

LAW FIRM PARTNERSHIPS

What to Know Before and After Tying the Knot



D.C. Bar Small Firm Lunch and Learn

Presented by:
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“WHO AM I? WHY AM I HERE?”

– Adm. James Stockdale, 10/13/92



- Attorney who handles “partnership” disputes
 - “Partnership,” for our purposes, can mean LLC, closely held corporation, etc.
 - Disputes don’t always involve breakups.
 - Focus on claims regarding breaches of Operating Agreements, breaches of fiduciary duties, misappropriation of trade secrets, violation of restrictive covenants, etc.
 - Not specific to law firms.



“WHO AM I? WHY AM I HERE?”

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- Attorney with over 25 years of experience in small firms and solo practice
- Associate in firms with functional and dysfunctional partnerships
- 15 years operating solo firm
- Explored multiple partnerships
- Partner at Garris Horn since 2022

DISCLAIMERS

- Nothing in this presentation is intended as legal advice.
 - The information contained herein is general information for educational purposes only.
- I'm not a partnership transactional lawyer.
- I'm not a money guru or tax expert.



PARTNERSHIP IS LIKE MARRIAGE

- Sometimes entered into for the wrong reasons.
- Both economic and personal.
- Emotional intelligence and other personal qualities matter.
- Personal chemistry and dynamics matter.
- Signs of dysfunction sometimes visible during courtship phase.



PARTNERSHIP IS LIKE MARRIAGE

- Friendship, trust, and good intentions help but aren't enough.
- Honeymoon phase can be misleading.
- Disagreements can be bitter.
- Divorce can sometimes be ugly.



ARE YOU THE MARRYING TYPE?

- Natural collaborator, or lone wolf?
 - Willing to cede power?
 - At least willing to compromise?
 - Willing to tolerate differences?



WHAT ARE YOUR MOTIVES?

- Career advancement?
- Perceived lack of other options?
- Benefit from “name”?
- Economies of scale/pooled investment?
- Decrease/elimination of managerial responsibilities?
- Mentor-protégé/successor relationship?



WHAT ARE YOUR MOTIVES?

- Improved client service?
- Ability to focus on rainmaking, with others handling matters you've originated?
- Ability to focus on practice of law, with others handling rainmaking?
- Practice matter integration/cross-pollination?
- Potential to attract bigger matters/clients?



WHAT'S YOUR VISION?

- Complementary/expanded practice areas?
- Loose/siloed affiliation, or something more integrated?
 - Shared associates/admins?
- Virtual, brick-and-mortar, or hybrid?
- Reinvest income?
 - If so, in what?
- Stay small or grow?



IS IT A MATCH?

- Compatible motives?
- Compatible visions?
- Compatible practice areas (if relevant to your motives or vision)?
- Compatible philosophies re: client service?
- Compatible ethical/moral compasses?



IS IT A MATCH?

- Compatible/complementary strengths, interests, and roles?
 - Relevant strengths:
 - Rainmaker
 - Client relations
 - Strategist
 - Client servicer/worker bee
 - Manager



IS IT A MATCH?

- Compatible/complementary strengths, interests, and roles?
 - Are parties realistic about their weaknesses and willing to play to their strengths?
 - Are the parties self-aware enough to stay in appropriate lanes?
 - E.g., beware the rainmaker who meddles in client matters from an uninformed distance.
- Compatible styles?
 - E.g., meticulous planner might not coexist with seat-of-the-pants, last-minute filer.



IS IT A MATCH?

- Acceptable power dynamics?
 - One more seasoned/powerful than the other(s)?
 - If so, does that work for the “junior” party/parties?
 - Potential for impenetrable majority blocs (e.g., firm of Smith, Smith, Smith, and Jones)?
 - Too many alphas?
 - Too many betas?



THE WRITTEN BUSINESS PLAN

- For a new firm, create written business plan up front.
 - Templates and plan-related questionnaires can be found online.
 - Doesn't need to be perfect.
 - Not “binding,” so don't worry about needing to later revise it or deviate from it.
 - A great exercise – both for general, tentative planning purposes and for evaluating partner compatibility.



