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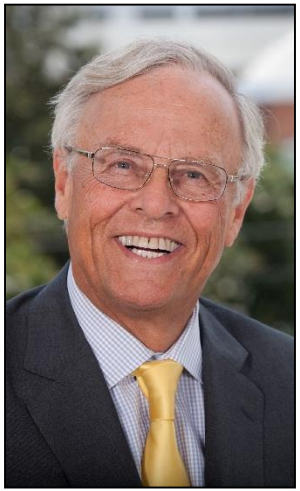

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Leaving Firms and Taking Clients:

Florida Emphasis and National Perspective

By Donald J. “Don” Weidner

Law Firm Hypothetical #1

- HYPO #1 (based on a Florida case). Attorneys Alfa, Bravo, and Charlie practiced law in "Law Offices of Grand Old Man." Those offices primarily handled plaintiffs' personal injury litigation on a contingent fee basis. Although they were not called partners on firm stationery or accounts, Alfa, Bravo, Charlie and Grand Old Man shared profits, occasionally referred to one another as partners, and filed partnership tax returns. While Alfa, Bravo and Charlie were still in those offices, an insurance company interfered with a relationship with a client. Alfa, Bravo, and Charlie subsequently left the firm and wound up serving on the bench. Grand Old Man continued to practice in the same office and sued the insurance company for the interference with the client relationship. Years later, Grand Old Man received a $15 million judgment against the insurance company. May Alfa, Bravo and Charlie claim a share of the award?

Discussion of Hypothetical #1

- Alfa, Bravo and Charlie argued that:
  - A partnership existed when they were associated with Grand Old Man.
  - During their membership in that partnership, the firm accrued a right to prosecute a suit against the insurance company for its interference with the firm's relationship with a client.
  - The right to prosecute the suit against the insurance company was a *chose in action* that was an asset of the firm.
  - The partnership was dissolved when Alfa, Bravo and Charlie left the partnership.
  - The dissolved partnership continued for the purpose of winding up its business, which include prosecution to its conclusion a suit against the insurance company.
- Held: Alfa, Bravo and Charlie win. They share in the $15 million judgment against the insurance company, which is an asset of the dissolved partnership.

The Law Suit As Firm Asset

- The partnership business that had never been wound up was the right to sue the insurance company.
- Although Grand Old Man did all the work to wind up that particular piece of business, the $15 million award was the partnership's asset.
- Grand Old Man was under a fiduciary duty to account for that award for the benefit of the partnership—he could not simply take it himself.
- Recall, a dissolved partnership continues until the winding up of its business is complete.
  - The dissolution of a partnership does not end the partnership.
  - Rather, the dissolution begins a contraction in its scope.

Compensation for Working on a Case After Firm's Dissolution

- At the time of Hypothetical #1, Florida had in effect Uniform Partnership Act section 18(f), which provided:
  - "No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs."
    - The theory was that a partner is presumed to be adequately compensated through her normal profit sharing arrangement.
- To avoid the harshness of the old rule, Florida's Revised Uniform Partnership Act section 8401(h) now provides:
  - "A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership."

Law Firm Hypothetical #2

- HYPO #2 (based on many cases). Delta, Echo and Foxtrot practice law together as partners under the name DEF Partners. Although they handle some matters on an hourly basis, most of their work is on a contingent fee basis. Delta had been handling a very promising contingent fee case for Client X, a client of DEF Partners. Shortly before the case went to trial, Delta left the firm, taking Client X with him. Delta subsequently won a $15 million judgment for Client X, who had agreed to pay Delta a 30% contingency fee. Do Echo and Foxtrot have a claim against Delta for their share of the $4.5 million legal fee?
  - Similarly, what if DEF Partners was an LLP and its creditors want to share in the fee Delta collected?

