

# COMMITTEE REPORT: THE MODERN PRACTICE

By **Jonathan G. Blattmachr**, **Marvin E. Blum** & **Avi Z. Kestenbaum**

## Reflections From Our Board

Lessons learned, what's changed and where modern estate-planning practice is heading

**T**he modern estate-planning practice has significantly evolved over the years. We asked three of our esteemed board members, Jonathan G. Blattmachr, Marvin E. Blum and Avi Z. Kestenbaum, to share their thoughts.

### Top Two Lessons

**Q: What are the top two lessons you've learned when working with clients?**

**Blattmachr:** First, most clients are concerned more about their own financial security than maximizing the wealth transferred to their loved ones. This has wide application. For example, few are willing to give up their wealth for their descendants while living, even if the advisor can demonstrate that overall, more family wealth will be preserved by lifetime transfers. That's why I urged so strenuously for self-settled trust legislation, like that (first) adopted in Alaska in 1997, so clients wouldn't be completely separated from their wealth. This concern by clients even inhibits transfers that could protect the clients' own wealth, such as to self-settled trusts. One of the reasons why owners of closely held businesses neglect estate planning is because their wealth and control places them in a powerful position in their families and communities.

(From left to right) **Jonathan G. Blattmachr** is a principal at Pioneer Wealth Partners, **Marvin E. Blum** is the founder of The Blum Firm, P.C. and **Avi Z. Kestenbaum** is a partner at Meltzer, Lippe, Goldstein & Breitstone, LLP



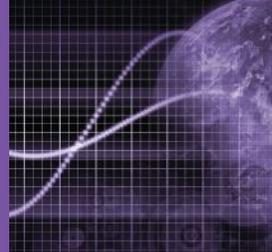
Second, most clients don't want to incur significant costs in doing estate-planning work. They know that the work will benefit others. This becomes obvious in the elder law area. When clients realize that planning will preserve wealth for themselves and that fees paid to the advisor might otherwise go to the state, they usually become much more willing to take action.

And, in my experience, these reactions occur no matter how great the clients' wealth. But most clients are interested in helping their loved ones achieve positive goals in their lives.

**Blum:** We often learn lessons the hard way, growing more from our failures than our successes. When I think back over the top lessons I've learned in my 47-year career, the first that comes to mind is that client communication is as important as the work product. Here's a couple of examples.

Early on, I was engaged to do estate planning for a Fortune 500 CEO. I had a lot on my plate and was slow in getting back to him. He grew impatient and went elsewhere. We're always juggling a lot, but I learned that it's critical to connect right away with new client prospects or they have no reason to stick around. You don't have to complete the work instantly, but you need to promptly get in touch and establish a connection. Once there's a rapport, then you can develop a reasonable timeline to complete the work.

A second teachable moment came when a client died unexpectedly, and his widow felt lost and scared. I was handling the estate administration, working away efficiently on the steps, but not taking the time to adequately fill her in and offer reassurance. One day, she erupted with feelings that I was neglecting her. She had no idea that behind the scenes, I was taking care of matters. I learned that we need to keep clients updated on the work we're doing or else they



assume we're not doing anything for them. I also learned that surviving spouses are in an especially vulnerable state and may require extra hand holding. Fortunately, I salvaged the relationship, and that widow became one of my all-time closest client connections. By giving her the attention she craved and letting her know she was important to me, her family turned into a multigeneration deeply loyal client, even traveling from Texas to New York years later to attend my daughter's wedding.

A second lesson is to be present and actually listen to clients. We have a tendency to jump to propose solutions before the client is ready to hear them. We need first to help the client identify and embrace their needs, then educate them on available options. I've had clients decline to proceed with sophisticated "squeeze and freeze" devices because they didn't yet embrace the need for them. Moreover, we need to listen when our clients are struggling with issues like family dynamics, how to prevent an inheritance from ruining kids, how much to leave their kids, who's best suited to manage the family business and all the non-tax aspects of estate planning. We're attorneys and "counselors" at law. Sometimes, we need to prioritize the counselor hat.

