November 6, 2014
4:00 PM - 5:15 PM

The Cleanup or S.W.A.T. (the Strategic Ways Attorneys Transition)

There are many reasons why law firms dissolve. They can be personal, such as when a partner choses to join a different firm, a change of career goals, death, divorce, etc. What are the ethical implications when a firm dissolves? Can the departing or retiring partner solicit the clients of the former firm? What are the responsibilities towards client matters? From a practical perspective, how do you plan for changes in your law firm? How do you provide a strategy for the future of your firm whether it’s to leave it to your associates or to dissolve the firm? As the owner of a law firm, what are the best practices for preparing for retirement? What opportunities does this provide for the younger attorneys?

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Paul W. Lee, Of Counsel, Goodwin Procter LLP
Marion Yim, Shareholder, Wong Fuji Carter, PC
CHECKLIST FOR CLOSING
ANOTHER ATTORNEY’S OFFICE

The term "Affected Attorney" refers to the attorney whose office is being closed.

1. Check the calendar and active files to determine which items are urgent and/or scheduled for hearings, trials, depositions, court appearances, etc.

2. Contact clients for matters that are urgent or immediately scheduled for hearing, court appearances, or discovery. Obtain permission for reset. (If making these arrangements constitutes a conflict of interest for you and your clients, retain another attorney to take responsibility for obtaining extensions of time and other immediate needs.)

3. Contact courts and opposing counsel for files that require discovery or court appearances immediately. Obtain resets of hearings or extensions where necessary. Confirm extensions and resets in writing.

4. Open and review all unopened mail. Review all mail that is not filed and match it to the appropriate files.

5. Look for an office procedures manual. Determine if there is a way to get a list of clients with active files.

6. Send clients who have active files a letter explaining that the law office is being closed and instructing them to retain a new attorney and/or to pick up the open file. Provide clients with a date by which they should pick up copies of their files. Inform clients that new counsel should be chosen immediately.

7. For cases before administrative bodies and courts, obtain permission from the clients to submit a Motion and Order to withdraw the Affected Attorney as attorney of record.

8. In cases where the client is obtaining a new attorney, be certain that a Substitution of Attorney is filed.

9. Pick an appropriate date and check to see if all cases have either a motion and order allowing withdrawal of the Affected Attorney or a Substitution of Attorney filed with the court.

10. All clients should either pick up their files (and sign a receipt acknowledging that they received it) or sign an authorization for you to release a copy to a new attorney.

11. If the attorney whose practice is being closed was a sole practitioner (the Affected Attorney), try to arrange for his or her phone number to have a forwarding number. This eliminates the problem created when clients call the Affected Attorney's phone number, get a recording stating that the number is disconnected, and do not know where else to turn for information.

12. Contact the mal practice carrier of the Affected Lawyer.

13. If you have authorization to handle the Affected Attorney’s financial matters, look around the office for checks or funds that have not been deposited. Determine if
funds should be deposited or returned to clients. Some of the funds may be for services already rendered. Get instructions from clients concerning any funds in their trust accounts. These funds should either be returned to the clients or forwarded to their new attorneys. Prepare a final billing statement showing any outstanding fees due, and/or any money in trust. (To withdraw money from the Affected Attorney’s accounts, you may need to be an authorized signer on the accounts, or you will need a limited power of attorney. If the Affected Attorney is deceased, another alternative is to petition the court to appoint a personal representative under the probate statutes. Money from clients for services rendered by the Affected Attorney should go to the Affected Attorney or his/her estate.

14. If you are authorized to do so, handle financial matters, pay business expenses, and liquidate or sell the practice.

15. If your arrangement is to represent the Affected Attorney’s clients on their pending cases, obtain each client’s consent to represent the client and check for conflicts of interest.

[Editor’s Note: These materials are based upon a booklet published by the Oregon State Bar Professional Liability Fund and entitled, Planning Ahead: A Guide to Protecting Your Clients’ Interests in the Event of Your Death or Disability, which have been edited for Washington lawyers.]
CHECKLIST FOR CLOSING YOUR OWN OFFICE

1. Finalize as many active files as possible.
2. Write to clients with active files, advising them that you are unable to continue representing them and that they need to retain new counsel. Your letter should inform them about time limitations and time frames important to their cases. The letter should explain how and where they can pick up copies of their files and should give a time deadline for doing this.
3. For cases that have pending court dates, depositions, or hearings, discuss with the clients how to proceed. Where appropriate, request extensions, continuances, and resetting of hearing dates. Send written confirmations of these extensions, continuances, and resets to opposing counsel and to your client.
4. For cases before administrative bodies and courts, obtain the clients’ permission to submit a motion and order to withdraw as attorney of record.
5. In cases where the client is obtaining a new attorney, be certain that a Substitution of Attorney is filed.
6. Pick an appropriate date and check to see if all cases either have a Motion and Order allowing your withdrawal as attorney of record or have a Substitution of Attorney filed with the court.
7. All clients should either pick up their files (and sign a receipt acknowledging that they received them) or sign an authorization for you to release the files to their new attorneys.
8. If you are a sole practitioner, ask the telephone company for a new phone number to be given out when your old phone number is called. This eliminates the problem created when clients call your phone number, get a recording stating that the number is disconnected, and do not know where else to turn for information.

[Editor's Note: These materials are based upon a booklet published by the Oregon State Bar Professional Liability Fund and entitled, Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Death or Disability, which have been edited for Washington lawyers.]
Closing a Practice

Protecting the Client's Interests in the Event of the Lawyer's Death or Disability

Watch "Exiting Your Practice," a spotlight CLE with information on exit options for your practice, including the valuation and sale of your practice.

The WSBA provides the checklists on the right as a convenience for members seeking guidance on the best way to close a practice when retiring or to assist a survivor of a deceased or disabled lawyer in closing a practice.

ABA Formal Opinion 92-369 states that to fulfill the obligation to protect client files and property, a lawyer, especially a solo practitioner, should prepare a future plan for the maintenance and protection of those client interests in the event of the lawyer's death. Such a plan should include at a minimum the designation of another lawyer who would have the authority to review client files and make determinations as to which files need immediate attention and who would notify the clients of the lawyer's death. A lawyer who assumes responsibility for the client files and property of a deceased lawyer must review the files carefully to determine which files need immediate attention. Because the reviewing lawyer does not represent the client, only as much of the file as is needed to identify the client and to make a determination as to which files need immediate attention should be reviewed. Reasonable efforts must be made to contact all clients to notify them of the death and to request instructions.

The first step in planning process is for the lawyer to find another lawyer willing and able to be the assisting lawyer in the event of death, disability, impairment or incapacity of the requesting lawyer. A written consent form should be signed authorizing the assisting lawyer to contact clients for instructions on transferring their files, authorization to obtain extensions of time in litigation and general authorization to do anything necessary to close the practice, such as winding down financial affairs, providing final accountings to clients, collecting fees and selling the practice.

Allowing access to the trust account is a serious matter. Careful consideration should be made of the person to handle the account. If you give some one control of the trust account, you as the lawyer remain responsible. If the assisting person misappropriates money, the lawyer or his estate may be held responsible.

Download Forms and Materials
[Note: These materials are based upon a booklet published by the Oregon State Bar Professional Liability Fund entitled Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Death or Disability, which has been edited for Washington lawyers.]

Voluntarily Closing Your Practice

Contact LOMAP for guidance about the nuances and timing of these steps.

Summary Checklist

- Amounts Owed from Clients (Accounts Receivable): Ensure that these balances are paid or total in the low four figures before you announce your intentions to anyone.
- Give notice to staff
- Cease taking new matters from new clients
- Cease taking new matters from existing clients
- Give notice of termination of any rental/lease agreements
- Give notice to clients
- Conclude active cases
- Transfer files to new lawyer
- Give files to clients
- Deal with retained files such as closed files and original wills
- Finalize accounting
- Prepare time records and list of work in progress
- Meet with Accountant
- Close accounts such as banking law firm accounts
- Client Trust Accounts (after audit)
- Deal with unclaimed funds
- Lenders
- Accounts Receivable
- Safe Deposit Box
- Notify WSBA, professional organizations, and other bar associations
Exiting Your Practice

When it is time to leave your business, what will you do? This spotlight CLE will cover some of the basics for exiting your law practice.

1. What are some exit options? Leave, sell or gift
2. Find out how to determine the value of the business
3. How to sell? Hire someone or do it yourself?
4. Learn about sale agreements and financing

Speaker: Jessica McKeegan Jensen — Jessica Jensen Law PD, Olympia
Closing a Solo Practice: An Exit To-Do List

May/June 2011 Law Practice Magazine, Volume 37 Number 3

By Sheila Blackford and Peter Roberts

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After years of being immersed in the legal profession, being a lawyer arguably defines who you are. Walking away from a law practice usually isn’t easy. So much so that when asked about their exit strategies, some lawyers may say, “My exit strategy is to die at my desk!” Be assured, however, there are far more upbeat approaches when it comes to closing a practice.

