THE MID-ATLANTIC FELLOWS INSTITUTE
OF THE AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL
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BUILDING & SUSTAINING A SUCCESSFUL TRUSTS & ESTATES PRACTICE

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STARTING YOUR PRACTICE

- Learn what it means to practice law (e.g., billable hour requirements, recording hours timely, working efficiently, meeting deadlines, good practice management skills)
- Consider how best to continue your education
- Seek out mentors in the trusts and estates practice in your firm <u>and</u> outside your firm
- Learn your firm culture
- Participate in firm activities; make sure they know you
- Become known as someone who comes through "in the clutch" for colleagues (not just for senior attorneys)
- Hitch your wagon to good and ethical people

UNDERSTAND THE BREADTH & DEPTH OF THE TRUSTS & ESTATES PRACTICE

- Practice is relationship based, not transactional
- Focuses on all aspects of a client's life
- Cradle to grave and beyond; intergenerational relationships
- Deals with difficult emotional issues (e.g., physical and mental illness, death, substance abuse, family disputes, divorce, blended families, etc.)
- Need to be a generalist as to many areas (e.g., real estate, corporate, tax, family law, etc.), and an expert in those areas integral to the trusts and estates practice
- Technical knowledge is essential, but excellent interpersonal skills help a lot
- Significant problem solving and psychologist/social worker components

UNDERSTANDING THE BREADTH & DEPTH OF A TRUSTS & ESTATES PRACTICE (Cont.)

- Substantive Specialties - Which ones appeal to you? Do you want to focus on a few?
- ACTEC Substantive Committees:
  - Artificial Intelligence Task Force
  - Asset Protection
  - Business Planning
  - Charitable Planning and Exempt Organizations
  - Digital Property
  - Elder Law

UNDERSTANDING THE BREADTH & DEPTH OF A TRUSTS & ESTATES PRACTICE (Cont.)

- ACTEC Substantive Committees (cont.):
  - Employee Benefits in Estate Planning
  - Estate and Gift Tax
  - Family Law Task Force
  - FATF Task Force
  - Fiduciary Administration Task Force
  - Fiduciary Income Tax
  - Fiduciary Litigation

UNDERSTANDING THE BREADTH & DEPTH OF A TRUSTS & ESTATES PRACTICE (Cont.)

- ACTEC Substantive Committees (cont.):
  - International Estate Planning
  - Legal Education
  - Practice
  - Professional Responsibility
  - State Laws
  - Tax Policy Study
  - Technology in the Practice

LEARNING THE TRUSTS & ESTATES PRACTICE

- Stay on top of current developments
- Attend CLE programs; read articles; subscribe to periodicals
- Learn drafting, planning and administration
- Focus on broad array of areas; don't get pigeon-holed or decide too early to specialize
- Examine the holes in your practice and plug them
- Invest personal non-billable time to watch, listen and engage with more senior lawyers
- Be proactive, grab work, try to help . . . Don't wait for an assignment
- Ask questions!!

LEARNING THE TRUSTS & ESTATES PRACTICE (CONT.)

- Be prepared to make suggestions or offer alternative ideas; share relevant articles
- Do top quality work ("completed staff work"; proofread, test the numbers)
- Develop your own style
- Learn to exercise judgment and be open minded
- Know everything about the client and the client's family
- Be interested and interesting
- Engage with other advisors; a team approach is the best

NETWORK & MAKE YOURSELF KNOWN

- Network Opportunities Abound!
  - Join, participate, volunteer
  - Committees and projects can raise your profile
  - Look for a good fit and become a star
  - Effectively manage the time away from your practice and learning your craft
  - Many organizations are hungry for your participation and enthusiasm
- The American Bar Association Section of Real Property Trust and Estate Law (RPTE)
  - Find a substantive committee to join
  - Try to attend RPTE meetings and participate

NETWORK & MAKE YOURSELF KNOWN (CONT.)

