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**PRACTICE
WITH
PURPOSE**
SYRACUSE, NY

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Downtown

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Transforming Your Practice One "Who" at a Time

Amanda Bossow, Implementation Specialist

Recently, at the TAPER New Orleans event, Dave Zumpano, Founder of Lawyers with Purpose, presented his take on law firm roles and the power of having the right person in the right seat during Friday's *Why Day* session.

Zumpano explained the importance of first examining and understanding where you currently are. In doing so, you should have a good grasp on your revenue and profit against the number of attorneys and support staff you have. He also indicated that when following the LWP process (FDS), a LWP firm having 1 attorney and 1-2 staff have a revenue of \$40K - \$70K per month, making a profit of \$20K - \$35K per month.

Each firm then completed an assessment reviewing where they felt they were, currently, in 8 different practice areas: Technical/Product Knowledge, Marketing, Sales, Workflow Efficiency, Cash Flow, People, Finance/HR, and Work/Life Balance.

Where do you feel you are in each of these areas? Where are you seeing success? Where are you currently battling challenges, and do you have goals or a plan to see what taking the practice area to the next level would look like?

Once you understand where you are, then you should examine where you want to go. Within the LWP model, there are three levels of success:

1. Technical Success (Competency)

2. Operational Success (Consistent Profitability / Growth)
3. Entrepreneurial Success (Independence)

If you can clearly see you have accomplished the Technical Success level, it's time to move on to the Operational Success level. Likewise, if you are solid in both the Technical and Operational Success levels, you are ready to move toward Entrepreneurial Success. Typically, this prompts the question, "How do we get there?" but Zumpano firmly believes the question should be, "Who will get us there?"

You may feel at this point you have a solid team in place, so you already know the answer to that question. However, if you've set goals you haven't been able to reach previously, it's time to look at 3 reasons why firms don't hit goals!

1. Competency: Does a person in a certain role lack skill or knowledge? (Hint: If you must ask for something from that person 3 times, the task most likely is not that person's unique ability, and you should review if that person is in the right role.)
2. Capacity: Is a person struggling to complete the requested task? Does s/he say that there isn't enough time? If so, it's time to review your time template. Do you have too much volume? This can be determined by reviewing your LWP Focusers weekly and confirming whether you are hitting your numbers.

Transforming Your Practice One “Who” at a Time (Cont.)

3. Focus: Are we allowing ourselves to be distracted from understanding and reviewing our KPIs (Key Performance Indicators)? What are your firm’s KPIs?

Zumpano went on to explain that it’s not enough just to hold a job title; one must also understand the responsibilities of each role and to whom the person in each role is accountable. Each person should also know the numbers and goals for which they are held accountable.

1. Lead Generation (ICF’s) (Marketing/ Relationship Management)
2. Lead Conversion (Enrollment: Client Services/Legal)
3. Workflow (Client Services)
4. Cashflow (Client Services/Calendar)
5. People (Operations)
6. Finance/HR (Operations/Owner)

He then shared with the TAPER attendees specific job descriptions including the department in which they are a part and their reporting structure. (LWP will have the new descriptions available on the member website soon.)

Upon review of the various job descriptions, everyone completed an activity in which they were able to describe what they currently do (what hats they wear) as well as what they prefer to do and are committed to doing (their unique ability.) This includes listing the roles with which they felt they were most compatible.

The firms came together again to complete an additional activity in which they were able to identify the Who’s within their firm for 8 different roles: owner/entrepreneur, operations, client services enrollment, client services satisfaction, legal, marketing, finance, and HR. They were asked to list the “Who” whose role it is to ensure the tasks and responsibilities are handled to the highest level. All firms may have one or two “Whos” in various roles, but that doesn’t necessarily mean that they are the only person(s) completing the tasks and responsibilities that fall within the scope of that role.

The “Whos” will instinctually figure out the “How” and will reach out to other “Whos” to support them. This means the “Whos” will have their own “Whos.” Just imagine the whole room asking each other, “Who’s your ‘Who’, and who’s your ‘Who’s Who?’” It sounded like quite the room of owly scholars.

By completing the activities mentioned above as well as utilizing the Dashboard to Profitability (the magic button), TAPER New Orleans attendees were having numerous breakthroughs about their current level of success, where they wanted to take their firm, Who (not how) was going to get them there, and the next actions needed to reach the level of success they want to achieve.