Perhaps you’re among the baby boomer lawyers who are beginning to plan their retirement strategies. Maybe you need to close up shop due to your appointment to a judgeship. Or, perhaps you just want to have a plan in place should the unexpected occur and you have to leave owing to an illness or other personal situation.

Whatever the reason, there are several routes for phasing out a solo practice—and in the ideal, you’ll have your route charted out well in advance of actually closing the doors.

Naturally, if getting away for a vacation has proved difficult in the past, the idea of getting away for good may seem really daunting. But take heart—the following offers some orderly steps for solo practitioners to consider to help with the hows and whens of closing their office doors. Note that if you want to sell your practice to another lawyer versus closing it outright, you’ll have an additional set of issues to consider, but see the sidebar “Looking

Checklist for Closing Your Solo Practice

1. Calculate amounts owed from clients (i.e., accounts receivable). Ensure that these balances are paid or total in the aggregate in the low four figures before you announce that you intend to close your practice.
2. Inform staff of your plans.
3. Cease taking new matters.
4. Give notice of termination for lease and other rental agreements.
5. Inform clients of your plans.
6. Conclude active cases.
7. Transfer client files to new lawyer(s).
8. Give files to clients.
9. Deal with retained files, such as closed files and original wills.
10. Finalize accounting for the practice.
11. Prepare last time records and list of work in progress.
12. Meet with your accountant.
13. Close law firm banking accounts and other related accounts.
14. Close client trust accounts. Note: Do this after audit is completed.
15. Address unclaimed account funds.
17. Finalize accounts receivable.
18. Deal with safe deposit box contents.
19. Notify bar association and professional organizations.
20. Notify insurance carriers such as
for the Offer You Can’t Refuse?” in this issue for some pointers. In all instances, of course, the interests of your clients must come first.

**Making the Decision to Go Public: Put First Things First**
For many lawyers, the first question may be: When should I go public with my plans? Well, before you leap to tell the world your intentions, stop and think about all the other steps that will need to be taken ahead of that one.

First, inform your trusted staff. You will need their assistance both in building your plan and in implementing it. But beyond that, staff members deserve to know your intentions—after, that is, you have answers to the obvious questions, such as when you will begin winding down the practice. Assure them that they are trusted and valuable with job security until a date certain. Ascertain if any have plans for retiring in the near future. Think of other lawyers who may wish to hire your staff, and prepare to contact local bar colleagues who work in your area to make potential hiring contacts when the time comes.

Of course, long-term clients deserve to hear about your plans in person or at least by telephone. However, think carefully about how and when you describe your plans to clients. Be sure to know the status of all of your matters so you’ll be able to answer clients’ questions, especially concerning how your plans

Our advice is to be sure that client amounts owed are in the low four figures before informing clients that you plan to close your office. Like it or not, clients may not be as motivated to pull out the checkbook to pay your outstanding bills once they know of your plans to retire.

**Building Out a Timeline: Assessing the Status of Client Files**
Now, let’s delve into the “when” factor of phasing out the practice. As the first step, you’ll need to compile a detailed list of all your open client matters. For each open file, your answers to two key questions will help to clarify next steps:

- What is the current status of this file?
- What type of fee agreement is involved?

Estimate a timeline for finishing the work on each of these open files. The aggregation of these timelines will help to inform the overall timeline you’ll want to adopt for closing your practice. You may find that you cannot possibly keep your practice open long enough to complete all of your cases, but you definitely want to finalize as many active files as possible.

Next, decide how to deal with the cases that require special handling, including when and how the files might be transferred to other lawyers in accordance with your jurisdiction’s rules. If you
have pro bono, reduced fee or special fee arrangement cases that you won’t be able to finish, do you know of another qualified attorney who would be willing to do so under the same fee arrangement?

Then, assess whether you may need to refund money to any of your clients. In particular, if you charged a flat fee that was designated “earned upon receipt” and you will be unable to finish work on the matter, be sure to check with your bar’s ethics counsel for how to proceed. You may need to refund the fee or pay another competent lawyer to finish the work. ABA Model Rule of Professional Conduct 1.5, Comment 4, states: “A lawyer may require advance payment of a fee, but is obliged to return any unearned portion.”

To keep your timeline moving, deal promptly with cases before administrative bodies and courts. For cases with pending court dates, hearings or depositions, discuss with the clients how to proceed. You may need to request extensions, continuances and resets of hearings. Be sure to send written confirmations of these changes to your client and to opposing counsel. In addition, be sure to obtain the client’s permission before submitting a motion and an order to withdraw as attorney of record or arrange that the new lawyer file a substitution of counsel with the court. You’ll need to consult your local jurisdiction’s rules and comply well within the deadlines before you become officially inactive.

In addition, as you chart out your timeline for closing the practice, remember to keep this point top of mind: Your clients will need adequate time to select a new lawyer. Also, remember the client gets to select the lawyer—you may only recommend. Stress that time is of the essence so that clients don’t procrastinate. If possible, provide them with the names and phone numbers of competent lawyers along with the phone number to your bar’s lawyer referral program. Again, if any of your clients have cases that another lawyer may not want to take, which could include pro bono or reduced fee matters, you will want to make adequate provisions to get those cases handled, too. Your bar’s lawyer referral and pro bono programs may be able to provide information on attorneys willing to assist on those matters.

**Remember Your Fiduciary Duty: Wrapping Up Client Trust Accounts**

As another critical part of closing up a law practice, you need to address all funds held in a client trust account. The first step in doing this is to get your trust account fully reconciled. The funds in the trust account should either correspond to clients for whom work is being completed or be earmarked for refund to the client. Although if you’ve held a nominal amount of your own money in the account to meet the bank’s minimum-balance requirements or
cover bank charges for services such as check printing, don’t forget about that sum when reconciling the account.

Once the trust account is fully reconciled, you’ll prepare and send the final client bills. In accordance with your fee agreement, disburse money owed to you for earned fees and reimbursement for costs advanced. Deposit this money to your general business account. Disburse funds belonging to your client to your client. Or, if the clients are going to new lawyers and their trust account funds are to be transferred to the new firm, then make the check payable to both the client and the new firm.

Next, if you have any unclaimed funds in your trust account, you’ll need to determine the source. Payments made on behalf of your clients, such as witness checks not cashed, revert to the clients and should be reimbursed to them. Unclaimed funds belonging to clients may be subject to your state’s Disposition of Unclaimed Property Act.

Typically, funds held by a fiduciary are deemed abandoned if the owner has not accepted payment of the funds or corresponded about them within two years after the funds are payable. You may be required to report the funds to your state’s Division of State Lands (or similarly titled division) and to turn the funds, along with a copy of the report, over to your state’s IOLTA program. Check with your state bar’s practice management advisor or ethics counsel for further guidance. Also, if you know the whereabouts of the recipient of an outstanding uncashed check, consider stopping payment on the check and using the funds to purchase a bank cashier’s check and delivering or mailing the check to the recipient.

Lastly, you’ll need to notify your bar association when you have closed your trust account—and you must also provide for preserving your trust account records in accordance with your jurisdiction’s ethics rules. According to ABA Model Rule 1.15 (a), “Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of [five years] after termination of the representation.” (See “Managing Your Client Trust Account: Where the Buck Stops” in the January/February 2011 Law Practice for more on trust account reconciliations and recordkeeping needs.)

**Further Considerations: Nuts-and-Bolts Issues**

There are, of course, some other things to consider when developing a plan to close a solo practice, such as the terms of your office lease and any vendor contracts that are currently in place. You’ll want to make timely notifications and be aware of any office or equipment agreements that automatically renew without notice and when they renew or end. With that in mind, here’s a look at the types of nuts-and-bolts items that must be addressed in your wrap-up timeline.
• **Your office lease.** Hopefully, you were able to negotiate a year-to-year lease at your last renewal period. But what if your lease is going to last longer than your practice? You may need to negotiate an early termination of your lease or arrange for a sublease of your office, if allowed.

• **Equipment leases and disposal.** If your office equipment is still under lease, contact the vendor to see if you can renegotiate or arrange for a sublease. If you own certain equipment outright, you may want to sell it or donate it to a nonprofit group. Caveat: You will first need to take the proper steps to “wipe” any client information that is stored on computers, digital copiers and other electronic devices (e.g., smartphones)! Consult your IT consultant or your state bar’s practice management advisor for help with this.

• **Utilities and office services.** You’ll need to bring your utilities and office services to a close in a timely fashion to receive a final bill to pay soon after closing. Don’t overlook your Internet and e-mail service, or your Web site, either. Consider setting up an automated reply on your e-mail and a static page on your site with information about the closure of your office and where closed files are being stored.