- The National Association of Estate Planning Council (NAEPC) in your area.
  - Includes a diverse group of professionals who can be assets to your practice, as well as referral sources
  - Other Attorneys
  - Accountants
  - Financial Planners
  - Insurance Professionals
  - Trust Officers
  - Non-Profit Development Professionals

NETWORK & MAKE YOURSELF KNOWN (CONT.)

- State and Local Bar Associations
  - Trusts & Estates Section
  - Tax Section
  - Elder Law Section

- The National Association of Elder Law Attorneys (NAELA)
  - Consider if you have an interest in this area of practice

- Society of Trust and Estate Practitioners (STEP)
  - Global organization for practitioners dealing with family inheritance and estate planning; international focus

NETWORK & MAKE YOURSELF KNOWN (CONT.)

- Study Groups
  - Create/join a small intimate group of T&E professionals at your experience level
  - Create/join a small intimate group of cross-professionals, i.e., accountants, estate planners and insurance professionals
  - Meet regularly for breakfast or lunch
  - Share your experiences, seek advice, learn from the experiences of others
  - Grow together!
- Sponsored Events
  - Selectively accept invitations to attend events sponsored by banks, trust companies, financial institutions and other professional organizations
  - Events that include spouses and/or children are good ways to balance family time and to enable your spouse to also make connections

BUILDING BLOCKS
3+ YEARS, NETWORKING BEGINS

- With at least 3 years of experience you can be an important contributor
- Volunteer to work on and possibly chair subcommittees that:
  - Propose and draft legislation important to the T&E Practice
  - Help the organization find speakers; arrange events; moderate panels
  - Promote the purpose of the organization you joined
- Teach! Accept speaking invitations from professional organizations, planned giving organizations, schools, religious and other public charities, community groups, etc.
- Write outlines and articles, and collaborate with other speakers
- Share credit and sing others' praises liberally (when deserved)

BUILDING BLOCKS
3+ YEARS, NETWORKING BEGINS (CONT.)

- If you are interested in eventually becoming a Fellow of the American College of Trust and Estate Counsel (ACTEC), work to fulfill the requirements of excellence to qualify for nomination

- ACTEC looks for excellent T&E attorneys who have made a "substantial contribution" to the T&E practice, and:
  - At least 10 years of practice
  - Teaching, including seminars and presentations (especially audiences of attorneys & law students)
  - Sophisticated, scholarly publications
  - Bar Service, especially in leadership roles
  - Promoting legislative initiatives

BUILDING BLOCKS
3+ YEARS, NETWORKING BEGINS (CONT.)

- ACTEC Fellows now include Fiduciary Counsel, who are attorneys working for fiduciary services companies (banks and trust companies)
  - Must meet all the requirements for a Fellow in private practice
  - Must provide T&E counsel comparable in breadth, tone and independence to that provided by a Fellow in Private practice
  - Must provide such counsel directly to clients of the fiduciary services company or to others in the fiduciary services company, considering and developing advice directly to clients
  - Most significantly, must have a statewide or regional, if not national, reputation
- ACTEC Fellows are *nominated* so get to know as many ACTEC Fellows as possible

BUILDING BLOCKS
3+ YEARS, NETWORKING BEGINS (CONT.)

Just as one example, see the link below to the ACTEC Committee Meeting Highlights for the Annual (Spring) Meeting held in March 2020 (the last in-person Annual meeting), illustrating the work being done by ACTEC's substantive committees in support of the T&E Practice (which does not even include the work of the many administrative committees). The number of substantive committees (listed above) speaks to the diversity of the practice, areas of specialization and the overwhelming amount of knowledge and information one needs to possess to have a successful practice.

https://www.actec.org/assets/1/6/A20_Committee_Highlights.pdf?hssc=1

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE

- Easier to keep a client than find a new one
- Best referral source is a satisfied client
- Other good referral sources are other professionals who know your work or with whom you have interacted in a meaningful way
  - Always send a thank you for a referral
  - Be a team player
  - If the client is a shared client, keep the referral source and any other involved professionals informed and included
- Build a data base of referral sources

