketing strategy that you have.

Again, I mentioned sample agreement for transition with the successor attorney, how you might draft that agreement. Letters notifying clients of your retirement, letters requesting transfer of files and authority to represent existing and former clients. You need to do that ethically.

Letters to clients regarding file retention. Agreements to take over your practice in emergency. That could be done whether you have someone taking over your firm or not. You’re still required to do that under all the ethical rules. Checklist for the orderly transfer and closure of your firm and unanticipated circumstances.

So, there’s a lot of information contained in the book which I think you’ll find to be quite helpful as you move forward the suggested content. There’s no magic formula for doing this, but – and I think it’s been sorely neglected by many attorneys.

Here in Michigan, 38 percent of the attorneys are at or close to 60 years of age and 50 percent of the attorneys in Michigan are over – or 50 percent of attorneys in Michigan are solos. So, that means that 50 percent of the lawyers
in Michigan are rapidly aging out, what I call the green tsunami, which is be – provide for a huge transition of a lot of these elderly attorneys out of practice.

If you follow the plan and the subscription that I provide – a prescription, rather, I provide in my Hire and Retire book, you’ll be put yourself in a position, in a place where you can have – be ahead of the curve, so to speak, in finding the best possible candidates to replace you.

And I say that because law schools are not producing as many graduates, so the number of students in law school today is down considerably from when it was in 2013 when the economy went into the dumper.

So, we’re not producing law school graduates like we were. And if you think about it, the senior lawyer numbers keep continuously increasing more and more each year. And as the numbers of senior lawyers increase and the junior lawyers are static or not increasing to keep up with those senior lawyers, what’s going to happen is, when these lawyers come to (use) this moment of, “My gosh, I need to do something,” and start looking for possible young candidates, they’re going to find and it’s slim (pickens) in my opinion.

And, as a result, you want to get on the case early on, start doing your planning, I would say again five years in advance at least to start laying the groundwork so that when the time comes that you’re ready to pull the cord and leave, that you have the process, the people in place that it’s an ongoing concern with good revenue generation and a source of income for you until you die if you want.

With that, I have pretty much covered everything I wanted to, (Mackenzie). Do you wish to take it over and begin the question and answer period?

(Mackenzie Copeland): Yes. Let’s go ahead. Thank you so much for that and we’ll have that question and answer time now. I’m going to let the operator go ahead and explain that process.

Operator: That is noted. At this time, I would like to everyone, in order for you to ask a question, please press star, then the number one on your telephone keypad.
Please make sure that your phone is not on mute before pressing the star key. We will pause for just a moment to compile the Q&A roster.

(Mackenzie Copeland): OK. And while she is – go ahead.

Operator: Go ahead, ma’am.

(Mackenzie Copeland): I was just going to go ahead and start off with a question. But if you want to remind everyone one more time.

Operator: Yes. In order for you to ask a question, please press star one on your telephone keypad.

(Mackenzie Copeland): I was just – I had a quick question about – so, when do you think that people should kind of start this process because, you know, if you’re transitioning or bringing someone new in, that can take a while. So, what is your advice on that for when it starts in case the first one doesn’t work out or something like that?

Gary Bauer: Well, it’s funny. I ask my students when they go out on my Follow by Design class to ask all the lawyers when they do, “What’s your retirement plan?” And many of the attorneys will talk about, “Well, I have so much amount of money saved or set so much aside for retirement.”

And I said, “Well, that’s not the question you really want to ask.” What you want to ask is what’s their planning for their own retirement. And very, very, very few ever come up with any kind of plan whatsoever.

So, when do you start it? Well, in my opinion, when you open your practice, you should start building your practice for sale at that time. What I mean is always constantly be on the lookout for someone who can be a replacement and it doesn’t necessarily have to be someone younger than you. It could be someone your own age to bring them in as a partner.

But, again, the reason many attorneys go into solo practice is they don’t want to play in somebody else’s sandbox. They pretty much want to run their
practice, do things independently. But at some point in their life they realize they can’t do this forever.

So, I’d say by the time you hit the age of 50 or so, you should have gotten – started on this in some – in earnest at least looking forward in terms of how that transition might take place and part of that is again finding proper candidates, very often law schools are a great source of that.

Many of these externs come – will come and work in your office for a term or two. It won’t cost you nickel for many of them. It’s experience that they’re looking for and that will help you vet those clients and find out who’s a good fit. Does that answer your question?

(Mackenzie Copeland): Yes. Absolutely. I think that gives a good range kind of when to start and I think it’s great advice to start from the beginning because you can never have too much planning.

Gary Bauer: That’s right.

Operator: Again, ladies and gentlemen, if you would like to ask a question, please press star one on your telephone keypad.

(Mackenzie Copeland): My other question is…

Operator: There are no questions…

(Mackenzie Copeland): Go ahead.

Operator: Go ahead, ma’am.