Variables Affecting Hypo #2 Cases

- Nationally, there is disagreement on the proper outcome in Hypothetical #2 situations. Key variables may include:
  - Whether the departing attorney is an equity owner or an associate.
  - Whether the client substituted a new lawyer for the old firm or simply retained an additional lawyer or firm.
  - Whether the matter is an hourly matter or a contingent fee matter.
  - Whether the state still has the UPA "no extra compensation" rule or has enacted RUPA's "reasonable compensation" rule.
  - The weight given to a client's right to choose a new lawyer.
  - Whether the old firm had a "*Jewel* Waiver"
    - And the timing of that waiver

Frates v. Nichols: Grand Old Florida Contingent Fee Case

- ***Frates v. Nichols,***
  167 So.2d 77 (Fla. 3rd DCA 1964).
- Oversimplified, Frates left his firm, taking clients on contingent fee cases with him (eight of which paid off).
- Frates entered into new retainer agreements with those clients.
- Frates said that, in light of the new retainer agreements, his old firm could only recover in quantum meruit. The Court disagreed.
- "Although never having been passed on by a Florida court, the proposition is universally accepted that a law partner in dissolution owes a duty to his old firm to wind up the old firm's pending business, and that he is not entitled to any extra compensation therefor."
- The cases were "assets of the old firm" and Frates was "entitled to receive his partnership share . . . of the net fee in each such case."
  - The old firm continues after dissolution for the purpose of winding up its business.

Frates v. Nichols (cont'd)

- Stated differently: the fee was the property of the old firm and the old firm's sharing ratio controlled its allocation.
- Question: Is the holding limited by the court's reasoning that Frates was working to satisfy an obligation of his old firm?
  - "It is true, as Frates contends, that these clients could have discharged the firm at any time and retained new lawyers, but that did not occur here. All these clients, who signed retainer agreements with Frates, did was to manifest their intention of retaining Frates to fulfill the *continuing* obligation of the [old firm] to them."
- "We adopt the rule recognized by our sister states that the retention of a law firm obligates every member thereof to fulfilling that contract, and that upon a dissolution any of the partners is obligated to complete that obligation without *extra* compensation."
  - Note: The "no extra compensation" rule can be harsh on the partner who has done all the work. Florida's subsequent adoption of the Revised Uniform Partnership Act explicitly eliminates the "no extra compensation" rule.

Buckley Towers: Three Firms Chase one Contingent Fee

- ***Buckley Towers Condominium, Inc. v. Katzman Garfinkle Rosenbaum, LLP***, 519 Fed. Appx. 657 (11th. Cir. 2013), 2013 WL 2150901 (May 20, 2013).
- One of the 11th Circuit Judges had been a successful plaintiff in the case on which Law Firm Hypothetical # 1 was based.
- *Buckley Towers* involved "the distribution of a contingency fee among law firms when an equity-holding attorney changes law firms multiple times during the course of litigating a single matter and the client follows the exiting attorney to each new firm."
- 11th Circuit says "*Frates* governs this matter."

Buckley Towers (cont'd)

- Condominium hired Firm #1 to represent it after its insurer refused payments on Condo's damage claim after Hurricane Wilma in 2005.
- Firm #1, originally retained on an hourly fee basis, filed Condo's Complaint. Firm #1 later agreed to represent Condo on a contingent fee basis. Attorney DR—an equity shareholder at Firm #1—led the litigation team that handled the Condo litigation.
- Several months later, Attorney DR left Firm #1 to form Firm #2, an LLP in which he was a named partner. Condo followed DR to Firm #2 and signed a contingency fee agreement with it.
  - Firm #1 filed a notice of a charging lien with the District Court.

Buckley Towers (cont'd)

- Firm #2 completed the remaining pre-trial proceedings and represented Condo through a 10-day jury trial, with a final judgment for Condo in excess of $24 million. Insurer filed an appeal and Firm #2 represented Condo through briefing on the appeal.
- Attorney DR left Firm #2 and formed Firm #3, a PLLC in which he was a named member. Condo followed DR to Firm #3 and signed a contingency fee agreement with it.
- Firm #3 represented Condo at oral argument. The lower court was affirmed in part, reversed in part, with a partial amended final judgment of over $12 million.

