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The 10 Biggest Mistakes Estate Planning Attorneys Make—Running Their Business!

By: Philip J. Kavesh, J.D., LL.M. (Tax), CFP®, ChFC, California State Bar Certified Specialist in Estate Planning, Tax and Probate Law

Over the past 30 years, I've been blessed with a successful estate planning practice, as well as with the opportunity to help many other attorneys build or improve theirs. Based on that real-world experience, here are the Top 10 Most Common Mistakes I've seen estate planning attorneys make that keep them from enjoying more financial success and a better quality of life.

Mistake #1: Not Thinking of Your Practice as a Business

One of the most influential books I've ever read is Michael Gerber's "E Myth." In it, he addresses why most small businesses fail—a technician gets an entrepreneurial seizure, starts a business and then becomes trapped working *in* it rather than *on* it. Attorneys are notorious for falling into this trap. We are trained extensively at (and then spend our first years of practice doing) the technical work of lawyering. But, we're almost never trained (nor gain much experience) in running a business. We think being good at the technical end of things should make us successful. However, like any other business, there are many more essential, non-technical, infrastructure matters which need to be consciously addressed. Systems and procedures must be set up, monitored, managed and occasionally tweaked in order for any business to grow and generate consistent profits. You (or someone to whom you delegate and regularly reports to you) must be on top of these infrastructure issues all the time! Which leads me to...

Mistake #2: Failing to Set Specific Individual and Group Financial Goals and Hold Everyone Accountable

You must establish an operating and expense budget (DUH!). From there, you must set specific revenue goals, as well as other task-related, results-oriented goals that will factor into that revenue. These must be clearly defined, communicated and tracked—for *everyone* in your firm.

I'll give you a few examples based on my own practice. We set, as a firm and for the attorneys individually, a definite revenue goal each month. In order to achieve these goals, we've broken down each step in the process of generating revenue into measurable statistics and corresponding smaller measuring sticks (or goals) for both attorneys and staff. Here are a few:

- **Marketing**: response numbers from each type of marketing source (including referrals), number of calendar appointments, and number of cancellations and no shows.

- **Client Appointments**: closing rate for each type of appointment (new or existing client, type of planning or post-death administration), and reports on non-closes (why they didn't engage us).

- **Work Flow**: what's in process, the status, the date set for completion, and amount due to be collected.

I get daily, weekly and monthly reports on all of these. There's a lot more we track and hold firm members accountable for, but hopefully you've started to get the idea. Of course, your results are only as good as your staff, so here's...

Mistake #3: Failure to Hire, Train, Supervise and Manage Great Staff and Associate Attorneys

Attorneys often are very poor at hiring the right people. Out of frustration or plain old lack of knowledge, we tend to be quick to hire the first one that looks and smells good (on paper at least) and then slow to fire when they aren't working out and become a cancer in the firm. We don't have a detailed duties list for the job before hiring and clear expectations aren't communicated when people are hired and begin work. We later wind up trying to fit the job to the person instead of the other way around. We don't devote enough focus on training because we believe it will take up too much of our time. Or, we unwittingly sabotage the people working to support us and thereby prove to our own perfectionist egos that we are indispensable and cannot possibly delegate to others.

All these problems are solvable if you learn how. Hire more for character, personality and smarts than technical knowledge or past work experience. If you're a one-person shop, you may have to personally hire your first employee, but after that you can have Employee #1 hire the next one and so on—this way, your employees become invested in the choice, training, supervision and management of any new people. Be clear to new hires of what's expected, set a 60 or 90-day probationary (or fire "at will") period and be sure to give the person feedback along the way (and be willing to let them go if they aren't the right fit for the job!). You or Employee #1 can use your normal daily activities as training sessions—for example, have the new person sit and observe client meetings and how you do tasks, or review work after you do so they can see your notes and thinking. Be willing to accept 80% at first and keep giving constructive, positive feedback until you get to 90-95% or better (but please don't always demand everything be done as good as you do—you need to know when good enough is enough!).