I've been evolving from being a "head"-only advisor to taking a "head-and-heart" approach. I developed a trust called the FAST (Family Advancement Sustainability Trust). The FAST doesn't make HEMS (health, education, maintenance and support) distributions to beneficiaries, but it funds family retreats, travel, training in philanthropy and entrepreneurship, preserving family heritage and similar enrichment activities. Clients welcome the opportunity not just to save tax and pass down valuables but also to pass down values and a meaningful legacy. The idea is gaining traction, as the FAST closely resembles the recently enacted Delaware Well-Being Trust.

**Kestenbaum:** An early mentor of mine, Paul Rosenberg, taught me a wise lesson. Paul would say, "Don't forget the clients are smarter than you." While this isn't always true, the lesson is to be humble and not arrogant and to understand that we work for our clients. Also, while they might not be trusts-and-estates attorneys, clients are typically successful

in other fields or business. I like to tell my clients that I'm no different than an auto mechanic, which I truly believe. I simply learned a trade and became proficient at that trade, but it doesn't make me wiser and smarter than they are.

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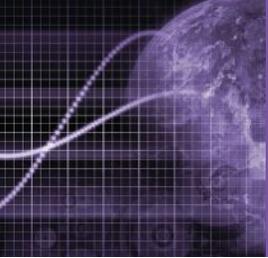
Our job is to provide advice and guidance, but we shouldn't insert our personal decisions and risk tolerance levels so long as we are acting ethically and responsibly.

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The second lesson was inculcated in me by my long-time mentor, partner and close friend, Joe Katz: We shouldn't override our client's choices with our own judgments and decisions. Clients are often successful businesspeople, leaders and risk takers. Our job is to provide advice and guidance, but we shouldn't insert our personal decisions and risk tolerance levels as long as we're acting ethically and responsibly. Often, I use this simple example to my associates even when it comes to billing matters. I tell them that before they spend 25 hours of research, memo writing and running up large legal fees to make sure they're 99.99% sure on the issues, ask the client if they'd rather you spend five hours to get to 80% clarity. Obviously, there are important variables that affect this equation, like how substantial are the dollar stakes involved and whether there are other important issues involved, like potential ethical or criminal issues, preserving family unity or substantial asset preservation, but the point is for us to be the attorney and guide the client rather than supplant the client. This is a common error that young attorneys make. Sometimes they act like professors and not attorneys.

### Significant Changes

**Q: What are the most significant changes you've seen in how your firm conducts business?**



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**Blattmachr:** The most significant changes I’ve observed are law firms realizing that they’re like any other business and searching to maximize profits and reduce costs. Like all businesses, profitability is based on the truth that gross revenue minus expenses determines profitability. And these factors are determined by the law of supply and demand. Although fellow practitioners will claim that they care about their colleagues, they’ll compete furiously for business, especially if it’s profitable or they believe it will produce profits in the future. Law, in the final analysis, is just another money-getting trade. For decades, lawyers claimed that wasn’t the case. But the U.S. Supreme Court basically held otherwise in *Goldfarb v. Virginia State Bar* (421 U.S. 773 (1975)) and *Bates v. State Bar of Arizona* (433 U.S. 350 (1977)). And now, law firms determine pay for workers, what rent they’ll pay, etc. from the viewpoint of profitability. Law schools fail the profession by not emphasizing these points.

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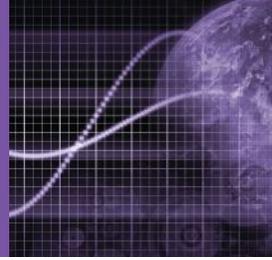
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Even some great law firms have gone out of business for failing to pay enough attention to changes in operations, needs of clients, actions of competitors and profitability. The most financially successful firms realize that in some areas of practice, and trusts and estates may be one of those, leverage is one of the most successful ways to increase profitability. Indeed, many of the largest firms have greatly reduced their trusts-and-estates practice because it can’t be leveraged (that is, paid workers per equity partners) the way other areas of practice can. That may change in the relatively near future with artificial intelligence.