If you are interested in learning more about how to Transform Your Practice One “Who” at a Time, reach out to us to schedule a call to discuss your options, including implementation support and coaching from our member success team. We will discuss the tools mentioned above and help you utilize them in your firm!

Save Date for our next TAPER



ATLANTA
GA

October 21-25, 2019

atlantaretreat.lawyerswithpurpose.com

Lawyers With Purpose would like to recognize **George Baker** as **APRIL 2019** *Member of the Month*



Located in Glastonbury, Connecticut, and serving most of the state, Baker Estate Planning Law, LLC has been a LWP member since 2016. Founder and owner, George Baker, began his legal career by working in a general practice firm for about six years prior to having the distinction, at just 29 years old, of becoming the youngest probate judge ever elected in Connecticut. Baker continued working at the general practice firm while serving as judge for one term prior to a relocation that prompted him to specialize in estate planning, and ultimately to start his own estate planning firm in 2007. Currently, in addition to running his firm, Baker is also an Adjunct Professor in the paralegal program at Manchester Community College where he teaches a course on Probate Practice and Estate Administration.

LWP sat down with George Baker to talk about his firm and the changes it's experienced since becoming a member.

What brought you to LWP?

I had been practicing in my own firm for several years prior to joining. At that time, I wasn't doing workshops, and I needed help bringing in clients and with overall process and procedure. I had heard Dave Zumpano speak about Medicaid, so I was aware of him and of LWP. I became a member, but it was not until a year or year and a half after I'd joined that I became fully engaged. I had met up with Dave for a chat, and I decided I needed to engage fully and implement the system, or I needed to let it go. I chose to engage.

What is the greatest success you've had since you fully engaged with LWP?

In one year, from the point at which I was fully engaged with the LWP process, my firm doubled its income. This year, my firm is even ahead of that; we're probably up 20-25% in revenue over the previous year.

To what, specifically, do you attribute your revenue growth?

I'd say it's the implementation of the LWP process. The marketing and workshop processes go hand-in-hand with revenue. I've got 3-4 signings per day. I also do RMS, and that is working. I'd like to say that I follow the RMS process religiously, but I do need to follow it tighter than I do. I've built a couple of relationships with firms, and they are feeding us quite a bit. I'm also planning to educate other accountants and financial advisors so I can be the go-to person in Connecticut for their questions and referrals.

Also, my staff. When I ended up fully engaging with LWP, I put in the effort to bring on a Client Services Coordinator, and that's when things really improved. Getting the right person in that role is key. For me, that's Pauline. She gets people in, follows up, and gets them signed up. People love her, and she does a great job. They sign up because of her; she's their first contact. We're hitting around 85-90% conversion rates with our workshops.

What do you believe sets Baker Estate Planning Law apart from your competition?

I have quite a few competitors in my area. There are probably about four or five in Glastonbury, and one is quite large, but doesn't have a good reputation. Another is known as the "cookie cutter guy." I think what sets me apart is that I don't push people, so there's not a lot of pressure. I focus on education and having compassion, so my clients have a good experience with my firm from beginning to end. Because of this, client referrals are really picking up, and we think about 20-25% of our workshop attendees are referrals.

What was your deciding factor in choosing LWP over our competitors?

I had been a member of an LWP competitor for one year, but I found their methodology to be a hard sell, in which clients were mostly pushed into one particular trust option. It wasn't a personable method of doing business, and it was one that upset clients. It wasn't for me, but I did learn a lot on the marketing side. I had the technical knowledge, but I realized that I had to do the marketing piece and implement systems and processes to be successful. After talking with Dave and using the Medicaid software, I didn't consider any other LWP competitors.

Do you attend LWP's TAPER events, and if so, what wow'd you there?

I have been to four TAPERS so far: Louisville, Tampa, Houston, and Syracuse. I am planning to go to Atlanta.

Last fall, there was the presentation on IMQ (In Marriage QDRO®). I did one about a month ago, and I'm currently waiting for the judge's decision. Hopefully, we can get that decision soon, and if so, it will be the first one in Connecticut.

What is your favorite LWP tool?

I love the wagon in the workshop. People love it, too, because they all relate to it. I also really like the software to draft a trust. The coolest tool is the workshop.