Mistake #4: Not Having a Clear, Effective System for Interaction with Others in Your Firm

Obviously, you want communication between you, your staff and associates, as well as between them, to be clear and understood, whether it's about goals, expectations, specific tasks, etc. But, you also need to have an effective *protocol* for *how* communication will take place. I often find attorneys continually interrupt their staff and associates throughout the day—and the other way around—so work doesn't get done efficiently or doesn't get done well. The daily work atmosphere becomes supercharged with high stress and anxiety and every day feels like a "fire drill"!

You must set limits on interruptions while also affording your staff and associates a regular forum where daily details and problems get handled timely and properly. There must be a clear chain of command as to who goes to whom for what. Be clear that interruptions of others are *never* allowed unless the matter is <u>both</u> urgent and important (and if something doesn't meet this standard, discipline yourself not to deal with it right then). Defer non-urgent, non-important matters to regularly calendared meetings. Hold a firm-wide meeting once a month, hold weekly or bi-weekly attorney meetings and hold weekly meetings with your key staff. Your supervisors within your firm should set times each day to coordinate with those that report to them.

Also, encourage, empower and teach staff and associates to do most decision-making on their own. Don't always immediately give them the answer to a question. Demand they figure out a solution first and explain why they answered the way that they did.

Mistake #5: Not Properly Incentivizing Associates and Staff

As I've indicated, holding people strictly accountable for meeting their goals is key to maintaining a consistently successful, smoothly working practice. It's not always about showing others where they need improvement. Positive reinforcement when they do meet goals may be as, if not more, important. It's always amazing to me how high people will jump when there's a reward!

For example, arrange each of your associates' compensation so he or she gets a base salary plus "commission" once he or she exceeds a certain minimum revenue collected each month (the commission may be a percentage of the excess). Give your staff a bonus once the firm hits a total revenue goal each month. Not only will your staff better support the attorneys, they'll make sure the attorneys are meeting their goals! Over time, keep increasing the bonus requirements upward. You'll be astounded by the resulting group consciousness, camaraderie—and bottom-line profits!

Mistake #6: Not Having a Definite Marketing Plan

Like with any other business, the phone won't simply ring off the hook. You have to take action to bring in clients. No matter what type of marketing you choose to pursue—public seminars or referrals from other professionals or simply referrals from clients—you need a definite plan of action. Then you must work it, test it and refine it. The plan, in turn, requires an implementation system with step-by-step procedures so they can be properly delegated, tracked and supervised.

By the way, don't forget in your plan to remarket to *existing* clients. This is often overlooked and over time can become a major source of revenue—in my practice, this now represents more than half of our annual income. This doesn't need to include an annual maintenance program (which involves a good deal of overhead time and expense to implement). It can simply involve an email newsletter and periodically calling in clients for free checkup meetings. You will be surprised how much updating or new planning work you'll uncover and how many more client referrals you'll get by merely staying in front of your current ones.

Mistake #7: Setting Your Fees Based on "SWAG"

You know what I mean by "SWAG", don't you? (A Super, Wild A$%ed Guess!)

Most attorneys set their fees based on what they think is reasonable or on the prices of other competitors. Certainly, these may be factors in establishing your fees, but should not be determinative.

You should set your fees by <u>testing</u>! Start with the "reasonable" or "competitive" fee and periodically *increase* it until you find that "sweet spot" where your total revenue begins to plateau. If you raise your prices too high (your total revenue declines), you can always cut your prices—but do it gradually like on the way up (you don't want to just chop your prices and wind up doing twice the work and making the same revenue!). I am shocked at how few attorneys understand and implement this simple pricing approach that almost every successful business embraces.

By the way, it's okay to periodically hold a "sale"—"for a limited time only"—when revenue is otherwise down! Businesses do this all of the time and customers always like to take advantage of a deal. (Remember, you are running a business!)

