

Building More Effective Referral Relationships

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I. Introduction

In our experience, nearly every estate planning lawyer is looking for good financial advisors to work with.¹ At the same time, most financial advisors are looking for good estate planning lawyers to work with. Why is it that the two rarely meet?

We suggest that the two meet often, but the past experiences of each, combined with the lack of understanding or willingness to make the relationship work, prevent the two from forming a long-lasting, productive referral relationship.

This session will first explore these past experiences in the framework of common perceptions and misperceptions about the other, and then examine the components of a successful referral relationship based upon our experience in working with numerous financial advisors across the country.

Please note that there is no right or wrong in this area. We can only share with you our experiences, and the experiences our numerous lawyer and financial colleagues have shared with us over the years.

II. Understanding Common Perceptions – And Misperceptions

In our experience, successful relationships are those built upon mutual respect and trust. Unfortunately, this is easier said than done.

A. Financial Advisors Pushing Product

As estate planning lawyers, we've all had the experience of financial advisors who we believe are only concerned about selling a particular product to our client, irrespective of whether that product meets our clients' needs. Enough of these experiences eventually jade our perspective of financial advisors in general.

B. Lawyers as “Deal Killers”

On the other hand, most financial advisors have had the experience of an estate planning lawyer acting in a condescending manner towards them and, even worse, doing so in front of the client, and acting as a “deal killer.” Like our experiences with financial advisors, enough of these experiences eventually jade the financial advisors' perspectives towards lawyers.

¹ We use “financial advisors” broadly to mean CFPs, stockbrokers, insurance professionals, and even those CPAs licensed to sell securities and insurance. While many are not licensed as financial advisors, CPAs are also an excellent referral source, and the relationship-building techniques discussed throughout this session apply equally to them.

C. Addressing these Perceptions Upfront

Understanding that these perceptions exist, and addressing them early on in the potential relationship will go a long way to overcoming this hurdle. How do we do this?

In working with financial advisors, we ask about them and their practices. In our experience, the vast majority of estate and wealth strategies professionals only want what is best for the client; it is the few “bad apples” that spoils the bunch, so to speak. It usually doesn’t take long to know if the particular financial advisor shares our desire to provide the best possible planning for the client’s unique circumstances. Every once in a while we come across someone who talks the talk, but in most circumstances we quickly discover whose interests are being protected.

As to lawyers who act in a condescending or degrading manner, we tell financial advisors upfront that we respect them and the contribution they bring to the planning process. For example, we understand that the success of many of the more advanced plans we develop depends upon the successful growth of assets selected to fund particular trusts and the oversight of those assets once selected. Thus, we often involve financial advisors in the plan design stage to ensure that we use realistic growth assumptions given the clients’ asset mix.

More fundamentally, however, we understand that most financial advisors are proactively seeking new clients on a *daily* basis, and they know how to find new business. Most lawyers, on the other hand are not nearly as good marketers. We tell financial advisors that we recognize this fact, and that we recognize the tremendous value this brings to the relationship.

III. How Most Professionals “Work Together”

A. Typical Relationships

In our experience, most professionals give lip service to the notion of working together. Typically, the financial advisor involves the lawyer only to the minimum extent necessary (and vice versa), and generally only *after* making a recommendation. This, in our experience, is the root of the problem.

1. “Not Invented Here” Syndrome

Assuming the professional fully understands the other’s recommendation (if his or her perception is that he or she is the client’s trusted advisor), that professional may very well wonder how the client will react to this “great” recommendation coming from a different professional. We’ve named this “not invented here” syndrome; in other words, if I don’t recommend a particular strategy, how good can it be? In our experience, “not invented here” syndrome is a cause of many lawyers acting as a deal killer.

2. Lack of Understanding

Alternatively, the other professional may not understand the recommendation. What we explain to financial advisors is that law schools train lawyers that if they don't understand something the "safest" answer is no. Thus, if a financial advisor makes a recommendation involving life insurance, for example, the lawyer's reaction may immediately be "buy term and invest the difference,"

We also suggest to financial advisors that it is incumbent upon them to educate us as to the recommendations they are making; as we like to say, educate to motivate.

3. Relegation to the Role of "Order Taker"

Early on in the relationship-building process, we tell other professionals that we are counselors who like to be involved in the counseling process. As professionals, we all like to believe that we add value to the process and do not want to be relegated to the role of "order taker".

Therefore, in a very polite and non-threatening way, we explain that we prefer not to be brought into the process when the decisions have already been made; when our role is only that of document drafter. Only if we need to, we explain by analogy of our recommending a specific type of life insurance or asset allocation mix, for example. None of us wants to be thought of as mere order takers.

B. The Solution

The solution to all of these problems is for the lawyer and other professional(s) to work together in developing and, with more affluent clients, presenting the plan to the client. In our experience, when the professionals work together in **collaboration** exceptional things happen:

(1) the professionals develop a plan that they couldn't develop alone, because of the different perspectives brought to bear;

(2) the professionals buy into the plan because they helped develop it;

(3) the client is more likely to go forward with the plan if all of his or her advisors are in agreement;

(4) the client is likely to do more planning (because of all of the above); and

(5) it is a win-win because the client receives better, more comprehensive planning and all of the advisors make more money in the process.