What kinds of changes, if any, are you currently seeing in your market?

Sadly, a lot of my clients are moving out of Connecticut, and from a planning perspective, most people are focused on trying to protect their assets. It's a tough state from a Medicaid perspective in terms of transfer rules. That's the real trend—they want to know how their plan is affected by a move, and ultimately, it's affected by where they go. They might be going to a state that doesn't allow a specific kind of trust. In general, a revocable trust is OK, but for an irrevocable trust for asset protection, there could be an impact.

Any advice for attorneys who are new to estate planning & elder law?

Become proficient in the technical side, and if you're starting out young, focus on business development and growing your own business. Be strong on the marketing and development side. They don't teach this in law school. When I started out, you weren't supposed to advertise. Now, I wish I'd done it 20 years ago.

Congratulations to you on your continued success!

The Impact of Foreign Trust Status in an Increasingly Global Age

| Timothy P. Crisafulli, LL.M., Esq.

Definition of Foreign Trust

A trust is a “foreign trust” unless both of the following conditions are met: (1) a court within the United States must be able to exercise primary supervision over the administration of the trust (the “Court Test”), and (2) one or more United States persons must have the authority to control all substantial decisions of the trust (the “Control Test”). IRC § 7701(a)(30)(E), (31)(B); Treas. Reg. § 301.7701-7(1).

The Court Test

A trust can fulfill the Court Test by complying with a safe harbor. Treas. Reg. § 301.7701-7(1)(c). Specifically, the Court Test will be satisfied if:

- (i) the trust instrument does not direct that the trust be administered outside of the United States [(the trust may simply remain silent on the issue, see Treas. Reg. § 301.7701-7(1)(c)(2), Example A)];
- (ii) the trust is in fact administered in the United States; and
- (iii) the trust is not subject to an automatic migration provision [(i.e.—there is no clause requiring the trust to automatically migrate from the United States if any U.S. court attempts to assert jurisdiction or otherwise supervise administration directly or indirectly, see Treas. Reg. § 301.7701-7(1)(c)(4)(ii)]].

The Control Test

The Control Test is met where one or more United States persons has or have the authority to control all substantial decisions of the trust. Treas. Reg. § 301.7701-7(a)(ii). A “United States person” includes a citizen or resident of the United States, a domestic partnership, a domestic corporation, an estate that is not foreign, and a trust that is not foreign. IRC § 7701(a)(30). “Control” means “having the power, by vote or otherwise, to make all of the substantial decisions of the trust, with no other person having the power to veto any of the substantial decisions.” Treas. Reg. § 301.7701-7(d)(iii).

Hence, if a decision by multiple trustees must be unanimous, no co-trustee may be a non-United States person. If a decision may be made by majority, then a majority must be United States persons. No non-United States co-trustee may have veto power. See Treas. Reg. § 301.7701-7(d)(v). A “substantial decision” is one that is not merely ministerial (such as bookkeeping, collection of rents, and execution of investment decisions), which includes, but is not limited to: whether and when to distribute income or corpus; the amount of any distributions; whether a receipt is allocable to income or principal; whether to compromise, arbitrate, or abandon claims of the trust; and investment decisions. See Treas. Reg. 301.77-1-7(d)(ii).

Consequences of Foreign Trust Status

A domestic trust that becomes a foreign trust is treated as having made a transfer of its assets to a foreign trust. See IRC 684(c). This, in turn, would cause a capital gains tax recognition event. Though there is an exception for any grantor trust, see IRC § 684(b), this exception would cease to exist—such as for an Irrevocable Pure Grantor Trust (“iPug™”)—after the death of the grantor(s), once any sub-trusts created thereunder come into existence.

Another potential downside to foreign trust status involves the additional reporting requirements to which they are subject. See IRC § 6084. Any failure to comply with these reporting requirements can lead to significant penalties. See IRC § 6677.

Conclusion

If a trust fails to meet either the “Court Test” (i.e.—it is not subject to the jurisdiction of a U.S. Court) or the “Control Test” (i.e.—a non-U.S. person has the authority to control all substantial decisions of the trust), then it is a foreign trust. A foreign trust suffers from less favorable tax treatment than a domestic trust, including but not limited to earlier recognition of capital gains, additional reporting requirements, and additional penalties for non-compliance.