• **File storage.** Your state bar may have specific guidelines for properly storing closed client files. If you carry professional liability or malpractice insurance, you should check with your carrier, too. Also check your state statutes and regulations for any statute of ultimate repose on a legal malpractice claim. You will want to have your files in the event you need to defend yourself against a claim.

• **Tail insurance coverage.** Check with your professional liability or malpractice insurance carrier (again, if you have one) about obtaining tail insurance coverage, which covers you for any malpractice claims that arise after you have stopped practicing for malpractice incurred while you were still practicing. Tail insurance coverage might be included free as part of your insurance coverage or you may need to purchase a separate policy for a set term. Here, too, consult any statute of ultimate repose for a legal malpractice claim.

• **Business records.** The IRS will expect you to keep your business records for as long as they may be needed to prove the income or deductions on your tax return. You may need to recall records and receipts related to an asset you sold or disposed of for three years after you sold or disposed of the asset. Some of your business records, however, will need to be kept for a minimum of seven years. Ask a CPA for advice on which of these records to retain and for how long.

• **Call-forwarding number.** In the final days of winding down your practice, you should arrange to have your office phone number forwarded to your home, or to a lawyer who is assisting you with the closure of your office, to ensure that any clients calling will be given the proper assistance. To convey relevant information, you might also arrange for an automated message on your office line for at least several months after your practice closes.

The foregoing list of considerations and to-dos is, admittedly, not comprehensive but it gives you a good primer if you’re a solo thinking of closing up shop as your exit strategy. The “Checklist for Closing Your Solo Practice” in this issue includes some additional items you’ll want to add to your planning, too.

Overall, with the right amount of advance planning—planning that ensures the interests of your clients come first—you’ll then have just one more to-do, which is: Enjoy the next steps in your life’s path!

**Looking for the Offer You Can’t Refuse?**

**Negotiating the Sale of a Practice**

Selling your practice is an option if you have the time to find a buyer and the time for negotiating the transaction. Consider hiring representation, such as a business transactions lawyer or CPA, to participate in the negotiations. But see ABA Model Rule 1.17: Sale of Law Practice and the corresponding rule for your state first. While the valuation and negotiation processes can be complex, the three paramount issues are (1) price, (2) payout and (3) workout.
Ultimately, the price is whatever you can negotiate. However, a practice with a stable and loyal client base is easier to value than a single transaction client base. Values may be derived from the present value of future estimated gross fees; a calculation of actual gross fees for the first, second or third year after the transaction closes; or a combination of such calculations with an estimate of the value of “goodwill.” Goodwill can include factors like the reputation of the office, location, skills of employees, brand name, referral network, bargain lease, office systems and the like. Another component of the price can be expenses that you would incur but for the sale of the practice. Two examples are tail insurance coverage premiums and medical premiums that your firm will no longer be paying on your behalf. In general, it is advisable to use numbers that are measurable rather than pure estimates.

The payout is when you receive the proceeds of the sale. Likely, you will expect a portion of the price up front. The rest of the payout may depend on how the price is calculated if dependent on future gross fees.

The workout is your role after the sale of the practice. Part of the goodwill component of the price may depend on you remaining around the firm for a period of time in some capacity.

A number of state bar associations offer resources related to the sale of a law practice. Also, the book *Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer, 4th Edition*, has two chapters dedicated to the topic.
The Basic Steps to Ethically Closing a Law Practice

There are many different reasons why a law practice closes, some are planned, e.g., retirement, merging firms, or entering public office, and others can be unplanned, e.g., disability or death. The ethical duties of the lawyer in each of these situations, however, are similar - to protect the clients’ interests. There are no specific rules covering what lawyers must do in winding down a law practice. This publication focuses on the basic ethical obligations when closing a law practice. The forms and suggested procedures provided here are meant to assist lawyers in accomplishing a smooth and efficient transition that meets a lawyer’s ethical obligations. Lawyers with questions are encouraged to call the ARDC Ethics Inquiry Hotline at either the ARDC Chicago office: 312/565-2600 or 800/826-8625 or Springfield office: 217/52-6838 or 800/252-8048.

☐ SET TARGET DATES

Closing a law practice requires preparation, organization and time. Once the decision to close a practice has been made, set a target date for when the practice will close and target dates for completing the many tasks in closing the practice, particularly when to notify clients. Planning is essential and you should probably allow at least six months to one year to complete the many tasks necessary to close a law practice.

Appendix: LAW OFFICE CLOSING CHECKLIST

☐ PREPARE AN INVENTORY OF CLIENT FILES AND RECORDS

Client Files
The first task is to inventory of all client matters. First, determine which matters are active and which are closed.

For open client matters, the inventory should include the following information:

- name and last known address of the client;
- telephone numbers both for work and home of the client;
- nature of the client’s legal matter;
- the current status of the representation and what remains to be done for completion of the representation;
- any time limitations and/or deadlines;
- title and case number of any proceeding, if applicable;
✓ whether any funds or property is being held in trust; and
✓ the location of the file and whether the file contains any original documents, such as a deed, contract or will.

For **closed** client matters, the inventory should include the following information:

✓ name and last known address of the client;
✓ telephone numbers both for work and home of the client;
✓ nature of the client’s legal matter;
✓ date when the representation was concluded;
✓ title and case number of any proceeding, if applicable;
✓ whether any funds or property that were held in trust have been disbursed; and
✓ the location of the file, destruction date and whether the file contains any original documents, such as a deed, contract or will.

**Office Records**

For key practice management records, the inventory should include the following information:

- **Business And Trust Accounts:**
  - Institution names and locations
  - Account numbers
  - Signatory name(s)

- **Safety Deposit Box And/Or Storage Facilities:**
  - Location
  - Access information

- **Computer And Voice Mail:**
  - Access codes/passwords

- **Important Business Documents**
  - Leases
  - Maintenance contracts
  - Business credit cards
  - Client ledgers
  - Other books and records relating to business and trust accounts

- **Computer Data and/or Hardcopy Backups of:**
  - Conflicts
  - Calendaring backup
  - Time billing records
  - Accounts receivable/payable
  - Active client file inventory
  - Closed file storage location and inventory
NOTIFY CLIENTS

Write to clients with active files, advising them that you are unable to continue representing them and that they need to retain new counsel. Your letter should inform them about time limitations and time frames important to their cases. The letter should explain how and where they can pick up copies of their files and should give a time deadline for doing this and should be sent certified mail, return receipt requested, so that a record is created of who was contacted and who received the notice.

Appendix: LETTER ADVISING THAT LAWYER IS CLOSING HIS/HER OFFICE

Open Client Matters
If the legal matter is still open, the letter should advise the client of the following:

- the anticipated termination of representation and the closure of the law office time frame;
- the need to retain new counsel and, if desired, will refer them to three qualified attorneys and to the local bar association's lawyer referral service;
- the status of their matter and any time limitations and time frames important to their cases;
- an accounting of all trust property being held by the lawyer and the lawyer’s disbursement of same;
- the current status of fees earned and amounts owed and request for payment on all open invoices;
- Directions from the client regarding
  - their authority to transfer their case to another attorney
  - consent to withdraw and submit a motion for an order to withdraw as attorney of record
  - picking up their original file materials, evidence
  - paying outstanding bills
  - disbursement of trust monies, etc.
- explain how and where they can pick up copies of their files and should give a time deadline for doing this, e.g., asking them to pick up their files within 30 days (beyond which they will be destroyed, unless otherwise required by your engagement agreement or applicable law).

Closed Client Matters
If the legal matter is closed, the letter should advise the client of the following:

- the closure of the law office time frame;
- the law firm’s file destruction policy; and
explain how and where they can pick up copies of their files and should give a
time deadline for doing this.

Sale of a Law Practice Notice

If the practice is closing due to a sale, ILRPC 1.17(c) requires additional notices to
clients, as follows:

The seller gives written notice to each of the seller’s clients regarding:

(1) the proposed sale;
(2) the client’s right to retain other counsel or to take possession of the file; and
(3) the fact that the client’s consent to the transfer of the client’s files will be presumed if
the client does not take any action or does not otherwise object within ninety (90) days of
receipt of the notice.

If a client cannot be given notice, the representation of that client may be transferred to
the purchaser only upon entry of an order so authorizing by a court having jurisdiction.
ILRPC 1.17(c). The seller may disclose to the court in camera information relating to the
representation only to the extent necessary to obtain an order authorizing the transfer of a
file. ILRPC 1.17, cmt. [8].

If the purchaser has identified a conflict of interest that the client cannot waive and that
prohibits the purchaser from undertaking the client's matter, the notice shall advise that
the client should retain substitute counsel to assume the representation and arrange to
have substitute counsel contact the seller. ILRPC 1.17, cmt. [11].