Mistake #8: Taking on Work You Do Infrequently

Like most businesses, profits increase as you reduce the "marginal cost" of each additional product or service sold. In other words, the more you do a particular task, the more "cookie cutter" or efficient it becomes and the greater your profit.

Attorneys don't seem to understand this. Instead of focusing on a narrow set of repetitive client services—for example, a basic Living Trust document package, along with simple irrevocable gifting trusts—they take on anything estate planning-related that comes in the door even if they have done little or none of that type of work before. For example, they'll take on sophisticated estate tax planning (GRATs, sales to IDGTs, Completed Gift DAPTs, etc.), asset protection planning, Medicaid planning or business succession planning—that they know is beyond their current level of expertise.

I understand the desire to take on new work, as well as to expand your knowledge and the services your firm can offer, but why use the client and yourself as the "guinea pig"? Your ramp up and learning time will be lengthy and, at your hourly rate, probably exceed the fee you can charge. Plus, you likely will be exposing yourself to a potential malpractice claim! Why not, instead, farm it out to an "of counsel" expert (maybe one of your WealthCounsel colleagues)? That way, you can be assured the job will get done right, the client will be better served and, if you do want to add the service to your firm's available services, you can learn how to do it from the expert! Also note: you don't need to give up the fee income—in many states, you can work out a fee-split (properly disclosed to the client, of course). Even if you only make a small percentage of the fee, you have little to no work or liability!

Of course, if you do start generating a lot of work in other practice areas, you can hire an expert as your in-house associate (compensated on the base salary plus commission approach!).

Mistake #9: Failing to Properly Organize Your Calendar

Of course, all attorneys use a calendar to schedule appointments and even work tasks. But you need to have an organized system rather than haphazardly filling blank calendar space! This is the way most attorneys book their calendars and it creates undue stress and havoc for themselves—as well as everyone else who works with them!

For example, you can block off your week into daily or half-day chunks of time that are always used for certain purposes, so you and the business stay on the track of profitability. You may designate certain days you will take client appointments (and book them, with a reasonable time allotted to each, back-to-back so you use closing "momentum" and force yourself not to excessively run over just because you have time available to do so!). You can block a day for your staff and associate meetings, with any left-over time used to catch up on returning phone calls or doing paperwork. And you should always block at least one day a week as an inviolable "off day" where no work is ever done, so you can recharge your battery!

Here's another helpful hint. Have someone else (not you!) book your calendar and make sure you adhere to your "formula" and don't violate it!

Which takes me to the last mistake...

Mistake #10: Not Holding Yourself, the Business Owner, Accountable

Over time, as you put into place great staff and systems/infrastructure, you will find that your staff will hold you accountable too. Until then, don't kid yourself. You may think you can stay on top of all these discussed aspects of running a successful business. But the truth is, you need someone to periodically check in on and critique you. It's also invaluable to have an outside, business-savvy person to bounce ideas, strategies and problem solving off of. This is where a "business coach" can be extremely helpful and one of the best investments you will ever make in your practice. I can absolutely attest to this!

So, how are *you* doing?

Are you making any of these mistakes? It's okay. I've found some of the best estate planning attorneys in our field are making some of these mistakes. It's nobody's fault. If you haven't gone to school or gotten any extra training on how to run a business effectively (or gone through over 30 years of trial and error like I have), how could you possibly learn to run a business successfully? Hopefully, this article will get you started (or back onto) the right path.

If you are interested in some helpful resources available for estate planning attorneys on how to properly run a profitable practice—or attending a very special live training on this subject—please visit our website www.ultimateestateplanner.com.

About the Author:
Attorney Philip J. Kavesh is the principal of one of the largest estate planning firms in California - - Kavesh, Minor and Otis - - now in its 32nd year of business. He is also the President of The Ultimate Estate Planner, Inc., which provides a variety of training, marketing and practice-building products and services for estate planning professionals. If you would like more information or have a question for him, he can be reached at phil@ultimateestateplanner.com or by phone at 1-866-754-6477.