Buckley Towers (cont'd)

- Firm #2 filed its notice of a charging lien and the District Court ordered the disputed funds deposited in its registry.
- The Insurer issued one check to Condo and one check to the Court's registry to cover the amount contested by the firms' charging liens. Condo, before it endorsed its check, terminated its relationship with Firm #3.
- Firm #3 filed its notice of a charging lien and all three firms moved to enforce their charging liens.
- The District Court adopted a Magistrate's Report and Recommendations and awarded Firm #3 "its 38.5% contingency fee from the partial final judgment, less the quantum meruit of" Firm #1 and Firm #2.

Buckley Towers (cont'd)

- The 11th Circuit reversed and remanded.
- "[W]e are presented with the unique situation of the client choosing to follow an attorney that twice exited the firm representing the client in the midst of litigation. To still further complicate the matter, the exiting attorney held an equity share in both of the firms that he exited."
- "The law in Florida relating to a firm's right to contingency fees earned after the attorney-client contract is terminated *varies depending on the relationship between the initial firm and the subsequent firm representing the client*." (emphasis added)
- "When there is no connection between the two firms, the initial firm is entitled to a quantum meruit award, limited by any agreement to a maximum fee award."

Buckley Towers (cont'd)

- "When an *associate* attorney at the initial firm exits the firm and the client follows the associate to a new firm, the initial firm is also entitled to this limited quantum meruit award."
  - But is not the unfinished business an asset of the old firm?
- "However, when a *partner* exits the initial firm and the client follows, the *initial firm is entitled to the entire contingency fee, less the former partner's partnership share.*"
  - Citing *Frates*
  - "This Court finds no case law overturning the *Frates* decision, and does not find that Florida's adoption of RUPA significantly affects the precedent set forth in *Frates.*"

Buckley Towers (cont'd)

- Under RUPA, *partners are* "not *entitled to* remuneration for services performed for the partnership, except for *reasonable compensation for services rendered in winding up the business of the partnership."* Fla. Stat. Sec. 620.8401(8).
- Although *Buckley Towers* did not so state, RUPA's compensation rule makes it *easier* for the courts to award fees to the old firm (because the departing partner doing all the work is at least entitled *to reasonable compensation for services rendered in the winding up period*).

Buckley Towers (cont'd)

- RUPA's "enactment did not change the existing law as it relates to the fiduciary duties of a withdrawing partner."
- "[T]he uniform commentary clearly supports the continuation of the *Frates* rule by stating that dissociated partners must account to the partnership for any fees from ongoing client transactions that are received after dissociation." *Id.* at 662, **4.
  - The unstated assumption: law partnerships are treated like other partnerships.
- Given that *Frates* was still good law as to partnerships, the question became whether *Frates* also applies to professional corporations?

Buckley Towers (cont'd)

- "[W]e believe Florida courts would follow the majority of states and require the same fiduciary duties be owed to other attorneys and former law firms, whether the firm was a partnership or professional corporation. Thus, we apply *Frates* equally to law firms formed as partnerships and those formed as professional corporations." At 663, **5.
- However, *Frates* is a default rule not a mandatory rule:
  - "The *Frates* court applied the common law, but clearly indicated that law firms can change the fee award a withdrawing attorney is entitled to by agreement." At 663, **5.

