MERGING LAW FIRMS

Formation Considerations

☐ Effective date of the new merger
☐ Corporate Filing Status
  o Corporation (e.g. Sub S, C)
  o General Partnership
  o Limited Partnership
  o Limited Liability Partnership (LLP)
  o Limited Liability Limited Partnership (LLLP)
  o Limited Liability Company (LLC)
☐ Partnership/Operating Agreement
☐ Source of funds to fund the new entity, or new partner capital contribution?
☐ FEIN (Federal), State, and Local Account Number(s)
  o Will the new entity get new accounts?
    ▪ Create new online accounts for payroll tax payments
  o Will one firm’s accounts survive?
    ▪ If so, then the other firm’s accounts should be closed after the final tax returns are prepared
☐ Selecting a CPA to consult on tax and financial implications of merger
☐ Same fiscal years for tax reporting? If not, how does that affect the merger effective date, tax returns, etc.?

Compensation Considerations

☐ Partner/Owner compensation
  o What is the existing type of compensation for each firm (e.g. Salary, Draws, combination, etc.)
  o How will that change going forward?
  o How will you address the compensation disparity pre-merger and then going into the new firm?
    ▪ Are the adjustments equitable based on the amount of work and new responsibilities?
  o Bonuses
    ▪ Did both firms give bonuses?
    ▪ Will there be bonuses going forward? If so, based upon what criteria?
• Performance tied to billable hours, collections, etc.?
• Consideration given for marketing activities, mentoring, community involvement?

☐ Associate and Staff compensation
  o What is the existing type of compensation (e.g. Salary, Commission, blended)?
  o How will that change going forward?
  o How will the disparity pre-merger and going into the new merge be addressed?
    ▪ Are the adjustments equitable for the work performed and new responsibilities?
  o Will there be bonuses? If so, based upon what criteria?
    ▪ Consideration given for marketing activities, community involvement?

☐ Employer/Employee Benefits Plans – Does each firm use them? How will they be merged?
  o Simple IRA, 401(k), Profit Sharing, SEP, QNEC
  o Insurance - Health, Life, Disability Insurance, Dental, Vision
  o HSA, FSA Accounts
  o PTO and Sick policies

Accounting and Billing Considerations (TBA)

☐ TBA software
  o What product is being used by each firm?
  o Will one product survive and become the merged firm’s software?
    ▪ If so, what data can be exported out of the product not being used?
    ▪ Can that information be imported/merged into the surviving product or will the information be entered manually? If manual, who will enter the data?
  o Will you research new software products to use going forward?
    ▪ Schedule demos with sufficient time to review options and plan the implementation
    ▪ Review data that exists in existing products to consider what could/should be migrated to the new product

☐ Trust Accounting
  o Will you open new accounts for the new entity?
  o If an existing account will be the new entity’s main account, will you transfer balances from the other account or keep the separate and wind down the other account?
  o Are existing accounts fully reconciled and outstanding items addressed?
  o If staled dated balances or unclaimed funds, is there a plan to close the balances and remit the funds based upon the Bar Association’s unclaimed funds rule?
Billing procedures
- What revisions are required for the Retainer Agreement?
- Are the billing periods the same or different?
- How are the fee agreements similar or different? (e.g. Hourly, Fixed, etc.)
- How will Advanced Costs be addressed?
  - Tracking by each attorney?
  - Cash required to fund advanced costs?
- Are non-refundable fees deposited directly into Operating or Trust?
- Did either firm use a Retainer Replenishment/Evergreen retainer policy? Should a policy be implemented?

Reporting
- What productivity reports are reviewed by each firm?
  - Accounts Receivables
  - Billings
  - Collections
  - Billable/Non-Billable Time
  - Timekeeper Budgeting
- What firm financial reporting is reviewed by each firm?
  - Profit and Loss Statement
  - What income and expense items are being tracked by each firm?
  - What general ledger accounts will change or get added?
  - Is either firm maintaining a budget?

Client Balances
- Will Accounts Receivable balances get transferred to the new entity or will they be paid in the separate entities?
- Will unbilled fees and costs get merged into the new firm or billed out in each firm separately?

Federal and State Tax Returns and supporting documents
- Are all returns and documentation archived and accessible post-merger for any queries?
  - Federal Tax Returns
  - 941 (Fed. W/H, FICA, Medicare)
  - State (SUTA) and Federal Unemployment (FUTA 940)
  - State Income Tax
  - Local Income Tax

Bank Account information
- New account for the new entity or will existing accounts be used but with a name change?
- Does either entity accept credit cards?
  - If so, will you merge merchant accounts?
Insurance policies
  - Professional Liability (confirm if Tail Insurance is included)
  - Property (liability, wind, fire, flood, etc.)
  - Auto
  - Key Man
  - Business Interruption
  - Loss of valuable documents
  - Workers’ Compensation
  - Tail Insurance coverage

Schedule of Assets – Will each firm’s existing assets be owned by the new entity?
  - Furniture
  - Computers and Equipment
  - Backup Equipment and access
  - Automobiles
  - Buildings
  - Safe or lock box combination

Line of Credit
  - Are there any credit lines? If so, what steps need to be taken to keep them in the new entity?
    - New financial statements?
    - New personal guarantees?