(Mackenzie Copeland): My other question is if you bring in a younger lawyer like you’re saying from a law school or something like that, I know it’s going to change, you know, kind of based on the person and the experience that they’ve had even before law school.
But how long do you think that that person should generally kind of work under you before you start that transition? Because handing over something you’ve built to a brand-new lawyer I’m sure can be scary for many lawyers.

Gary Bauer: I really think you’re going to know it when you see it. That’s not a very good answer. It sounds the lawyer will say it depends. But that’s very true. You’re going to get some students who come in and are quick studies. They catch on immediately.

In many ways, they are more advanced than the senior lawyer. They are looking ahead and doing things and the lawyer is almost in shock that the person can be that smart and talented and be that young. And that’s the kind of person you might want to say, “Well, maybe we’re going to expedite this agreement.” On the other hand, you find attorneys many times – and this is not uncommon – a student who graduates from law school is kind of a work in progress. You bring someone in and you see they have potential, but they’re not really that skilled.

They don’t have the interpersonal skills. They don’t have the degree of confidence and maturity that they need. But you see as a senior lawyer that that person is motivated and willing to take instruction and they appear to learn as they go. And that person might be somebody that you hold back and say, “We’re not quite ready, but we’re getting there.”

So, they may take longer than originally thought if, again, that person agrees to go along with that extended period of transition time. So, there really is no straight one single answer and, again, that’s why I’m saying you bring someone in and do a trial work period and it may – you may have to bring them back or watch them for the next term – two terms, a year.

It might take two years before you gain the confidence that you’re willing to turn over equity to the firm and vest them and make the agreement permanent. I hope that answers you sufficiently.

(Mackenzie Copeland): Yes. That’s kind of what I was thinking, you know, depending on the person and things, but that definitely makes sense. And kind of going off
of your story earlier about the girl that you’ve worked with or kind of advice, how would you advice an attorney who came in to take over practice?

How do you kind of – if you’re trying to get that older attorney to kind of let go of some of the control or move out and how the agreement was in the beginning, what’s the best way to approach that?

Gary Bauer: Well, it’s a sensitive topic because the attorney who is staying very often is staying on because they recognize that there’s greater value to them than to the junior. So, why would they give that up?

What – you’re dealing from a position of weakness. Once the deal has been cut and you’ve agreed and they’ve agreed that this is what the transition is going to look like, the best defense that you got is the original contract that it will be enforceable as long as the terms are enforceable. They can’t be vague or ambiguous.

So, what you don’t want too is somebody that’s hanging in there that’s becoming an obstacle that, “Well, I know I’m no longer being paid what I was – what we agreed on, but I don’t mind. I’ll come in the office and help out anyway.” That’s a problem because you may find that they actually impede your ability to progress professionally and they actually insert themselves and harm you when it comes to dealing with your clients.

And I don’t know that there’s a good solution. You don’t want to litigate. The courts are not the place you want to be trying – to try and resolve those conflicts. It has to be done I think carefully, cautiously and with a fine, but strong hand to say, “You know what? This was the agreement. Here it is in writing. It’s in black and white. You need to grow up and go find a different life if that’s what you’re running into.”

But the contract, you know, having a good clearly-written articulated contract with all the terms specified and adding in there conditions that if the person doesn’t depart as planned, then there are other consequences that flow from there.
(Mackenzie Copeland): Yes. I think that would be great for both sides just to make sure in the beginning that you do have that contracted plan for what that’s going to look like to see that play out. Well, great. Thank you so much. I’ll just check one last time to see if we have any other questions.

Operator: At this time, I would like to remind everyone, please press star one on your telephone keypad.

(Mackenzie Copeland): OK. Well, it’s – Gary if you have any other little insights or anything you would like to talk about before I do some closing remarks, then you can insert them here or I can go ahead and close this out.

Gary Bauer: OK. Just one final reminder. The book is now available on sale on the ABA Web site. It’s – in my opinion, it’s an investment in many, many financial returns and I think mental solace as you move forward giving you the feeling or comfort range that you’ve done the kind of planning that’s necessary, required ethically, but more than that save your family and everyone else from the struggle having to deal with closing out a disaster. Instead, have a plan, extract some of the value from your firm, leave your family with an asset, not a liability. Thank you.

(Mackenzie Copeland): Great. Thanks again so much, Gary, for coming on here and speaking with us today. And thanks everyone for joining us. I just wanted to remind everyone, like he said, his book Hire and Retire is on sale as well as his first book, Solo Lawyer by Design: A Plan for Success in Any Practice. And you can get both of those on the ABA Web site.

And I also just wanted to let everybody know that he will be speaking at the solo small firm summit in October and he has also set up speaking engagements with the Colorado bar and New Mexico bar, Arizona bar, a local Texas bar and the North Carolina bar. So, if you’re in one of those states, he’ll be headed your way soon and you can hear him speak more on these topics.
And again, a direct link to the recording of this podcast will be posted to our Web site at ambar.org/podcast. Thanks again so much, Gary Bauer, for joining us today and helping us get ready in Hire and Retire.

Gary Bauer: Thank you, (Mackenzie).

Operator: Thanks. This concludes today’s conference call. You may now disconnect.

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