Buckley Towers (cont'd)

- "[W]e are . . . presented with a situation where a partner exits the initial firm, but thereafter exits from the second firm during the same ongoing matter. Applying a '*Frates* within *Frates*' analysis the common law solution seems to indicate that the second and third firms would share the exiting partner's share, with the third firm's fee being determined by the second firm's partnership agreement. However, it is the exiting attorney and not the subsequent firm that owes the fiduciary duties to wind up the initial partnership's business, and it is these fiduciary duties that are at the heart of *Frates*. When a firm with no fiduciary duties to wind up another firm's affairs works on a matter for a contingency fee, and the contingency occurs during another firm's representation, the amount of the firm's fee in the matter is determined by quantum meruit." At 664-65 and **6. (emphasis added)

Buckley Towers (cont'd)

- The court reversed and remanded on the proper method for calculating the quantum meruit recovery of Firm #2.
- In a footnote, the court suggested that a different fiduciary duty of a departing partner might have provided an alternative rationale for its decision.
- It discussed RUPA Official Comments in FN. 6:
  - "The commentary goes on to provide an example of a partner leaving a brokerage firm, confirming that the withdrawing partner 'may immediately compete with the firm for new clients, but must exercise care in completing on-going client transactions and *must account to the firm for any fees received from the old clients on account of those transactions.*"

Client's Right to Counsel of Its Choice: Florida

- Fla. Rule of Professional conduct 4-5.8(b):
  - **(b) Client's Right to Counsel of Choice.** Clients have the right to expect that they may choose counsel when legal services are required and, with few exceptions, nothing that lawyers and law firms do shall have any effect on the exercise of that right. (emphasis added)
- Similarly, Rule 4-5.6(a) prohibits an agreement "that restricts the rights of lawyers to practice after termination of the relationship, except an agreement concerning benefits upon retirement."
  - The Comment explains: "An agreement restricting the right of lawyers to practice after leaving a firm not only limits their professional autonomy, but also limits the freedom of clients to choose a lawyer." (emphasis added)

Client's Right to Counsel of Its Choice: Florida (cont'd)

- Fla. Rule Prof. Conduct 4-1.16(d): "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest . . . ."
- How, if at all, does the client's right to counsel of its choice inform the rights of the former firm [and its creditors]?
  - Not discussed in *Buckley Towers*
- Is the primary concern of these cases the enforcement of the property rights of the former firm (or the departing lawyer's duty to it)?
- Or is the primary concern of these cases the protection of client choice?
- Nationally, courts are divided on how the concerns interact.

Jewel v. Boxer: Grand Old California Contingent Fee Case

Jewel v. Boxer,
156 Cal.App.3d.171, 203 Cal.Rptr. 13 (1984).

- Four attorneys created a law firm partnership.
- There was neither a written partnership agreement nor a dissolution agreement.
- The partners dissolved the law firm partnership and formed two new law firms.
- Each partner contacted the clients whose cases he had handled for the old firm to alert them of the dissolution and offer them "substitution of attorney" forms. The old clients signed the forms discharging the old firm and "retaining the attorneys who had handled the case for the old firm." The new firms represented the clients under the fee agreements entered into with the old firm.
- Plaintiffs, two of the partners, filed a complaint against Boxer and another partner who left with him for an accounting of fees they received from clients initially retained during the former partnership.

Jewel v. Boxer: Key Holdings

[1] "[I]n the absence of a partnership agreement, the Uniform Partnership Act requires that attorneys' fees received on cases in progress upon dissolution of a law partnership are to be shared by the former partners according to their right to fees in the former partnership, regardless of which former partner provides legal services in the case after the dissolution."

---Citing *Frates* as authority for rejecting *quantum meruit* as the way to allocate fees between the old and new firms.

---*Jewel* supports an interpretation that the decision was the result of rather than in despite of the no compensation rule.

[2] "The fact that the client substitutes one of the former partners as attorney of *record* ***in place of the*** former partnership does not affect this result." (emphasis added)

[3] The court reversed the lower court's "allocating post-dissolution fees on a quantum meruit basis" and remanded the case "for allocation based upon the respective interests in the former partnership."

