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## **Firms Need Flexible Policy on Aging**

**Note: This is adapted from an article I wrote for The National Law Journal**

Much has been said and written on the subject of the “unproductive” partner. A related subject that is even more sensitive is that of the older or aging partner. This issue is often confused with the unproductive partner issue because it is generally felt that older or aging partners are, by definition, not productive. But the issue is much more complex.

### **“Aging” vs. “Older”**

It is important to realize that there can be a difference between “aging” and “older”. What is often not recognized is that aging is not necessarily a function of the calendar and that people age at different rates. Some partners age early and, at 55 for example, look and act far older than their years. These are aging partners whose energy level or mental and physical capabilities have diminished to the point where they are unable to meet the requirements of their practice or fulfill their roles in the firm. In other words, such partners are aging and unproductive.

On the other hand there are older partners in their 70s and 80s who, even if they have slowed down to some degree, are still capable of being extremely productive. They are not aging in the full meaning of the word.

Two of our clients are large firms in which two of the partners are among the most active and highest-producing partners although they are in their late 70s. In another client of ours, a “retired” but extremely active partner recently relinquished his last few clients so that he could devote all his time to a major community organization on behalf of the firm – at the age of 91!

Even in this rapidly changing legal profession, it is important to remember that age, itself, is not a true measure of a person’s productivity. Look at Warren Buffett, Clint Eastwood, Tony Bennett and Betty White! By the same token, age by itself is not a true measure of a partner’s productivity or value to the firm – and that advancing age, by itself, is not a valid reason for removing a productive partner from the firm or from practice.

I will discuss this issue further in a future Communique.

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