Receivership Notice

If a practice is closing due to the lawyer's death, disability or disappearance and if “no
partner, associate, executor or other responsible party capable of conducting the lawyer's
affairs is known to exist,” Supreme Court Rule 776 provides for the appointment of a
receiver to inventory the law firm files and fulfill the duties necessary to close the
practice. The receiver does not necessarily take over the deceased lawyer's practice, but
instead owes fiduciary duties to the court for the proper disposition of the practice. The
appointment order authorizes the receiver to “take custody of and make an inventory of
the lawyer's files, notify the lawyer's clients in all pending cases as to the lawyer's
disability, or inability to continue legal representation, and recommend prompt
substitution of attorneys, take appropriate steps to sequester client funds of the lawyer,
and to take whatever other action is indicated to protect the interests of the attorney, his
clients, or other affected parties.” S.Ct.R. 776(b).
In all pending matters, ILRCP 1.16(d) requires:

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

For cases that have pending court dates, depositions, or hearings, discuss with the clients how to proceed. Where appropriate, request extensions, continuances, and resetting of hearing dates. Send written confirmations of these extensions, continuances, and resets to opposing counsel and to your client. For cases pending before tribunals file the appropriate motion and obtain the consent of the tribunal to withdraw. In cases where the client has chosen a new attorney, be certain that a substitution of counsel is filed. Pick an appropriate date and check to see if all cases have a motion and order allowing your withdrawal as counsel. The tribunal has discretion as to whether to allow the withdrawal. It is possible the lawyer will be required to postpone retirement, delay a new job opportunity, or put the sale of the practice on hold until the pending matter has been concluded. ILRPC 1.16(c); see also ILRPC 1.17, cmt. [12].

Registration Information

Contact the ARDC Registration Department and update your registration as to status and contact information. Supreme Court Rule 756(c) requires you to notify the ARDC of any change of address within 30 days of such change. The recommended method for changing your registration address is to use the ARDC on-line registration program at https://www.iardc.org/registration/changeofattorneyregaddress.html or complete the ARDC Change of Registration Address form at https://www.iardc.org/information/online_forms/changeofaddress.pdf, sign it and return by either email (registration@iardc.org) or mail (ARDC, Attn.: Registration Department, 130 E. Randolph, Suite 1500, Chicago, IL 60601).

If the law firm is organized as a professional service corporation, professional association, limited liability company or limited liability partnership, as permitted under IL Supreme Court Rule 721, you will need to file dissolution papers with Illinois Secretary of State and also notify the Clerk of the Illinois Supreme Court of the dissolution.
DELIVERING FILES TO CLIENTS

A record needs to be made of whose files are returned and the dates of return. It helps if you explain to clients in the initial notification letter how their file will be returned and of the need for security measures. Makes copies of files for clients and retain your original files. All clients should either pick up their files (and sign a receipt acknowledging that they received them) or sign an authorization for you to release the files to their new attorneys. If a client is picking up a file, original documents should be returned to the client and copies should be kept in your file. If the client directs you to release the file to someone other than the client, such as his new counsel, get that direction in writing or have the client sign something that indicates that the file is sent according to the client’s instruction.

Appendix: AUTHORIZATION OF RECEIPT OF FILE AND AUTHORIZATION OF TRANSFER OF FILE

Files can be picked up in person or mailed to the client. Files sent by mail should be done by certified mail. The proof of delivery receipt provides sufficient proof of the return. The transfer of the file should be made in such a way as to preserve the confidences and secrets of the client, ILRPC 1.6, such as by hand delivery. Mailing files can also be expensive. Therefore, you may want to encourage clients to pick up their files in person whenever possible.

RECOMMENDING PROMPT SUBSTITUTION OF COUNSEL

It is understandable that clients may ask you to recommend successor counsel. You can make such recommendations so long as it is clear that the selection of new counsel is up to the client. If you will be receiving a fee for the referral then under ILRPC 1.5(e) you must: (1) agree to assume joint financial responsibility for the representation; (2) the client must be informed of the amount each lawyer will receive and agree to it in writing; and (3) that the total fee is reasonable.

No client file should be sent to a successor lawyer without the client’s prior approval, which should be obtained in writing.

BILLING AND FEES

A lawyer is entitled to be compensated for work performed prior to closing the practice and the client is entitled to an accounting and statement of any amounts owed. Steps should be taken so that the settlement of client accounts is done promptly even if fees for some pending cases might not be resolved or collected until the representation matter is resolved (e.g. contingent fee payable on "recovery). In the case of a lawyer’s death,
ILRPC 5.4 allows for the payment of money over a reasonable period of time after a lawyer’s death to the lawyer’s estate or other specified persons.

DEALING WITH OFFICE AND TRUST ACCOUNTS

You first need to make an inventory of all funds and property held in trust. Review the law firm’s trust account ledgers and reconcile them with the monthly bank statements and identify all funds to which clients or third persons are entitled to receive. Promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, promptly render a full accounting regarding such property. In the event funds are transferred to another lawyer chosen by the client, the check should be made payable jointly to your client and the lawyer when disbursed from your trust account.

Checklist

- Determine closure dates for firm accounts and notify the financial institution(s) to find out closing process; allow some time lapse between the actual closing of the practice and the closing of the accounts in order to allow final checks to clear; cancel firm credit cards;
- Prepare final reconciliation of firm trust account(s) and determine any client funds that need to be disbursed;
- Make sure all trust funds are properly disbursed: client’s funds returned to client; attorney’s earned fees and administrative moneys (to cover necessary bank charges) are paid to lawyer; and third party bills (experts, doctors) are paid off;
- Escheat to the state any funds the firm is unable to ascertain the owner or is unable to return to the client after reasonable attempts have been made; and
- Determine if other client property (non-cash) being held in trust needs to be returned (obtain receipts).

If one or more person (one of whom may be the lawyer) claims an interest to what is being held in trust, the funds shall kept separate by the lawyer until the dispute is resolved as provided in ILRPC 1.15(e).

Also, for instances where there is an unclaimed or unidentified amount of funds in the trust account due to (1) the disappearance of a client or third person before a trust account check could have been issued; (2) the fact that the trust account check has yet to be cashed; or (3) there is an unexplained amount of money that cannot be traced as belonging to either a client, a third person or the lawyer, take all steps reasonable under the circumstances to resolve the situation. If a person entitled to funds has disappeared without a forwarding address or a trust account check was issued but not cashed, you
should at a minimum (1) determine whether the person left a forwarding address with the U.S. Postal Service; and (2) send a letter to the client's last known address by regular mail and by certified return receipt advising that person that if, for example, the trust account check has not been cashed, unless that person advises the lawyer to issue a replacement check, the funds will be presumed unclaimed in accordance with the Uniform Disposition of Unclaimed Property Act and the funds will be remitted to the Illinois Unclaimed Property Division. Funds that remain unclaimed for five years, under the Uniform Disposition of Unclaimed Property Act, 765 ILCS secs. 1025/1 et seq. (1992), are presumed unclaimed and the lawyer may remit the funds to the Illinois Unclaimed Property Division of the Illinois State Treasurer. To report unclaimed property to the state, contact the Office of the State Treasurer, Unclaimed Property Division, P.O. Box 19495, Springfield, IL 62794-9495. (217) 785-6998 or go to the “I-Cash” program on the Illinois State Treasurer website at http://icash.illinois.gov/

**ADVERTISING AND SOLICITATION**

ILRPC 7.1 prohibits any communications about a lawyer's services which are false or misleading. Advertising contracts or other listings which would give the appearance that the lawyer is in business, when that is not in fact the case, need to be cancelled. Signs should be removed, letterhead and business cards collected and destroyed, and firm names changed.

ILRPC 7.5(a) allows lawyers in private practice to use trade names so long as they are not misleading. Trade names typically are considered to be misleading if they misrepresent either the nature of the underlying entity or the relationship of the lawyers to that entity. The circumstances under which a law firm may ethically retain in its name the name of a lawyer no longer associated with the firm generally depends on whether the name partner died, retired, moved to another firm or went into another business. For partners who have died, Comment [1] to Rule 7.5 states that a firm may use a trade name that includes the names of deceased members where there has been a continuing succession in the firm’s identity. *See In re Burkhart*, M.R. 25174, 09 CH 99 (Ill. March 19, 2012) (after agreeing to buy the law practice of deceased sole practitioner, lawyer suspended for, among other things, using deceased lawyer’s name in the title of his newly-formed firm).