Jewel v. Boxer: Unfinished Business

Boxer had argued "that the substitutions of attorneys transformed the old firm's unfinished business into new firm business and removed that business from the purview of the Uniform Partnership Act, with the old firm thereafter . . . limited to a *quantum meruit* recovery for services rendered before the discharge."

--Boxer emphasized that the substitution agreements both *discharged the old firm* and *substituted the new firm* (unlike the retention agreements as characterized by *Frates*)

The court said the substitution of attorneys did not matter:

--"The substitutions of attorneys here did not alter the character of the cases as unfinished business of the old firm. To hold otherwise, would permit a former partner of a dissolved partnership to breach the fiduciary duty not to take any action with respect to unfinished partnership business for personal gain."

--"A partner . . . may not seize for his own account the business which was in existence during the terms of the partnership."

Jewel v. Boxer: No Unfairness

The court said it was not unfair to the departing partner to limit his share of the fee to the profit share he would have had at the old firm:

> "Of course, this is all the former partners would have received had the partnership not dissolved. Additionally, the former partners will receive, in addition to their partnership portion of such income, their partnership share of income generated by the work of the other former partners, without performing any post-dissolution work in those cases."

However, the court acknowledged that, at first glance, its rule might appear to have "unjust" results, as where a former partner obtains a highly remunerative case just before dissolution, and does all the work after dissolution.

Jewel v. Boxer: Hardship Minimized

"[U]ndue hardship should be prevented by two basic fiduciary duties owed between the former partners."

"**First, each former partner has a duty to wind up and complete the unfinished business of the dissolved partnership.** This would prevent a partner from refusing to furnish any work and imposing this obligation totally on the other partners, thus unfairly benefitting from their efforts while putting forth none of his or her own."

"**Second, no former partner may take any action with respect to unfinished business which leads to purely personal gain. . . .** Thus the former partners are obligated to ensure that a disproportionate burden of completing unfinished business does not fall on one former partner or one group of former partners, unless the former partners agree otherwise."

Jewel v. Boxer: Policy Reasons

- The court also said the *Frates* approach would advance "sound policy reasons":
  - "The rule prevents partners from competing for the most remunerative cases during the life of the partnership in anticipation that they might retain those cases should the partnership dissolve."
  - "It also discourages former partners from scrambling to take physical possession of files and seeking personal gain by soliciting a firm's existing clients upon dissolution."
- Although the court appeared to see itself as conforming to the UPA's "no special compensation" rule, RUPA's "reasonable compensation rule" reduces potential harsh applications of the *Frates*/*Jewel a*pproach.

Jewel v. Boxer: Client Choice Not Impaired

Boxer had argued that *Frates* undermined client choice.

> It would "discourage continued representation of clients by the attorney of their choice, as former partners will not want to perform all of the post-dissolution work on a particular case while receiving only a portion of the income generated by such work."

The court rejected Boxer's "client choice" argument.

> "The right of a client to the attorney of one's choice and the rights and duties as between partners with respect to income from unfinished business are distinct and do not offend one another."
>
> "Once the client's fee is paid to an attorney, it is of no concern to the client how that fee is allocated among the attorney and his or her former partners."

Jewel v. Boxer: "Simply" an "Accounting" Case

- Despite the *Jewel* court's discussion of fiduciary duties: "None of the litigants asserted a cause of action for breach of the former partners' fiduciary duties."
- Jewel's complaint "did not assert a cause of action for damages for breach of fiduciary duty; it simply sought an accounting."
- In summary, *Jewel* provides that, under the UPA, cases taken by a partner upon dissolution of a firm are assets of the dissolved partnership such that the "net post-dissolution income" generated on completion of those cases is income of the dissolved partnership.
  - Net rather than gross income because the former partners are entitled "to reimbursement for reasonable overhead expenses"
    - Rejecting a Florida case that had denied reimbursement for overhead expenses indirectly attributable to winding up of partnership business. That rule was "inconsistent" with the UPA and had the "potential for inequity" where a partner or group incurs disproportionate overhead.

