

Lawyers Retire?

by Harold D. Miller, Jr.
Jackson, Mississippi

Retired lawyers. An oxymoron? “The tradition, in South Mississippi at least, is to leave your office heels first, ...” Is this attitude limited to South Mississippi? “Old lawyers in Columbus either die or fade away from the area.” Also: “I’m enjoying practicing law. Why retire?” But consider the contrary comment of a lawyer in his early fifties to one in his early sixties: “When I am your age, I plan to be long gone from the practice of law.”

What then is the attitude among lawyers toward retirement? It depends on who you ask. The “South Mississippi” attitude prevailed, not only in law, but in most occupations until recent years. A person was identified by his occupation/profession – “Bob is a lawyer”, “Betty is a banker.” Without this identity, we felt less than complete. This attitude, this sense of identity, is no longer as prevalent as before. Younger lawyers tend more toward the “When I am your age, I plan to be long gone from the practice of law” philosophy. We are better able to develop other identities, and, in fact, second careers. Dramatic increases in life expectancy and financial ability to retire have made significant changes in retirement. Retirement has become commonplace, an expected and desired occurrence. How have, and how should, lawyers address retirement?¹

Finances play an essential, and perhaps, controlling part in one’s retire-

ment. Finances are beyond the scope of this article. This article deals with the non-economic aspects of retirement.

What are the differences between being an active and a retired lawyer? “I don’t miss the law. I miss the people.” “The other lawyers like to talk about ‘now’ and you are prepared to talk about ‘back when’.” “For the first time in my life, I can choose activities because of their desirability, and not because doing them is economically necessary or desirable.”

The first problem with retirement is addressing the subject. The subject must be addressed; however, many do not, or wait until the time of retirement to do so. This cannot be done financially, and it should not be done for other reasons. The decision when and how to retire from the practice of law is as important as the decision when and how to practice law. It is a life changing decision, and must be treated as such.

A critical issue is who decides if, and when, one retires and under what financial arrangements. This question is particularly sensitive with lawyers as we are noted for our longevity, independence and relationship to the profession. There is no obvious or universal answer to this question as applied to solo practitioners. They have no partners with whom to counsel on this question. Hopefully, they have outside counsel to assist in this decision.

Law firms, however, can and should

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Harold D. Miller, Jr. is happily semi-retired after 42 years of practice.

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answer this question in a systematic manner. Some firms have retirement policies. Raising the issue of retirement on an individual basis at the time of retirement is sensitive and quite often damaging to relationships. Use of a procedure adopted prior to one's retirement can assist in minimizing or removing the sensitive aspects of this momentous decision. Also, knowing one must retire at a given time in the future gives one incentive to plan for retirement.

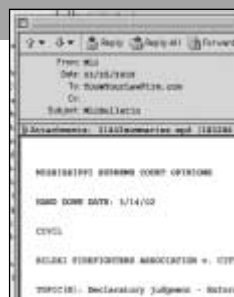
Here are two examples² of effective retirement programs in use in Mississippi: (1) if the partner has not retired by the age of 65, his income is reduced annually per a formula until the age of 70, at which time he is retired; or (2) retirement as a partner no later than the end of the year in which the age of 65 is reached, provided, however, if the lawyer desires to continue to practice, a new practice arrangement is made at that time and is reviewed annually.³ Both systems take the personality and trauma out of the otherwise emotional experience of having to raise the sensitive subject with one's partners and determine the terms of the arrangement at the time of retirement. Both plans have pre-determined arrangements concerning the financial aspects of resigning as a partner. The critical element is that the plans are established before one retires and they answer, in advance of retirement, when and under what conditions one will retire.

What are some of the characteristics of and questions concerning retirement by lawyers? They are not dissimilar from those of retirement by other professionals or executives.

PLAN. Planning for retirement is not the same as getting a thirty-day extension to respond to a pleading. As earlier noted, retirement is life altering and is one of the most important decisions one will make. It requires planning. The need for economic planning is obvious. Non-economic planning is equally as important. One cannot leave his life's career without planning for its replacement. What is one to do with the eight to ten hours per day previously consumed by a career? What one does in retirement is personal to him. One does not find a retirement plan in a book. It is YOUR plan. It may be totally different from that of others. Although one may determine to "do nothing for a while," that is a plan and, in many instances, a good plan. Plans are changeable, but there must be a plan. Your plan is whatever satisfies and fulfills you.

RELATIONSHIP WITH SPOUSE. You retired. Your spouse did not. You, for the first time, have significant free time on your hands. Your spouse's situation has not changed, other than having you around. Neither of you is used to having the other's company twenty four hours a day, every day. Although there will be joint activities, there must be separate lives, separate activities as there were pre-retirement. The wife of a retiree expressed it best when she gave her newly retired husband a gift certificate which read "Good for thirty lunches at home. After that, you are on your own."

OFFICE. You had an office your entire professional career. Palatial or modest, it was your domain. We are



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PRACTICE OR NOT? Some may “retire” under one of the systems previously described but continue to practice full time or a significant amount of time. That is not retirement as discussed in this article. Whether prompted by economic considerations or otherwise, there is the question of total or partial retirement from the practice of law. Some have limited practices. It is my belief, and that of others, that the ability to practice law “part time” is limited to those associated with firms who can give the necessary support, and very unique part time circumstances, e.g., counseling a single client or serving as a mediator or arbitrator. “I considered partial retirement, but...I never could figure out how to do it in a small firm.” Be honest with your partners, clients and yourself when considering this question. Are you fish or fowl? Part time practice is a little of both. Generally, clients need full time lawyers. Unless the “part time practice” can be organized into discrete blocks of time, the random intrusion of the practice into one’s non-practice schedule can be frustrating.

WHAT TO DO IN RETIREMENT? Unbelievably, from a time and interest perspective, for the first time in your life, you may do what you want, when

you want! Your motivation will be personal preference, not economic. As examples, some retired Mississippi lawyers teach, mentor children, run service organizations on a full time basis, start second careers related or unrelated to law, travel, sports and write articles, columns and books. What about you? Consider participation in church, civic, and service activities. Pro bono legal work is an option. Do what you always wanted to do, but never had the time. The only limitation is your preference and imagination.

THE KEYS TO A SUCCESSFUL RETIREMENT. There are two universal keys. They are mental and physical activity. As a practicing lawyer, you were mentally active. You must stay that way. If you were physically active, you must stay that way. If you were not, it’s time to change and protect your health.

If one compares happy and unhappy retired lawyers or others, one notices that the difference is that the happy retired lawyer or other has replaced his career with something equally as stimulating and enjoyable. The unhappy retiree exists with no plan or real activity. **LAWYERS RETIRE?** As one lawyer retired for years said “I recommend it to one and all.” ■

1. The conclusions contained herein are based upon personal observations and an informal survey of some retired members of The Mississippi Bar.
2. Those interviewed who retired pursuant to the discussed plans support the concept.
3. I retired under the second plan, and changed my status from full time practice to service as a mediator and arbitrator.

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