When a living partner leaves a firm, the circumstances of the departure determine whether the firm may continue to use the partner’s name. Generally, if a lawyer, who is a name partner in a law firm, is retiring or who has become “of counsel,” the lawyer’s name may be retained in the firm’s name provided that the firm takes reasonable steps to show the partner’s status such as indicating on the firm stationery the years during which he or she practiced., *see* ABA Formal Op. 90-357 (1990), but using the name of a partner who has left to join another firm or for other reasons is considered misleading. *See* ILRPC 7.5, cmt. [1] (“it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm”); ISBA Adv. Op. 03-02 (2004).
The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. ILRPC 7.5(c).

☐ STORAGE AND DESTRUCTION OF CLIENT FILES

An important consideration in the closing of a law practice is the retention and destruction of client files. Long before the decision is made to close the practice, the firm should have in place an established record retention and destruction policy. While much has been written on the subject, the Rules of Professional Conduct do not set forth particular rules or guidelines on how long a lawyer must retain client files or how a lawyer can properly destroy client files.

Before Closing a File:

- Determine if all work is done
- Review file and discard duplicate copies
- Return all original documents furnished by client
- Give file a file closing date and keep it somewhere separate from active files
- Determine need for electronic backup of firm’s computer data
- Arrange for secure storage location and retention period

Upon closing the file, remove any unnecessary documents such as copies of documents that are available from another sources such as the court or government office unless there is any legal or other reason for retaining the document or multiple copies of the same document.

What Records to Retain

A lawyer must maintain records that identify the name and last known address of each client, and reflect whether the client’s representation is active or concluded, for an indefinite period of time (S.Ct.Rule 769).

A lawyer must keep complete records of trust account funds and other property of clients or third parties held by the lawyer and must preserve such records for at least seven years after termination of the representation (ILRPC 1.15).

A lawyer must also maintain all financial records related to the lawyer’s practice for not less than seven years (S.Ct.Rule 769).

There are no rules that specifically cover how long a lawyer must keep records contained in a client’s file. Upon termination of the representation, the lawyer is required to return all papers and property received from the client (Rules 1.15(a) and 1.16(d)). For other records, the lawyer should exercise prudent judgment in determining how long to retain the client file, taking into consideration such things as when the statute of limitations for legal malpractice has expired, any particular difficulties in the relationship with the client.
or the representation, if the client was a minor or incompetent that might extend the period of limitations, whether the file contains any original documents that the client might want back, and whether any documents if destroyed would be difficult to reconstruct from other sources. See Thar, Anne E., How Long Should You Retain Client Files?, 83 ISBA Bar J. 649 (Dec. 1995). Most client files should be kept a minimum of 7 years after the representation has ended and until the statute of limitations for legal malpractice has run or has been tolled, e.g. cases involving a minor who is still a minor at the end of 7 years, estate plans for a client who is still alive 7 years after the work is performed or files of difficult clients. See ISBA Adv. Op. 12-06 (January 2012). Note that there is no statute of limitations for a client or other person to complain about a lawyer’s conduct to the ARDC.

If document exist in electronic form only they should be either printed and placed in the client’s file or moved to an electronic file and maintained for the retention time period determined for that client’s file. The electronic version can then be permanently purged or moved to a storage media. The retention of electronic date should be consistent with the retention policy for paper files.

**Establish a Record Retention Policy**

A good file retention and destruction plan usually involves a two-step process:

1) *At the beginning of the representation* - Nothing in the ethics rules prohibits lawyers from having clients stipulate in advance, typically at the beginning of the representation, contained in the engagement agreement how items in their files will be handled [returned, destroyed or saved] after a specified period of time after the representation concludes.

2) *At the end of the representation* - When the file is closed, each file should have given a destruction date and that date needs to be calendared. If the client was not advised in the engagement agreement of how the client’s file will be handled by the lawyer after the representation is concluded, the lawyer can address this in an end-of-the-engagement letter to the client.

Below is a sample record retention provision that may be included in the retainer agreement (Sample #1) and a sample end-of-the engagement letter to the client at the conclusion of the representation (Sample #2) taken from *NY Com. on Professional and Judicial Ethics Formal Op. 2010-01 (2010).*

**Sample #1**

[Lawyer] will maintain [Client’s] file for ____ years after this matter is concluded. [Client] may request the file at any time during, upon conclusion of, or after conclusion of, this matter. ____ years after the conclusion of this matter, the file may be destroyed without further notice to [Client].
Sample #2

Once our engagement in this matter ends, we will send you a written notice advising you that this engagement has concluded. You may thereafter direct us to return, retain or discard some or all of the documents pertaining to the engagement. If you do not respond to the notice within _____ [e.g., 60] days, you agree and understand that any materials left with us after the engagement ends may be retained or destroyed at our discretion.

Notwithstanding the foregoing, and unless you instruct us otherwise, we will return and/or preserve any original wills, deeds, contracts, promissory notes or other similar documents, and any documents we know or believe you will need to retain to enforce your rights or to bring or defend claims. You should understand that “materials” include paper files as well as information in other mediums of storage including voicemail, email, printer files, copier files, facsimiles, dictation recordings, video files, and other formats. We reserve the right to make, at our expense, certain copies of all documents generated or received by us in the course of our representation. When you request copies of documents from us, copies that we generate will be made at your expense. We will maintain the confidentiality of all documents throughout this process.

Our own files pertaining to the matter will be retained by the firm (as opposed to being sent to you) or destroyed. These firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and account records. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any documents or other materials retained by us within a reasonable time after the termination of the engagement.

For a discussion on the related issue of responding to a client’s request for a lawyer’s copy of closed files see ISBA Adv. Op. Nos. 94-13 and 94-14 (January 1995) which can be obtained from the ISBA’s web site at www.illinoisbar.org.

Destruction of Files

Destroy files in a manner that does not compromise client confidences – shredding or incineration (don’t just put in garbage can). Determine disposal options for computer equipment. Scrub computers of software, firm and client information.

Organize closed files into a way that makes it easier for you to know which files to review for destruction. One suggestion would be to separate closed client matters into groups according to the year the work was completed each year and place those files into one of three groups: files that are 7 years and older; files that are less than 7 years old; and files that need to be kept longer than 7 years. Label files with special retention issues e.g. “REVIEW BEFORE DESTROYING” so that you can easily identify files that should not be destroyed with first reviewing the file.
Keep a permanent inventory of destroyed files and the destruction dates.

Review a file before it is destroyed.

**DESIGNATE A SUCCESSOR ATTORNEY**

When a sole practitioner dies or becomes disabled the question becomes what happens to open client matters as well as the client files and any funds that may be on deposit in the trust account. ILRPC 1.15(a)(8) (added in July 2011) provides as part of the client trust requirements that lawyers shall:

(8) make appropriate arrangements for the maintenance of the records in the event of the closing, sale, dissolution, or merger of a law practice.

Lawyers need to put in place a contingency plan that protects both the clients and the lawyer. A prudent lawyer should consider succession planning and spell out how the practice should be maintained in the event there is an interruption in the practice.

**Appendix: LAW FIRM LIST OF CONTACTS**

Currently if a lawyer dies or becomes incapacitated without having made any arrangements about the future of his or her practice, the ARDC seeks a court order to take over the practice, referred to as a receivership. As a receiver the ARDC collects the lawyer’s files and attempts to return those files to the clients.

Several jurisdictions already have some form of mandatory advance designation, caretaker or surrogate lawyer rules that encourage and enable lawyers to plan for law practice contingencies by designating in advance another lawyer who is willing and able to assume the lawyer’s practice or to assist in the transfer of client matters and papers and electronic files. See, e.g., The New York State Bar Association publishes a comprehensive “Planning Ahead” Guide (“Planning Ahead: Establish an Advance Exit Plan to Protect Your Clients’ Interests in the Event of Your Disability, Retirement or Death (2005)”), available free online. The Planning Ahead Guide comes complete with downloadable forms, checklists and guidance for the advance designation of a successor attorney. [http://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=27713](http://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=27713)
Appendix

LETTER - LAWYER IS CLOSING HIS OR HER OFFICE

Re: [ Name of Case ]

Dear [ Name ]:

As of [ date ], I will be closing my law practice due to [ provide reason, if possible ]. I will be unable to continue representing you on your legal matters.

I recommend that you immediately hire another attorney to handle your case for you. You can select any attorney you wish, or I would be happy to provide you with a list of local attorneys who practice in the area of law relevant to your legal needs. Also, the [bar association] provides a lawyer referral service that can be reached at [phone number].

When you select your new attorney, please provide me with written authority to transfer your file to the new attorney. If you prefer, you may come to our office and pick up a copy of your file and deliver it to that attorney yourself.

It is imperative that you obtain a new attorney immediately. [Insert appropriate language regarding time limitations or other critical time lines that client should be aware of.] Please let me know the name of your new attorney, or pick up a copy of your file by [ date ].