Another View on Client Choice

- Many cases have followed *Jewel*, particularly in the context of contingent fees.
- Contrast Welman v. Parker, 328 S.W.3d 451,457 (Mo. Ct. App. S.D. 2010), reh'g and/or transfer denied (Dec. 10, 2010) and transfer denied (Jan. 25, 2011), reversing an application of *Jewel's* "unfinished business" approach:
  - "[T]he trial court's limited view of the limited compensation available to the withdrawing partner for services rendered to client after withdrawal, should the client choose to have the withdrawing partner continue to represent him or her, would unduly impinge upon the client's perceived freedom to change attorneys without cause and could have a 'chilling effect' upon the choice of that option by the client."
    - Thus limiting the firm in dissolution to *quantum meruit*.

"*Jewel* Waivers"

- The *Jewel* (and *Frates*) rule is a default rule rather than a mandatory rule.
- "*Jewel* Waivers" are agreements designed to avoid the application of the *Jewel* rule that departing partners who leave with cases must share the fees from those cases with the dissolved firm.
- "*Jewel* Waivers" should be carefully drafted. Essentially, they provide that the old firm waives any continuing interest in the fees from client matters a member takes with her.
- Fla. Rule Prof. Conduct 4-1.16(d): "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest . . . ."

"*Jewel* Waivers" (cont'd)

- Hypothetical. ABC LLP is heavily indebted for borrowings incurred to purchase office equipment, furnishings and supplies. It has also incurred a long-term lease liability. Assume that A, B, and C agree to a *Jewel* Waiver and take the clients they have been working for to new firms.
- Do the creditors of ABC LLP have any claim to the fees on the matters A, B, and C have taken with them?
  - May they argue that the "*Jewel* Waiver" was a fraudulent transfer of the firm's assets?
  - Are the new firms liable to the old firm for the fees on the matters A, B, and C brought to them?

***Heller Ehrman*: *Jewel* Waiver as Fraudulent Transfer Certified to California Supreme Court**

- Trustee in bankruptcy of dissolved law firm sought to set aside *Jewel* waiver executed by the firm on its dissolution as a fraudulent transfer to its attorneys thence to their new firms. Trustee sought to compel the new firms to account for the dissolved firm's property interest in hourly fee matters at the time of dissolution.
- The Trustee won in Bankruptcy Court, which was reversed by the District Court, which said RUPA undermines *Jewel.* The dissolved firm had no property interest to transfer, fraudulently or otherwise.
- The 9th Circuit certified the property interest question to the Supreme Court of California.
  - In re Heller Ehrman LLP, 830 F.3d 964 (9th Cir. 2016), on appeal from Heller Ehrman LLP v. Davis, Wright, Tremaine, LLP, 527 B.R. 24, 71 Collier Bankr. Cas. 2d (MB) 1437 (N.D. Cal. 2014).

Heller Ehrman (cont'd)

- The *Jewel* Waiver in *Heller Ehrman* was limited "to non-contingency/non-success fee matters only."
- The precise question certified:
  - "Under California law, does a dissolved law firm have a property interest in legal matters that are in progress but not completed at the time the law firm is dissolved, when the dissolved law firm had been retained to handle the matters on an hourly basis"? 830 F.3d at 966.
  - "If Heller has no such property interest then Heller cannot claim that the dissolution agreement constituted a transfer of the property interest." 830 F.3d at 973.
  - If there is a property interest, the 9th Circuit will remand on whether its transfer was fraudulent.

Heller Ehrman (cont'd)

- Until these questions are answered, "law firms will have difficulty predicting their entitlement to revenue from completing the unfinished business of dissolving law firms." 830 F.3d at 973.
- "Clients may also be disadvantaged by this ambiguity, as it may be unclear how their matters will be handled at a new law firm, if the hourly fees from their matters must be shared with a dissolved firm." Id.
- "Moreover, lawyers in dissolving law firms may have difficulty providing accurate guidance to clients regarding the effect of a law firm dissolution on their matters." Id.
  - Noting the ethical obligation of an attorney withdrawing on dissolution "to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client." Id.

