Gallagher

WHEN PARTNERS LEAVE:

The Risk Management Failure That Happens on the Way Out



Law firms have built sophisticated systems around lateral hiring. Recruiting committees, compensation models, onboarding protocols, conflict checks and integration timelines all support the arrival of a new partner. The incoming lateral receives focused attention well before and after day one.

The departing partner often receives far less structure. A brief conversation. A transition period measured in weeks. A general assumption is that clients and files will sort themselves out. In many cases, they do not.

Lateral partner departures are one of the most consistent and under-managed sources of professional liability risk for law firms. The claims that arise from these transitions are not hypothetical. They are predictable outcomes of unclear file ownership, compressed handoffs and the tendency to treat a departure as an administrative process instead of a risk management event.

Firms that recognize this dynamic are actively managing it. Firms that do not are absorbing losses that could have been prevented.



Why Partner Departures Create Elevated Risk

The risk profile of a lateral departure is fundamentally different from a lateral arrival.

When a partner joins a firm, the organization inherits prior work. That exposure matters, but it is historical. Any related claims surface over time.

When a partner leaves, the risk is immediate. Matters remain open. Clients are mid-representation. Deadlines continue to move. The issue is not what happened in the past, but what is happening now and who is accountable.

Several factors make this period particularly high risk.

The transition period is often too short.

Even when a partner provides several weeks of notice, client transitions are compressed and frequently incomplete. The process often relies on the cooperation of someone whose focus has already shifted elsewhere.

Responsibility for client matters becomes unclear.

Between the announcement and the final day, accountability can become ambiguous. The departing partner may assume files are reassigned. Remaining attorneys may believe the partner is still responsible. In that gap, deadlines can be missed, and client communication can stall.

Clients do not always decide quickly.

Clients may choose to follow the departing attorney or remain with the firm, but that decision is not always immediate. Some decisions are delayed or disputed. Others are only clarified after an issue arises, including malpractice claims tied to how the transition was handled.

Incentives change during departure.

A departing partner may not be fully engaged in a thorough transition, particularly in contentious exits. Files may be handed off without full context. Client communication may prioritize future relationships rather than continuity. These behaviors are not always intentional, but they are common.



Common Sources of Malpractice Claims During Transitions

Claims tied to partner departures typically follow familiar patterns.

- **Missed deadlines during transition:** Statutes of limitations, filings and closing schedules continue without pause. When responsibility is unclear, a single overlooked deadline can trigger a claim.
- **Incomplete or delayed client notification:** Most jurisdictions require timely notice when representation changes. When firms and departing partners assume the other party is responsible, notification can be delayed. This may lead to disciplinary issues or claims of abandonment.
- **File transfer disputes:** When clients move with the departing partner, file ownership and transfer logistics can become contentious. Disorganized or incomplete transfers create operational and legal risk.
- **Post-departure work without full context:** Clients who remain with the firm are often assigned to new attorneys who must quickly get up to speed. Errors made during this learning period are a recurring source of claims.
- **Conflicts that emerge after the departure:** A partner's exit can change the firm's conflict profile. New adverse representations may arise once the partner joins another firm. Without active monitoring, these conflicts can go unnoticed.



Where Leadership Risk Concentrates

Managing partner departures is not only an operational issue. It is a leadership responsibility with direct implications for firm risk.

1

Managed versus abrupt departures.

Not all exits carry the same risk. Planned, cooperative transitions are manageable. Abrupt or adversarial departures create significantly higher exposure. Leadership must quickly assess the situation and respond accordingly.

2

Departure agreements as risk management tools.

Separation agreements often focus on compensation and non-solicitation. They can also address transition obligations, client communication, file transfer and disclosure requirements. When risk considerations are included, these agreements become powerful tools to reduce exposure.

3

Visibility into active matters.

Firm leadership should have a clear view of the departing partner's portfolio, including active matters, upcoming deadlines and transition plans. Without this visibility, the firm is operating without essential oversight.

4

Disclosure of potential claims.

Departing partners may be aware of issues that could lead to claims. Firms should not rely on voluntary disclosure. A structured inquiry process, documented as part of the departure, is essential.



Insurance Considerations Law Firms Too Often Overlook

The professional liability implications of a partner departure are rarely straightforward. They tend to surface only after a claim is made, when coverage positions are already forming and options are limited. The firms that manage this well treat insurance as an active part of the departure process, not a back-end consideration.