I [ or, insert name of the attorney who will store files ] will continue to store my copy of your closed file for ___ years. After that time, I [ or, insert name of other attorney if relevant ] will destroy my copy of the file unless you notify me in writing immediately that you do not want me to follow this procedure. [ If relevant, add: If you object to (insert name of attorney who will be storing files) storing my copy of your closed file, let me know immediately and I will make alternative arrangements. ]

If you, or your new attorney, need a copy of the closed file, please feel free to contact me. I will be happy to provide you with a copy.

Within the next [ fill in the number ] weeks I will be providing you with a full accounting of your funds in my trust account and fees you currently owe me.

You will be able to reach me at the address and phone number listed on this letter until [ date ]. After that time, you or your new attorney can reach me at the following phone number and address:

[ Name ]
Remember, it is imperative to retain a new attorney immediately. This will be the only way that time limitations applicable to your case will be protected and your other legal rights preserved.

I appreciate the opportunity of providing you with legal services. Please do not hesitate to give me a call if you have any questions or concerns.

Sincerely,

[Attorney]

[Firm]

*Adapted from Florida Bar Ethics Department, Law Office Management Assistance Department (LOMAS). Reprinted with permission.*
ACKNOWLEDGMENT OF RECEIPT OF FILE

I hereby acknowledge that I have received a copy of my file from the law office of _______________________[name].

_____________________________
[Name]

_____________________________
[Date]
AUTHORIZATION FOR TRANSFER OF CLIENT FILE

I hereby authorize the law office of ______________________________ to deliver a copy of my file to my new attorney at the following address:

________________________________________

________________________________________

________________________________________

________________________________________

________________________________________

______________________________
Client Name

______________________________
Date
LAW FIRM LIST OF CONTACTS

ATTORNEY NAME:
Social Security OR State Bar #:
Federal Employer ID #: State Tax ID#:

Date of Birth:
Office Address:
Office Phone:
Home Address:
Home Phone:

SPOUSE:
Name:
Work Phone:
Employer:

OFFICE MANAGER:
Name:
Home Address:
Home Phone:

COMPUTER AND TELEPHONE PASSWORDS:
(Name of person who knows passwords or location where passwords are stored, such as a safe deposit box)
Name:
Home Address:
Home Phone:

POST OFFICE OR OTHER MAIL SERVICE:
Location:
Box No.:
Obtain Key From:
Address:
Phone:
Other Signatory:
Address:
Phone:

SECRETARY:
Name:
Home Address:
Home Phone:
BOOKKEEPER:
Name:
Home Address:
Home Phone:

LANDLORD:
Name:
Address:
Phone:

PERSONAL REPRESENTATIVE:
Name:
Address:
Phone:

ATTORNEY:
Name:
Address:
Phone:

ACCOUNTANT:
Name:
Address:
Phone:

ATTORNEYS TO HELP WITH PRACTICE CLOSURE:
First Choice:
Address:
Phone:

Second Choice:
Address:
Phone:

Third Choice:
Address:
Phone:

LOCATION OF WILL AND/OR TRUST:
Access Will and/or Trust by Contacting:
Address:
Phone:

PROFESSIONAL CORPORATIONS:
Corporate Name:
Date Incorporated:
Location of Corporate Minute Book:
Location of Corporate Seal:
Location of Corporate Stock Certificate:
Location of Corporate Tax Returns:
Fiscal Year-End Date:
Corporate Attorney:
Address:
Phone:

**PROCESS SERVICE COMPANY:**
Name:
Address:
Phone:
Contact:

**OFFICE-SHarer OR “OF COUNSEL:”**
Name:
Address:
Phone:
Name:
Address:
Phone:

**OFFICE PROPERTY/LIABILITY COVERAGE:**
Insurer:
Address:
Phone:
Policy No.:
Contact Person:

**OTHER IMPORTANT CONTACTS:**
Name:
Address:
Phone:
Reason for Contact:
Name:
Address:
Phone:
Reason for Contact:

**OTHER IMPORTANT CONTACTS:**
Name:
Address:
Phone:
Reason for Contact:
GENERAL LIABILITY COVERAGE:
Insurer:
Address:
Phone:
Policy No.:
Contact Person:

LEGAL MALPRACTICE—PRIMARY COVERAGE:
Provider:
Address:
Phone:
Contact Person:

LEGAL MALPRACTICE - EXCESS COVERAGE:
Insurer:
Address:
Phone:
Policy No.:
Contact Person:

HEALTH INSURANCE:
Insurer Name:
Address:
Phone:
Policy No.:
Persons Covered:
Contact Person:

DISABILITY INSURANCE:
Insurer Name:
Address:
Phone:
Policy No.:
Contact Person:

LIFE INSURANCE:
Insurer Name:
Address:
Phone:
Policy No.:
Contact Person:

WORKERS’ COMPENSATION INSURANCE:
Insurer Name:
Address:
Phone:
Policy No.:
Contact Person:

**STORAGE LOCKER LOCATION:**
Storage Company: Locker Address:
Phone:
Obtain Key From:
Address:
Phone:
Items Stored:

**SAFE DEPOSIT BOX:**
Institution:
Box No.:
Address:
Phone:
Obtain Key From:
Address:
Phone:
Other Signatory:
Address:
Phone:
Items Stored:

**LEASES:**
Item Leased:
Lessor:
Address:
Phone:
Expiration Date:
Item Leased:

**LAWYER TRUST ACCOUNT: IOLTA:**
Institution:
Address:
Phone:
Account Number:
Other Signatory:
Address:
Phone:

**INDIVIDUAL TRUST ACCOUNT:**
Name of Client:
Institution:
Address:
Phone:
Account Number:
Other Signatory:
Address:
Phone:

GENERAL OPERATING ACCOUNT:
Institution:
Address:
Phone:
Account Number:
Other Signatory:
Address:
Phone:

BUSINESS CREDIT CARD:
Institution:
Address:
Phone:
Account Number:
Other Signatory:
Address:
Phone:

MAINTENANCE CONTRACTS:
Item Covered:
Vendor Name:
Address:
Phone:
Expiration:
Item Covered:
Vendor Name:
Address:
Phone:
Expiration:
Item Covered:
Vendor Name:
Address:
Phone:
Expiration:

ALSO ADMITTED TO PRACTICE IN THE FOLLOWING STATES:
State of:
Bar Address:
Phone:
Bar ID #:
# LAW FIRM CLOSING CHECKLIST

## CLIENTS

<table>
<thead>
<tr>
<th>Inventory Client Files</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active Open Files</td>
<td></td>
</tr>
<tr>
<td>Inactive Open Files</td>
<td></td>
</tr>
<tr>
<td>Closed Files</td>
<td></td>
</tr>
</tbody>
</table>

**Open Files**

- Notify Clients
  - Highlight Time limitations or deadlines
  - Discuss successor lawyer
  - Prepare Transfer memo
- Withdraw/Terminate Representation
  - Obtain permission from tribunal
  - Take steps to avoid prejudice to clients

**Arrange for Turnover of Files**

- Notify Clients of deadline for file collection
- Offer option of pickup at office location by date certain
- Offer terms for mailing or delivery
- Prepare form for client acknowledgement of receipt of file

**Arrange for Appropriate Transfer of:**

- Client Property
- Funds in trust

**Closed Files**

- Determine which former clients required notification
- Notify former clients
- Establish retention duration & destruction schedule
- Arrange for turnover, storage or confidential destruction
- Arrange for retention of confidential materials

## NOTIFICATION OF CLOSURE

<table>
<thead>
<tr>
<th>Date Completed</th>
</tr>
</thead>
</table>

**Clients**

**Lawyer Licensing Jurisdictions**

- Change in Registration status
- New Address

**State and Federal Agencies (if applicable)**

**Bar Associations**

**Vendors**

**Building Leases**
### ACCOUNTS

<table>
<thead>
<tr>
<th>Date Completed</th>
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<tbody>
<tr>
<td></td>
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</tbody>
</table>

#### IOLTA Client Trust Accounts

<table>
<thead>
<tr>
<th>Name</th>
<th>#</th>
<th>Bank</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Reconcile balance
- Arrange for turn-over of funds to client/third person
- Close Account

#### Individual Trust Accounts

<table>
<thead>
<tr>
<th>Name</th>
<th>#</th>
<th>Bank</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

- Reconcile balance
- Arrange for turn-over of funds to client/third person
- Close Account

#### Operating Account

<table>
<thead>
<tr>
<th>Name</th>
<th>#</th>
<th>Bank</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Retain adequate funds for closure expenses

#### Business Credit Cards

<table>
<thead>
<tr>
<th>Name</th>
<th>#</th>
<th>Bank</th>
<th>Date Completed</th>
</tr>
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<tbody>
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### ADVERTISING/COURT LISTS

<table>
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<tr>
<th>Date Completed</th>
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<tr>
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</tbody>
</table>

- Cancel advertisements
- Notify lawyer referral services to remove name
- Notify courts to remove name from court appointment roster(s)

### INSURANCE CONSIDERATIONS

<table>
<thead>
<tr>
<th>Date Completed</th>
</tr>
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<tbody>
<tr>
<td></td>
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</table>

- Legal Malpractice Coverage
- General Liability Coverage

### PERSONNEL MATTERS

<table>
<thead>
<tr>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>PRACTICE PROPERTY</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
</tr>
<tr>
<td>Dispose of office related equipment</td>
</tr>
<tr>
<td>Consider confidentiality concerns related to electronic data</td>
</tr>
</tbody>
</table>
The GPSolo Guide to Opening a Law Office

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So you are thinking of opening your own office? Before you take this bold step, you need to ask yourself: Are you prepared? Do you understand the challenges that you face? Do you understand yourself? Being a sole practitioner entails more than just being good at the law and understanding how to file a complaint or argue before a judge. You also have to understand how to start and run a business. To succeed, you must be a savvy business person, negotiator, and bookkeeper all while being a good lawyer.