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- Cross-referrals within your firm will help you build your practice
- Educate the other attorneys in your firm about your practice
- Become an integral part of the relationship so that the client and the partner both think of you as part of the succession plan
- Originate more business for your firm
- “Cross-sell” your firm’s other services, i.e., real estate, corporate work, litigation
- Consider your personal “marketing plan”

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- For example, if your client has an interest in a family business and your firm works with family businesses, be certain your client knows that your firm:
  - Creates entities
  - Drafts entity purchase and restriction agreements
  - Works on succession planning with non-qualified deferred compensation plans, recapitalizes business into voting and non-voting interests and structures wealth transfers
  - Can represent your client in the sale of the business or the acquisition of additional businesses
  - Can meet with your clients and their accountants on an annual basis to review tax and business planning and make sure formalities required to maintain the entity are being met

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- If you have a boutique firm, create good outside referral sources in other areas of the law
  - Outside attorneys want you to come back for more
  - You can "match" the client and the outside attorney possibly even better than keeping the work "in house"
  - "Virtual law firm"

- Even at a full service firm, create good outside referral sources

- Nurture relationships with your peers and referral sources
  - Share articles and other items of interest
  - Have a personal relationship when possible

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- Stay in touch with clients
  - Newsletters and firm announcements are always helpful, especially for law changes
  - Pick up the phone; nothing replaces personal interaction
  - Send birthday wishes
  - Check in regularly
  - Always respond to client communications

- Be prominent on your firm's website and be certain that your talks, presentations, publications and other professional activities are listed

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- Develop good practice management skills
  - Return phone calls
  - Respond to emails
  - Set realistic deadlines and expectations
  - Calendar and tickler system
  - Fess up to clients when running behind (don't hide)
  - Get your hands dirty – don't be a prima donna
  - Treat others with respect and courtesy
  - Communicate expectations

- Maintain a presence on Social Media within appropriate ethics parameters
  - Have a LinkedIn page and update it regularly
  - Contribute to your firm's blog (or start one!)

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- Have your staff be part of the action, part of the team
  - The more your staff knows the more engaged they will be
  - You will have a better team for your clients – and your staff will feel more invested

- Working with your assistant
  - Maintain your calendar
  - Communicate with your clients to keep them informed about the progress of your work when you are too busy to contact them (if you agree)
  - Coordinate with other attorneys and professionals on scheduling meetings
  - Track deadlines and tickler
  - Work together on billing
  - Have your assistant proofread everything you send out (which keeps him/her informed)

BUILDING BLOCKS
5+ YEARS – EXPAND YOUR PRACTICE (CONT.)

- Working with paralegals
  - Again, make them part of the team
  - Set up regular meetings to review workload and status
  - Different uses of paralegals
    - Drafting
    - Estate / Trust administration
    - Other

- As your practice grows, look for an associate/colleague like yourself and . . .

PAY IT FORWARD

CLIENT CONFIDENTIALITY

- Protecting client confidential information is CRUCIAL (and required)
- Avoid talking about client matters in public places, or carelessly
- Password protect mobile devices and laptops
- Use personal email addresses only unless knowingly authorized by the client
- Encryption of all communications or just certain sensitive communications?
- ABA Model Rules on lawyers' obligations after an electronic data breach or cyberattack
- Most cyber security breaches are caused by human error – be aware and be prepared
- Plentiful resources (ABA, ILTA, state bar associations)

ACTEC

THE AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL

ACTEC.org Resources

- Publications, Videos & Podcasts
- Sample Engagement Letters
- ACTEC Commentaries on Model Rules of Professional Conduct
- Legislative & Regulatory Comments by ACTEC; Capital Letters
- What it Means to be a Trustee
- Guide for Fellows Serving as Trustees
- Guide for Agents Acting Under Durable Power of Attorney
- ACTEC Law Journal
- ACTEC Foundation

THANK YOU!

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