C. Team vs. Collaboration?

With a team, there is one leader who calls the shots (e.g., a quarterback). In the estate planning context, the leader is typically the professional who believes that he or she “controls” the client. (Whether any one professional controls the client is another question; in our experience, and particularly in working with high net worth individuals and families, **no one** controls the client other than the client. There are typically one or two advisors that the client trusts immensely, but even they do not control the client.)

We use the term “collaboration” to mean a group of professionals working together for a common goal, with no one “leader” who controls the group.

How does this work? Doesn’t someone have to control? With our view of collaboration, a professional takes a leadership role when it is appropriate for him or her to do so. For example, when discussing investments, the financial advisor should take the lead, or the life insurance professional when discussing life insurance. And, when the discussion turns to estate planning, the lawyer should take the lead.

In the Collaboration Model, two or more independent professionals collaborate for the client’s benefit. There is no fee sharing with this model; the professionals are each retained separately by the client, but work together to create the best possible plan given the client’s needs.

1. Random Collaboration

There are two types of collaborations that fall within this model. In the first, what we’ll call “random collaboration”, the professionals do not have a working relationship. With random collaboration, the client has retained the professionals separately, but they recognize the benefits of coordinating their efforts. While this type of collaboration “works” to some extent, it has serious limitations. First, it is difficult, if not impossible, for the professionals to coordinate their efforts because they most likely have never worked together—and may never work together again. Typically, there is not a high level of trust between the professionals, and therefore, each may question the motives of the others. In addition, this type of collaboration is typically not very efficient because, without a high level of trust, there cannot be a clear delineation of responsibilities. Therefore, there is often overlap and wasted efforts with random collaboration. Furthermore, conflict can occur (and often does) with random collaboration because each of the advisors believes that he or she should control the relationship with the client.

2. Intentional Collaboration

The second type of collaboration is what we’ll call “intentional collaboration.” With intentional collaboration, professionals take the time to establish working relationships with other, independent professionals. For example, an estate planning lawyer could forge relationships with a limited number of accountants, financial advisors, insurance professionals, bank trust officers, etc.

For each one of their new clients, the collaboration members could offer the benefits of a collaborative to plan the client's integrated financial and estate plan. Assuming the client wished to proceed, the professional would assemble the collaborative based upon the particular needs of the client. The client would then enter into separate, independent fee agreements with each collaborative member. The process would be similar for each client brought to the collaborative.

With this type of collaboration, there is a high degree of trust among the collaborative members: each knows the others' strengths and weaknesses and is able to work effectively within the collaborative.

IV. What Other Advisors are Looking for in an Estate Planning Attorney

A. Trust and Mutual Respect

First and foremost, relationships are built upon trust and mutual respect. Like us, other advisors want to be treated as a valued contributor in the planning process; they do not want to be treated as second class citizens! And nor should they be; many financial advisors are experts in what they do, and know far more in their area of expertise than we ever will.

Unfortunately, some of our lawyer colleagues treat financial advisors as second class citizens in the past and have even acted in a condescending manner *in front of the client*. These same lawyers then wonder why the financial advisor no longer refers business to the lawyer—go figure!

We tell the advisors that we work with that not only will we treat them as a planning equal, we will make them look good in the client's eyes in several ways and at every opportunity. First, we will take good care of the client and provide the best possible planning for that client, which all advisors want. Furthermore, we will praise the advisor at every opportunity through what we call "shining the spotlight". This relatively simple technique allows us to highlight the strengths of our collaborative partners, while doing so in a way that adds tremendous credibility to all of the collaborative members.

B. "Shining the Spotlight"

How many times have you heard someone carry on about how wonderful they are? How do you feel about this person? Is your reaction that this person is credible or a braggart? Now, imagine how the client reacts when we as professionals talk about ourselves and how wonderful we are? Odds are, they have the same reaction we do.

With "shining the spotlight", rather than talking about how wonderful we are, another member of the planning collaborative does it for us. For example, when we introduce a colleague to a client or another colleague, we speak openly—yet truthfully—about the colleague and him or her. For example, "Jane Advisor is one of the best in town. You are

lucky to have her taking care of your accounting/finances/etc. She's one of the few advisors I really trust." When a respected professional speaks about us in this manner, it turns braggadocio into a powerful credibility builder!

And when discussing planning alternatives with the client, we can share the "wonderful" idea brought to the table by the advisor (or any other collaborative partner, for that matter). For example, "I suggested that you might consider a 529 plan for your children's education, but Jane reminded me that you want your children to work for their education as you did."

The key to shining the spotlight is knowing the colleague, his or her practice, and his or her strengths and weaknesses – well! It is very difficult to speak about anyone in this manner when you don't know the person well, both personally and professionally. Moreover, what you say about the other professional must be the truth; clients will know in a heartbeat if you are insincere in your efforts to shine the spotlight on another professional.