Realistically Evaluate Your Situation

First, you need to understand yourself. Are you an entrepreneur? Are you willing to take a risk? Have you considered what it will take to run your own office by thinking about your budget, equipment, marketing, and keeping your doors open while you build your practice? Can you balance a checkbook and deal with demands on your available funds? Do you see yourself as a self-starter, comfortable with managing competing demands, multiple deadlines, and doing it all yourself? Or are you more of a social animal, feeding off the energy of others and most effective where you have a team approach to various tasks? Your personal attributes will help direct you into the right type of practice and setting. Think about the type of environment that will make you most effective. Will you function best as a true solo with no support staff, or would you benefit from a less solitary office with someone to assist you from the first day?
You must be realistic and honest with yourself. Critically evaluate your strengths and weaknesses. It isn’t enough simply to know the law and have the desire to share your knowledge. To run a successful law practice, you must have, or at least be willing to learn, strong business skills. You will need to possess the ability to take the appropriate actions, on a day-to-day basis, to initiate and sustain the progress of your business. You need to be prepared to forgo regular paychecks, work harder than you ever have before, and not only be a lawyer but also be a person. You need to recognize that solo or small firm practice is not for everyone.

**Develop a Plan and Get Some Advice**

If you are still undeterred and are satisfied that you have the necessary business acumen, you will need a clear vision of what you want your practice to be and an idea of how you are going to get there. Is this a temporary solution to a current situation? Are you hoping to grow your firm to include multiple support staff persons and, perhaps, other attorneys over time? Or possibly start a series of satellite offices? Do you eventually hope to join another existing practice? Do you intend to run a general practice or specialize in only a specific area? Are you an innovator, dreaming of revolutionizing the practice of law?

Next, think about the types of clients you want to attract. Who are your ideal clients? What are the attributes they possess that make them likely prospects for your assistance? Think of identifying your ideal prospect as being able to spot a zebra in a herd of horses: When you know what you are looking for in prospective clients, they will stand out from others.

If you believe that solo practice is the right choice, then you need to decide what this practice will look like and develop a plan to build it. The plan doesn’t have to be 30 pages with subsections and appendices; it can be as simple as a single piece of paper at this point. If you take the time to write down your vision—where you want to be in six months, one year, and five years—it will help you focus your ideas. Knowing where you want to end up makes reaching your destination easier.

Now you need to develop a solid business plan that will drive many of the other decisions that you make in starting up. Having an idea of the area of law you intend to practice, the nature of the work that will entail, and who are your target clients will help complete other sections of the plan as you write it. Identifying your ideal client will also help you develop a marketing strategy to attract that business and form the basis of your financial plan. Things you will need to consider when drafting your business plan include:

1. **What type of entity will you use for your practice?** Today, you have a number of choices when it comes to how you structure your law firm. The two primary considerations when determining

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an operating structure are (1) what is the best structure to shield yourself from personal liability (not including malpractice) and (2) which structure best addresses the foreseeable tax consequences of your practice? Think through the liability and business implications of the various entity types that are suitable for your practice, whether a sole proprietorship, partnership (if you are going into practice with another attorney), PC, SC, Law Corp., P.A., LLC, or some other recognized form of limited liability incorporated entity.

Take the time to get some accounting advice to help you determine the operating structure to select. Talking to an accountant before you select the entity type can save you money as your practice becomes successful.

Determine whether there are any restrictions on the type of structure that you choose. For example, there may be statutory restrictions in your governing rules that prevent you from partnering with non-lawyers or using an LLC or other form of limited liability entity as a way to avoid personal liability.

2. **What will you need for an office?** Most start-up businesses are faced with financial choices to make when getting off the ground. One of the major decisions is whether or not you can practice initially out of your home or if you will need dedicated office space. While having dedicated office space is nice if you meet regularly with clients, being able to forgo this expense when you start can make a huge difference to your bottom line and the start-up capital you will require. Working from your home is a good way to keep your overhead low in the start-up phase. This also allows you to focus your budget on critical items such as a marketing plan and acquiring the necessary technology to make you effective and efficient.

Consider whether you want to work from home, at least initially, or develop more of a “virtual” office. (For more, see “Launching a Virtual Law Firm.”) You may want to lease space from an executive office suite provider such as Regus (regus.com), Premier Business Centers (pbcenters.com), or Instant (instantoffices.com); establish a more traditional office in a commercial building; or share an office with another attorney or firm. Ask yourself whether you need a dedicated office in the traditional sense or whether other options may work while you build your client base. Obviously, it is less expensive to work from home, but security or professional isolation may be a concern for you. Some lawyers arrange to meet clients at the courthouse, at the client’s home or business, or at a local coffee shop (confidentiality is obviously a concern with this approach). Others make arrangements with attorneys or other businesses to rent conference rooms from these established offices on an as-needed basis. The reality is that there are many creative
solutions to this and no single right answer.

If you do decide that you need a physical office, how much space do you need? Where do you want to be located? Different areas of practice may also impact where you want to be. With a litigation practice, you may want to be close to the courthouse or near public transit to make access easier for you or your clients. If you are focusing on transactional legal work, perhaps you want to be located in the suburbs or other areas so as to be more accessible to where your clients work or live.

Determining how much space you need is not an exact science. If you are working from your home, your space needs are different than if you are renting space elsewhere, and where you will be meeting with clients will influence this decision as well. If practicing from your home, you need dedicated “work” space as differentiated from your “living” space—not only to preserve your mental health but also to meet the ethical requirements of safeguarding client information. The differentiation is also important for tax purposes. To claim a home office deduction, the Internal Revenue Service (IRS) requires that you must regularly and exclusively use a part of your home as your principal place of business. (For more, see 1.usa.gov/1duAA6i.)

If you determine that your practice needs distinct office space outside your home, you need to determine if there will be a meeting room available, kitchen or break room, storage space, and room for an assistant if you need one. Think in terms of square feet when considering office space. If you will meet with clients in your office, it should be larger than if you will meet with clients in a conference room or other location. If you plan to have an assistant, how many square feet should be reserved for this person? You also need to remember that your costs will generally be based on the amount of space you use, so the larger the space, the higher your rent will be. (About.com has a number of useful articles to help you plan for your office space needs: abt.cm/1duBcZJ and abt.cm/1duBkw. A helpful worksheet created by Guidance Corporate Realty Advisors can be found at bit.ly/1duBnUP. Another useful resource can be found on the How Stuff Works website: bit.ly/1duBz6i.)

Check your code of professional conduct to understand your obligations with respect to protecting client confidentiality and space-sharing arrangements.

3. **What will you need for technology?** Think about what you really want to accomplish and what your comfort level is with technology. The possibilities in terms of equipment and applications are virtually endless. As with everything else, know your objectives and your limitations. Unless you are very tech savvy, you should get some advice from an expert. Think about
how much you want to do yourself and how much you are capable of maintaining. At the very least, you need a telephone, Internet access, computer, something to back it up, and probably a printer. Key programs for word processing, timekeeping, billing and accounting, e-mail, contact, and calendar management would also form a simple foundation. Beyond that, your decisions will again be influenced by your practice objectives and your budget. Consider whether you want to develop a paperless (or less paper) system—start-up is an excellent time to consider entrenching a digital backup system for all files and documents that come into your possession. (For more, see “Start-Up Tech for Any Budget” and “How to Start and Run a Paperless Office.”)

**Creating Your Financial Plan and Your Budget**

Next you need to develop a cash flow plan and budget. You will use your cash flow plan and budget to help adjust your operations as you grow your practice. They will serve as your road map for getting to a successful practice and provide benchmarks to monitor your progress. It is critically important to understand your cash flow requirements, your regular monthly expenses, your potential sources of revenue, and what will you live on until you begin to generate a reliable income. Do you have an existing client base that will generate immediate income for you, or will you need to draw on funds from other sources?

