



# Proper Ways to Leave Your Law Firm

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Q.

I gave ten years of my life to this firm. But I think I've reached my limit on the fees that I can earn.

I should fly solo, yet there's much I must learn.

What are the proper ways to leave my law firm?



When You Depart Your Firm  
You Must Act Ethically  
To Get Off to a Great Start  
Once You Really Do Break Free.

If You Are Ready,  
Just Listen to Me  
About the Proper Ways  
To Leave Your Law Firm.



### It's Okay to Plan, Fran

Your career is important. But your clients still come first. Thoughtful planning is essential in meeting your professional responsibilities.

While abrupt departures are a last resort, you must still be prepared to leave immediately if your boss feels otherwise. Before announcing your departure, you may contract for office space and equipment, form a partnership with other departing colleagues, order stationery, and take whatever practical steps may be required to minimize any disruption to your active clients.

It's unwise to build a new firm while burning bridges with your old one. Don't solicit clients or sign new ones behind your employer's back. The same is true of efforts to recruit firm associates, paralegals, and secretaries. Though certain clients and staff may follow you to your new firm, clandestine deals will offend your current partners and subject you to claims of unfair competition, a breach of fiduciary duties, or intentional interference with contractual relations.

Even if you don't engage in outright solicitation, announcing your impending departure to clients or staff before notifying your partners may be misconstrued. You may engage in "exploratory conversations" designed to assess the portability of your practice in the event of a "hypothetical departure." But to avoid an appearance of impropriety, you must be very careful about what you say and to whom you say it.

Whether or not you anticipate turbulence from members of your current firm, consult with legal ethics counsel to help you plan the move in compliance with the Rules of Professional Conduct, to smooth your transition, and to serve as an intermediary to help resolve any disputes that arise in the course of your departure.



### Don't Rip Off the Files, Myles

As a departing lawyer, you "can't take it with you."

Without permission, you can't take files with you when departing your current firm. Those who do face grievances and lawsuits from the lawyers they leave behind.

After proper consultation with your firm and your clients, you may maintain representation in many of your cases and take their files to your next destination. But if you're not careful, your old firm may accuse you of stealing its business, failing to protect client property, or shirking your duty to maintain the confidentiality of the information contained in these sensitive materials.

Law firm breakups can get nasty at times. In a battle for "turf protection," some firms have obstructed the departing lawyer's access to their own clients and improperly withheld paper files. If you anticipate such interference, you may wish to protect them from a delay in the transfer of a paper file by downloading important materials that were stored electronically.

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Technology may be helpful in that situation. But it's also a powerful tool for the unauthorized copying of proprietary information. Using a portable hard drive, one can literally drag, drop, and steal all of a firm's data in a matter of hours. Regardless of the technology used, you won't be able to justify the theft of client lists, billing rates, financial statements, salary and human resources information, marketing materials, and other trade secrets.

To the extent that you personally prepared pleadings, forms, or other legal documents that may technically belong to the firm, you can probably download these materials without raising eyebrows. Lawyers typically accumulate such materials in their travels to use as forms later on. But if you're not the author, leave it be.



### There's Much to Discuss, Gus

To quote another song, "breaking up is hard to do."

You can't always predict and certainly can't control your boss's reaction. But you can announce your departure in a positive and professional manner, which may set the tone for a smooth and friendly transition.

**Timing matters.** If possible, don't spring this on your colleagues on the eve of a big trial or other hectic firm business. You should certainly provide the firm with at least two weeks' notice, but even that may be too abrupt in many cases.

**Keep the message positive.** Express gratitude for the opportunities and experiences provided at the firm and do not use the occasion to gripe or criticize. Treat your boss like you would wish to be treated if the roles were reversed. Recognize that your departure will create a range of issues and come prepared to address each one. Pledge your cooperation to assure that client matters and deadlines are met, and work with the firm to alleviate any hardship that may result.

**Before the meeting, prepare a list** of matters that you wish to keep, placing primary emphasis on clients that you brought to the firm and with whom you have strong attorney-client relationships. You should also give thought to the division of fees and other compensation associated with contingency cases that you have worked on and those you may take with you.

**Be reasonable and flexible.** Fighting over one extra case or demanding a slightly greater percentage of contingency fees may make a difference in the short run. But if this goes well, you will build a referral source that may pay dividends for years to come.



### Clients Get the Choice, Joyce

Just as no one owns you, no one "owns" the clients you represent.

Both you and your current law firm must inform each affected client of your impending departure, confirm the client's autonomy in choosing counsel, and respect the client's decision. Under Rule 1.4 of the Rules of Professional Conduct, you both have a duty to keep these clients reasonably informed about the status of their cases and to provide the information needed for them to make informed decisions regarding the representation.

Ideally, this should be presented in the form of a joint letter that is free of posturing over the client's ultimate selection of counsel. Unless you're leaving the practice area or the matter would conflict with those at your new firm, these clients should be given the option of staying with your old firm, staying with you, or taking their business elsewhere. Since the client must make an informed decision regarding representation, the letter must also disclose your contact information at the new firm.

You must not call or meet with clients that you haven't personally represented. When you speak with those you have represented, you may certainly answer questions about your new

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firm, billing rates, and other important details. But avoid direct comparisons with your current firm, and always emphasize the client's right to choose whatever lawyer they prefer.

After you leave, you may send professional announcements to other firm clients. But I wouldn't recommend it if you wish to maintain a good relationship with your former firm. Doing so will cause resentment, arouse suspicion that you may have stolen client lists, and turn an ally into an enemy. Fish in someone else's pond.



### No Need to be Snide, Clyde

If at all possible, leave on good terms. Don't disparage your colleagues on the way out the door.

Regardless of how you may truly feel about your old firm, a true professional refrains from disparaging other lawyers or comparing one firm with another. If you have developed a positive attorney-client relationship, keep it positive. Focus on your qualities as counsel. Nothing else really matters.



### Then Drop Off the Key, Bea. And Live Prosperously.



*Irwin R. Kramer advises lawyers and law firms throughout Maryland and the District of Columbia. Combined with significant trial and appellate experience, his law firm management experience gives him an appreciation for the pressures of law practice and the ethical issues confronting lawyers daily. He also publishes a regular blog on ethics issues at <https://attorneygrievances.com>.*