V. The Power of Sharing Expectations

One trouble area for professionals who are attempting to build strong referral relationships has to do with their expectations of the relationship, and in particular the expectations they do not share with their collaborative partner(s). We all possess unexpressed expectations, yet for some reason most of us do not share those expectations with the person to whom they matter most.

Think about expectations you've held as to others, but didn't express. If you're like us, when your expectations are not met, even though the other person has no idea of these expectations, your reaction may be of disappointment, frustration, or even anger.

We've found that if we can establish a level of trust that permits us to openly discuss our expectations with other professionals early in the relationship and often, there is less likely to be disappointment from one or more collaborative members.

A. The Expectation of Reciprocal Referrals

Invariably, one expectation that comes up in nearly every frank conversation with financial advisors is the financial advisor's expectation that for each client he or she refers to the lawyer, the lawyer should refer one client in return. We are aware of instances where this one expectation has single-handedly destroyed good referral relationships.

As a result, we make it a point to raise this issue early in the relationship. We explain that we receive most of our clients through referrals from advisors like them and that it is not often that we have the opportunity to refer unattached clients back to them. However, on those rare occasions when we can refer clients out to financial advisors, it gives us great pleasure to do so.

We add that while we typically cannot refer clients, we bring significant value to the relationship in several other ways:

(1) We will treat their clients so well and do such good work for them that they will thank the advisor for caring enough to refer them to us;

(2) As indicated above, you and your staff will always speak highly of the advisor and that will reflect well upon them;

(3) While you may not be in a position to refer new clients, you may be able to refer new business based on your estate planning recommendations to their referred clients (e.g., life insurance for Irrevocable Life Insurance Trusts and Wealth Replacement Trusts, long-term care and disability insurance, trust services, tax returns, etc.) and that you will be loyal to their services;

(4) Assure them (and then deliver!) that you will ALWAYS keep them in the loop (phone call after meetings, thank you notes, updates, team approach. Consider getting an authorization for release of information in your first client meeting, both verbally and then in writing from the client, to do this. And don't overlook the power of thank you; we've had several advisors tell us that they stopped referring business to other lawyers because they just didn't seem to appreciate the business. Don't allow your referral sources to think that about you!

If you work with the best advisors, who are not hungry for more and more new clients, they will appreciate this approach and admire how you treat all your clients with the utmost respect and compassion.

B. Other Critical Expectations

Referrals are only one of numerous critical expectations that the collaborative partners should explore early in the relationship and, if necessary, again later on if circumstances change. Other key areas include:

(1) Compensation—How will each professional be compensated? Will there be some sort of fee-sharing arrangement? If so, it must be within the limitations of licensing and all ethical rules.

(2) Workload—Who will do what, and when? This is critical to ensure that nothing “falls in the cracks”.

(3) Primary client contact—Who will be the primary contact for the client. This is typically the advisor that brought the client to the relationship. However, we've experienced situations where the client instantly bonds with one of the advisors (typically over a common experience) such that that advisor is the obvious choice for primary client contact. However, there is a natural tendency of the initial “referral source” to not want to let go.

(4) Follow-up—How is the client to be served over time? We view planning as a lifelong process, not a one-time transaction. Thus, we feel it is important to determine how the collaboration will serve the client going forward. How often should there be regularly scheduled meetings, if at all? What services will the collaborative provide?

(5) Disagreements—How will they be handled? As obvious as it seems, this is an area that is rarely discussed in our experience. Unfortunately, the first time the collaborative partners openly disagree in front of the client is likely the last time they'll work with that client. We recommend that the collaborative partners agree that they will never disagree in front of the client and that, if they do disagree, they will present such disagreement as different options for the client. This is in part why we believe it is so important for the advisors to communicate before meeting with the client.

(6) Others peculiar to the situation or the relationship?

VI. Educating Others About You and Your Practice

A significant part of relationship-building involves educating your collaborative partners about you and your practice. For example, what is your process for meeting with new clients? Do you charge for the initial meeting? How long are your initial meetings? Do you charge hourly or value based? Etc.

In our experience, the *best* way to accomplish this is to have the collaborative partners experience your planning process by you helping them with their own estate plan. It's easier to explain and believe in the value of something you've experienced yourself.

The more your collaborative partners know about you, the more successful they can be a pre-selling you and your services. The same is true for your knowledge of your collaborative partners. As we like to say, "truth sells." Speak openly of your strengths and your weaknesses. And don't forget to say that you would welcome the opportunity to work with their clients because, if you don't ask, the other advisor may just assume that you already have too much business.

VII. It's About Relationships!

The bottom line of working with other advisors is simple: it's about relationships. Advisors must have a good working relationship to work effectively together. And, like other relationships, this relationship takes time and energy. And some relationships will bear fruit, while others may not. But that's okay because, in our experience, the relationships and loyalty we have developed over the years are worth far more, both emotionally and monetarily, than the time and energy we have spent to build and maintain those relationships.