Reporting obligations begin before the partner leaves.

Claims-made policies hinge on timing. If a partner is aware of a circumstance that could give rise to a claim, that knowledge triggers a reporting obligation within the current policy period. The challenge is that awareness is subjective. What one attorney views as routine friction with a client may later be interpreted as an early indicator of a claim.

This is where process matters. Firms should treat departure as a formal reporting checkpoint, requiring a structured inquiry into potential issues across the departing partner's matters. That inquiry should be documented, not informal. Without it, firms rely on individual judgment at the exact moment when incentives are least aligned.

Coverage for former partners is more conditional than many firms assume.

Most policies extend coverage to former partners for work performed during their time at the firm. However, that coverage is dependent on the firm maintaining continuous coverage, the claim falling within the policy's retroactive date, and no exclusions being triggered.

The practical risk is that firms assume continuity without verifying the details. Changes in carriers, adjustments to retroactive dates or policy endorsements can all affect how former partners are treated. A departure is the right moment to confirm exactly how coverage applies, not after a claim surfaces.

The interaction between firms creates hidden exposure.

When a partner joins a new firm, two insurance programs are now in play. The original firm's policy addresses past work. The new firm's policy may or may not include prior acts coverage, depending on how it is structured.

Misalignment here creates uncertainty. If a claim arises from work that began at one firm and continued at another, both insurers may scrutinize timing, knowledge and reporting. Without clear coordination and documentation, this becomes a coverage allocation dispute rather than a straightforward claim.

Unreported circumstances are where coverage disputes begin.

The most difficult claims scenarios often involve facts that were known, but not reported, before the partner left. In those cases, the current insurer may argue the issue predates the policy. A prior insurer may no longer be at risk or may dispute whether adequate notice was ever given.

This is where firms encounter true coverage gaps. Not because coverage was unavailable, but because the process to preserve it was incomplete.

A significant departure changes the firm's risk profile.

From an underwriting perspective, the exit of a key partner or practice group is not neutral. It can affect revenue concentration, practice mix, client exposure and even internal supervision structures.

Firms that treat departures purely as internal matters miss the opportunity to proactively engage their broker and insurer. A short discussion can help align expectations, reduce friction at renewal and ensure the firm's coverage still reflects its current reality.

What This Means in Practice for Law Firms

Managing departure risk requires consistency, visibility and clear accountability at the right moment.

A partner departure should trigger a defined risk management process that establishes who is responsible for every open matter, how deadlines are being tracked and how client communication will be handled.

The transition window deserves disproportionate attention because it is when breakdowns occur. Responsibility cannot remain implied during this period. It must be assigned, confirmed and monitored in real time.

Departure agreements should be viewed as operational documents, not just legal or financial ones. When they address transition expectations, client notification, file handling and disclosure obligations, they create a structure that reduces ambiguity at exactly the point where ambiguity creates risk.

Firms also benefit from making reporting obligations explicit. Asking direct, documented questions about potential claims normalizes disclosure and removes the reliance on individual discretion. It shifts the process from assumption to verification.

Finally, insurance should be part of the conversation while the firm still has leverage to act. Confirming coverage, aligning expectations with brokers and identifying potential issues early all contribute to a more predictable outcome if a claim arises.

A partner's departure is a live test of the firm's ability to manage risk across active client matters, shifting responsibilities and evolving incentives. The exposure is immediate, and it is visible in ways that arrivals are not.

Firms that approach departures with the same level of structure they apply to arrivals create continuity. Clients experience a managed transition. Attorneys understand their responsibilities. Deadlines are tracked. Coverage is preserved. Claims, when they arise, are manageable.





AJG.com **The Gallagher Way.** Since 1927.

Gallagher

The information contained herein is offered as insurance Industry guidance and provided as an overview of current market risks and available coverages and is intended for discussion purposes only. This publication is not intended to offer financial, tax, legal or client-specific insurance or risk management advice. General insurance descriptions contained herein do not include complete Insurance policy definitions, terms, and/or conditions, and should not be relied on for coverage interpretation. Actual insurance policies must always be consulted for full coverage details and analysis.

Insurance brokerage and related services provided by Arthur J. Gallagher Risk Management Services, LLC License Nos. IL 100292093 / CA 0D69293

© 2026 Arthur J. Gallagher & Co., and affiliates & subsidiaries | PRODUS204382