IMPORTANCE OF THE PARTNERSHIP AGREEMENT

- Spend time and resources on the Partnership Agreement.
- If your practice doesn't focus on this type of transaction, get legal assistance (or at least advice).
 - You don't know what you don't know.
 - You might be blinded by "love" – or at least by desire to complete the deal.



IMPORTANCE OF THE PARTNERSHIP AGREEMENT

- Can't address every contingency.
 - The agreement is not about day-to-day minutiae.
- Get as specific as reasonably possible, even if partner's a friend.
 - Relationships can change, and even good people sometimes clash.
 - Prevent good faith disagreements arising from initial misunderstandings and/or inconsistent future recollections.
 - Protect yourselves *vis-a-vis* future partners or stakeholders.



VOTING RIGHTS

- Levels of partnership rights?
- Danger of even-numbered partnerships
 - Stalemate possible.
 - Tiebreaking procedures sometimes disastrous.
- Danger of voting blocs/factions
 - Determine which affirmative votes require supermajority or unanimity.



THE MANAGING PARTNER(S)

- Choosing the right manager
- Choosing the tasks to delegate to managing partner
 - E.g., hiring/firing, vendor selection, oversight of billing, payroll, and a/p.
- Level of manager discretion
- Determining which tasks to delegate to committees
- Ability to remove or otherwise hold managing partner accountable



REVENUE ALLOCATION

- How much goes toward:
 - A general pot to cover taxes, expenses, and equity interests?
 - The “originating” partner?
 - And will you define “origination” where, e.g., Joe the transactional lawyer initially brought the client to the firm, but the client contacted Sally the litigator based on the great work she did last time?
 - The partner who performs legal work?



REVENUE ALLOCATION

- How much goes toward:
 - A “responsible” partner who generally oversees the legal work on a matter (sometimes the originator, sometimes the worker bee, but sometimes neither)?
- Where do you take monies for associate’s or admin’s salary?
 - The general pot?
 - The “equity partners” (if partnership levels exist)?
 - From individual partners, according to their proportional use of the associate?



NEW PARTNERS

- Who decides, and how?
 - Unanimous consent?
 - Supermajority consent?
 - Decision by managing partner or managing committee?
 - Veto power for partner in same practice area as candidate?
 - Might depend in part on the firm's compensation structure.
 - E.g., “eat what you kill” firm might decide differently than one focused on equity sharing.



DISSOCIATION

- Involves partners leaving the firm – either voluntarily or involuntarily.
- Partnership Agreements will typically define various “causes” for involuntary dissociation.
- Post-partnership non-competes forbidden.



GOVERNANCE DISPUTES

- Means of challenging managerial actions
 - Internal mechanisms created by Partnership Agreement.
 - E.g., right to call a special meeting to vote or re-vote on a matter.
 - Direct suit by person with a direct injury, and thus, direct cause of action.
 - E.g., suit related to partner's expulsion, removal of managing partner, voting rights, defamation, etc.



GOVERNANCE DISPUTES

- Means of challenging managerial actions
 - Derivative suit
 - I.e., action that one or more partners “on behalf of” the firm against managing partner, management committee, or other party/parties.
 - Person initiating the suit becomes nominal plaintiff (e.g., “*John Doe, derivatively on behalf of X Law Group, LLC v. [Defendants]*”).





QUESTIONS?



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Dave Ross boasts decades of experience handling high-stakes litigation. Those lawsuits have included issues related to corporate shareholder disputes, breach of contract, unfair competition, unauthorized use of trade secrets, violations of non-compete provisions, antitrust, commercial fraud, tortious interference with contract, and franchising (among others). He also has handled various employment matters, including those involving claims of wrongful discharge, unlawful discrimination, sexual harassment, breach of fiduciary duties, and breach of post-employment agreements.

Dave has significant experience providing non-litigation services as well. His transactional practice includes the review and negotiation of asset purchase/buy-sell agreements, franchise agreements, non-compete/non-disclosure contracts, employment-related agreements, and other contracts. He also works as an “outside general counsel” who provides day-to-day and as-needed advice to his business clients.

He is licensed to practice law in the state and federal courts of Maryland, Washington, D.C., and New Jersey. He served as Chair of the Maryland State Bar Association’s Franchise and Distribution Law Committee.

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