In Re Thelen: Hourly Fees Matters Not Unfinished Business in New York

- ***In re Thelen LLP, 20*** N.E.3d 264 (N.Y 2014), 2014 WL 2931526, answering a question certified to it from two different cases, said that the unfinished business rule does not apply to an hourly fee matter.
  - *Thelan* involved an argument that a *Jewel* Waiver (or "Unfinished Business Waiver") was a fraudulent transfer.
- "[T]he Partnership Law does not define property; rather, it supplies default rules for how a partnership upon dissolution *divides* property as elsewhere defined in state law. As a result, the Partnership Law itself has nothing to say about whether a law firm's 'client matters' are partnership property."
- "[W]e hold that pending hourly fee matters are not partnership 'property' or 'unfinished business' within the meaning of New York's Partnership Law [which is still the UPA]. A law firm does not own a client or an engagement, and is only entitled to be paid for services actually rendered."

In Re Thelen: Client Choice

- "[N]o law firm has a property interest in future hourly legal fees because they are 'too contingent in nature and speculative to create a present or future property interest', *given the client's unfettered right to hire and fire counsel*." (emphasis added)
- To find otherwise would conflict with "New York's strong public policy encouraging client choice and, coincidentally, attorney mobility."
- Lawyers might tell their clients they could no longer afford to represent them.
- "[C]lients might worry that their hourly fee matters are not getting as much attention as they deserve if the law firm is prevented from profiting from its work on them."

In Re Thelen: Contingent Fees

- Under the heading of contingent fee arrangements, the court said that "New York courts have never suggested that a law firm owns anything with respect to a client matter other than yet-unpaid compensation for legal services already provided."
- The court quoted an Appellate Division case that had referred to a contingency fee case as an "asset." When a lawyer leaves a dissolved firm "with a contingent fee case which he then litigates to settlement, the dissolved firm is entitled only to the value of the case at the date of dissolution, with interest."
- "The trustees have not cited any New York case in which the law firm was awarded the client matter itself, or any fee not earned by the law firm's own work. This is hardly surprising since . . . a client's legal matter belongs to the client, not the lawyer."

In Re Thelen: Fairness Among Lawyers

- *Thelen* also was concerned about fairness among lawyers.
- An "unjust windfall" would result if former partners of a dissolved firm profited from the work of others "at the expense of a former partner and his new firm."
- Furthermore, "attorneys would simply find it difficult to secure a position in a new law firm because any profits from their work for existing clients would be due their old law firms, not their new employers.
- *Thelen* also expressed concern about a rule leaving partners who depart before dissolution worse off than partners who depart at dissolution.
- Although *Thelen* mitigates the harshness of the old UPA "no extra compensation" rule, no mitigation is necessary under RUPA's "reasonable compensation" rule.

Secondary Authority

- Books
  - Robert W. Hillman, Lawyer Mobility: The Law and Ethics of Partner Withdrawal and Law Firm Breakups (Wolters Kluwer 2016).
  - Robert W. Hillman, Donald J. Weidner, Allan G. Donn, The Revised Uniform Partnership Act (Thomson Reuters 2016).
- Articles
  - Richmond, Migratory Law Partners and the Glue of Unfinished Business, 39 N. Ky. L. Rev. 359 (2012).
  - Thomas E. Rutledge & Tara A. McGuire, Conflicting Views as to the Unfinished Business Doctrine, Bus. L. Today, Feb. 2015 at 1.
  - Donald J. Weidner, Cadwalder, RUPA and Fiduciary Duty, 54 Wash. & Lee L. Rev. 877 (1997).

Questions and Answers

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