Many lawyers hear the words “financial plan” or “business plan” and envision lengthy documents with pages and pages of details. This often results in paralysis as they feel overwhelmed trying to create the plan. A key thing to remember is that a business plan doesn’t need to be complex and cover everything in extreme detail. This is an instance where following the KISS principle (“keep it simple, stupid”) is a benefit. Generally, a business plan will consist of a number of parts such as:

- Executive summary
- Firm description
- Scope of services
- Market analysis
- Marketing plan
- Financial projections
- Operating plan

One recommendation is to break the different segments of your business plan into a number of mini-plans (e.g., your marketing plan will be a mini-plan that can stand on its own). Fortunately, you do not have to recreate the wheel to draft a business plan: There are numerous resources online and in print that can make this process easier. The U.S. Small Business Administration (SBA) has a number of articles and resources, including a step-by-step tool to write a business plan (tinyurl.com/9x83dkk). *Inc.* magazine has posted an online “Business Plan Checklist” (tinyurl.com/knw4z6t), and you can find sample law office business plans on sites such as bit.ly/1a7hxao, bit.ly/1a7hID3, and
Whether your initial capital investment comes from your own personal savings, loans from family and friends, credit cards, or a line of credit, you will need to establish a budget for your initial start-up. Obviously, the size of your budget will dictate the complexity of your initial set-up. Capital expenditures such as furniture, equipment (computer, software, scanner, copier, printer, telephone, fax, filing cabinets, postage scale and meter), and potentially tenant improvements will depend on your practice setting. (See “Start-Up Tech for Any Budget” for more.) Consider to what extent your smartphone or tablet can substitute for a landline, laptop, copier, or scanner—at least for a while. Consider whether you will purchase, lease, or rent your office equipment (this is probably something to discuss with your accountant). Other operating expenses associated with start-up will continue on a regular, recurring schedule: office supplies, license, membership and insurance dues, utility expenses for heating, cooling, water, garbage disposal, insurance, taxes, etc. They need to be included in your budgeting process.

The information in Table 1 (Sample Expense Calculation) is needed to help you determine what you are going to charge for an hourly rate, if that’s how you will bill.

<table>
<thead>
<tr>
<th>Description</th>
<th>Monthly amount</th>
<th>Annual amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent</td>
<td>$300</td>
<td>$3,600</td>
</tr>
<tr>
<td>Utilities</td>
<td>$150</td>
<td>$1,800</td>
</tr>
<tr>
<td>Telephone &amp; Internet</td>
<td>$100</td>
<td>$1,200</td>
</tr>
<tr>
<td>Business insurance</td>
<td>$50</td>
<td>$600</td>
</tr>
<tr>
<td>Malpractice Insurance</td>
<td>$200</td>
<td>$2,400</td>
</tr>
<tr>
<td>License and professional memberships</td>
<td>$100</td>
<td>$1,200</td>
</tr>
<tr>
<td>Staff</td>
<td>$200</td>
<td>$2,400</td>
</tr>
<tr>
<td>Advertising</td>
<td>$100</td>
<td>$1,200</td>
</tr>
<tr>
<td>Totals</td>
<td>$1,200</td>
<td>$14,400</td>
</tr>
</tbody>
</table>

When you’ve established your hourly rate, you need to divide your monthly fixed expenses by this hourly rate to determine the minimum number of hours you will need to bill simply to cover your fixed expenses. Using Table 1’s monthly total of $1,200 and dividing it by an hourly rate of $150 per hour would result in the calculation shown in Table 2 (Number of Billable Hours to Cover Fixed Expenses).

<table>
<thead>
<tr>
<th>Monthly fixed expense</th>
<th>Hourly rate</th>
<th>Number of billable hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,200</td>
<td>$150</td>
<td>8.00</td>
</tr>
</tbody>
</table>

Therefore, you would need to bill a minimum of eight hours each month just to cover your fixed expenses. If you’re not sure what
an expense will be, you can often discover approximate amounts easily by talking to fellow attorneys, getting price quotes from service providers, and making an educated guess in some circumstances. This number is not meant to be exact but to give you an idea of what you’ll need to make just to cover your fixed expenses. You will have expenses above these for such things as office supplies, mailing, and copy expenses, and no amount was included for equipment or other purchases. These will also have to be taken into consideration. Generally, for such things as office equipment and technology purchases, you will create a budget and spread it over two to five years.

With a view to the image that you want to create, decide how you want to convey that image to your target audience. You also will want to spend some time developing a website—this doesn’t have to be extensive at first, but it is a very important element in your marketing plan and requires time to design.

There are a number of resources to assist you in creating a marketing plan for your firm. Your initial plan can be as simple as a single page with the marketing efforts you will make daily, weekly, monthly, and annually. If you are starting a new practice and do not have an existing base of clients, marketing your firm will be critical to early success. You may want to include hiring a legal marketing provider in your budget. Firms such as AttorneySync (bit.ly/1a7ilik9) provide manuals for creating a marketing plan. You can also see a number of sample marketing plans for lawyers at bit.ly/1a7ipwe. Stephanie Francis Ward’s helpful ABA Journal article “50 Simple Ways You Can Market Your Practice” (July 1, 2013, bit.ly/1a7iAYa) provides some great tips for marketing your practice.

**Regulatory Requirements**

Check with your local bar association to determine the licensing requirements that have to be met.

Depending on your location, you may or may not be required to belong to your state bar association or legal society. However, all jurisdictions require that you maintain your license with the regulatory arm of the U.S. Supreme Court. States such as Wisconsin, Oregon, and others make membership in the state bar association a mandatory requirement to practice law there. This is also true for Canada and their law societies (their equivalent of our state bar associations). You need to ensure that you comply with the regulatory requirements for the jurisdiction(s) where you will practice. If you are going to use a limited liability entity such as an LLC, you may also need to register the entity as well as yourself. It is these same regulations that will determine whether or not you must maintain errors and omissions (E&O) insurance. In the United States, we commonly refer to this as malpractice insurance.
The majority of states in the United States do not require mandatory malpractice insurance, but a growing number do require that lawyers disclose whether or not they have malpractice insurance. In many states, to limit malpractice liability between lawyers in a firm operating as a limited liability entity, the firm must maintain malpractice in the amounts set forth in the rules of the jurisdiction. For example, Wisconsin Supreme Court Rule 20:5.7 (bit.ly/18WeKVJ) requires a firm of one to three lawyers to maintain a combined indemnity and defense cost coverage of $100,000 per claim and $300,000 aggregate combined indemnity and defense cost coverage per policy period. So make sure to check with your local rules to ensure that you are in compliance. (For more, see “Attorney Malpractice Insurance: Who’s Got Your Back?”)

It is also important to understand the qualifications you have to meet if you want to operate a trust account. If you are going to accept funds for advanced fees or costs or funds that belong to someone else other than yourself, you will need to establish a trust account. This is often referred to as an IOLTA (Interest on Lawyers Trust Account) account. You will find the requirements in your rules and may have a state organization that operates these accounts, such as the Wisconsin Trust Account Foundation, Inc. (wistaf.org), or the Florida Bar Foundation (flabarfdn.org/iota).

Determine whether your municipality requires you to obtain a separate business license.

You will also need to consider whether there are any rules that restrict you in terms of business/mailing address requirements or obligations with respect to how you name your firm and whether you need to register a trade name. Review your code of professional conduct in terms of advertising guidelines. (For more, see “Ethics Perils of Opening a Law Office.”)

In addition to professional liability coverage, there are many other types of insurance that can protect you and your practice in various circumstances. Depending on your personal situation, consider the applicability of the following:

- Public liability and/or tenants liability coverage
- Property insurance (all perils)
- Auto and home (business use)
- Business Interruption, valuable papers
- Life and short- and long-term disability insurance
- Fraud coverage

You will also need to obtain your Employer Identification Number (EIN), sometimes referred to as a Taxpayer Identification Number (TIN), whether you operate as a sole proprietorship or a PC, LLC, or other limited liability entity. In the United States, you can apply for your EIN online on the IRS website at 1.usa.gov/18WhpPa.

Solo, but Not Alone
Starting up a new business is an exciting and also somewhat daunting process—like everything else in life, being your own boss has its rewards and its headaches. It is important to develop a network of other professionals to whom you can turn for support. And probably most important of all, find a friend, a mentor, or a sounding board that you can rely on for objective feedback—or just a shoulder to cry on. There is also a great wealth of information available through the ABA and your state bar association or law society. Be sure to leverage the resources available to you at your local law practice management program or practice advisors.