**Blum:** When I describe how our practice has evolved, I often say “It’s not your daddy’s estate-planning anymore.” When I started practicing, estate planning mainly meant drafting a will. Contrast that with the holistic approach to estate planning today. We recognize that clients need so much more than just a will. We’ve responded by dramatically expanding our toolbox. We plan for incapacity, protect assets from creditors and divorces, minimize estate and income taxes, and do prenups, postnups, special needs trusts, charitable planning and business succession planning. There’s a whole body of law aimed at addressing elder issues and abuse. At my firm, we also actively engage in “family legacy planning,” working with “family offices” on “family governance” structures. These terms didn’t even exist in my early days. We also assist clients in creating a Red File, a roadmap to provide loved ones with essential information such as asset information, passwords, key contacts, care wishes during incapacity, family history and heartfelt information for future generations. By expanding our services beyond a will, we bring essential value to our clients and build lasting relationships with them.

**Kestenbaum:** The first significant change is the need for more guardrails and protections. The world has become so much more litigious, and it’s easy for any client to find fault with their attorney if they choose to. Added to this risk is the proliferation of mental illnesses, family discord, societal anger and dysfunction. Clients are very quick to cast blame for their own issues and shortcomings. Of course, everyone, including clients, sees things from their own perspective, and attorneys aren’t perfect, but law firms need to better protect themselves with stronger legal engagement agreements, increased malpractice coverages and improved checks and balances on work products. Additionally, in the trusts-and-estates field, attorneys are often required to testify, such as in will and trust contests and regarding various family and business disputes, and even if they’re just innocent bystanders, this costs significant time, aggravation and money.

Another obvious change is technology, and in particular AI, which continues to evolve every second. This affects how we practice, our work product, the need for more associates and assistants and billing



practices, as well as our clients' knowledge, review and commentary on our work.<sup>1</sup>

### Significant Challenges

**Q: Looking ahead, what do you anticipate will be the most significant challenge for estate-planning attorneys?**

**Blattmachr:** The most significant epiphany that trusts-and-estates practitioners need to have is that they're now in a more competitive arena than ever before. They need to demonstrate that not only are they the best in technical matters, but also they have wisdom that technicians alone won't have. Showing great business acumen is the key ingredient to successful practices in the future.

**Blum:** We're all looking into a crystal ball to try to imagine how technology will impact our practice. I'm certain it will, but there's no way to know specifics. I recall the dramatic impact on my practice of fax machines and memory typewriters with a one-line display screen. I still marvel at how Zoom conferences have changed my life, allowing us to work worldwide with clients, anytime, anywhere. But therein lies the challenge. I now work anytime, anywhere. I've been urged to disengage from the electronic world, but when I return, I'm flooded with a backlog. Furthermore, our clients now expect instant turnaround, 24/7. As a result, I find that I no longer disconnect. I practice law on nights, weekends and vacations. Moreover, with virtual meetings possible, many now want to work remotely (especially younger attorneys). We're losing the face-to-face personal connection with clients and co-workers. The loss of camaraderie makes it difficult to create a cohesive law firm culture. Technology is a double-edged sword. We need to figure out a way to achieve balance, or we'll pay a hefty price in our well-being.

**Kestenbaum:** As the world relies more and more on AI, I think there will be a continued diminution of the attorneys' level of knowledge, wisdom and expertise. We learn as young associates by trial and error. There isn't much trial and error anymore when we can receive instantaneous responses from AI, and our clients receive the same ones. I already

see the lack of technical expertise in attorneys who rely too heavily on document drafting software and AI. They often don't understand the root and the reasons for particular clauses and provisions. I worry the attorneys starting in the trusts-and-estates field today will be more like robots practicing by rote and less like sophisticated advisors and counselors. Unfortunately, I think that as document drafting software and AI become even smarter over time, many clients are likely to stop using attorneys or will use the services of companies that are proficient with generating documents in a non-legal capacity. ■

### Endnote

1. See Craig R. Hersch and Avi Z. Kestenbaum, "Artificial Intelligence—Friend or Foe," *Trusts & Estates* (February 2025).

### SPOTLIGHT



#### Feathered Friend

*Two Women with Bird* by Selina Trieff sold for \$3,810 at Swann Auction Galleries Modern & Post-War Art auction on Dec. 18, 2025 in New York City. She often painted flattened, heavily delineated figures and animals. Many of her gold leaf and oil portraits of human figures were autobiographical, representing not only herself but also members of her family.