



**The Path Out: Succession Planning and
Leaving the Practice of Law**

**December 4, 2019
6:00 p.m. – 8:00 p.m.**

**CT Bar Association
New Britain, CT**

CT Bar Institute, Inc.

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Lawyers' Principles of Professionalism

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, not only will I comply with the letter and spirit of the disciplinary standards applicable to all lawyers, but I will also conduct myself in accordance with the following Principles of Professionalism when dealing with my client, opposing parties, their counsel, the courts and the general public.

Civility and courtesy are the hallmarks of professionalism and should not be equated with weakness;

I will endeavor to be courteous and civil, both in oral and in written communications;

I will not knowingly make statements of fact or of law that are untrue;

I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

I will refrain from causing unreasonable delays;

I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

When scheduled hearings or depositions have to be canceled, I will notify opposing counsel, and if appropriate, the court (or other tribunal) as early as possible;

Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

I will refrain from utilizing litigation or any other course of conduct to harass the opposing party;

I will refrain from engaging in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect;

I will not serve motions and pleadings on the other party or counsel at such time or in such manner as will unfairly limit the other party's opportunity to respond;

In business transactions I will not quarrel over matters of form or style, but will concentrate on matters of substance and content;

I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;

While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation;

Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

I will withdraw voluntarily claims or defense when it becomes apparent that they do not have merit or are superfluous;

I will not file frivolous motions;

I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

In civil matters, I will stipulate to facts as to which there is no genuine dispute;

I will endeavor to be punctual in attending court hearings, conferences, meetings and depositions;

I will at all times be candid with the court and its personnel;

I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

I will endeavor to keep myself current in the areas in which I practice and when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

I will be mindful of the fact that, as a member of a self-regulating profession, it is incumbent on me to report violations by fellow lawyers as required by the Rules of Professional Conduct;

I will be mindful of the need to protect the image of the legal profession in the eyes of the public and will be so guided when considering methods and content of advertising;

I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance;

I will endeavor to ensure that all persons, regardless of race, age, gender, disability, national origin, religion, sexual orientation, color, or creed receive fair and equal treatment under the law, and will always conduct myself in such a way as to promote equality and justice for all.

It is understood that nothing in these Principles shall be deemed to supersede, supplement or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.

--Adopted by the Connecticut Bar Association House of Delegates on June 6, 1994

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The Path Out: Succession Planning and Leaving the Practice of Law (EDU191204)

Agenda

- 6:00 p.m. – 6:05 p.m. Introduction
Jonathan M. Shapiro, Aeton Law Partners LLP
- 6:05 p.m. – 6:50 p.m. Selling Your Practice
A summary of the ways in which a solo practitioner can, from a business perspective, transition out of their practice via a sale or merger and how a small firm can accommodate a retiring principal. It is not a one size fits all approach, but my presentation will cover the thought process (from both sides) and will include some basic documents that can be used in a sale/merger or other arrangement. The objective is for you will leave this presentation knowing what the various paths are and the considerations that factor into choosing which path to follow.

Paul T. Czepiga, Czepiga Daly Pope & Perri
- 6:50 p.m. – 7:05 p.m. Valuation
Edward Pratesi, UHY Advisors LLC
- 7:05 p.m. – 7:50 p.m. Ethics and Mechanics about Shutting Down, Transferring, and Selling a Law Practice
Mark A. Dubois, Geraghty & Bonnano LLC
- 7:50 p.m. – 8:00 p.m. Insurance Issues Associated with Shutting Down, Transferring, and Selling a Law Practice
John Kronholm, Kronholm Insurance Services

Paul T. Czepiga JD, CPA, MBA

Paul is a principal of Czepiga Daly Pope & Perri. In addition to being a lawyer, Paul is also a certified public accountant and has an MBA degree in business from Northwestern University.

Paul's estate and elder law planning consists of representing a range of clients, from high net worth individuals and families who require sophisticated techniques to accomplish their objectives of reducing estate taxes and preserving wealth for future generations, to older couples of modest means whose goal is to protect their assets from having to be spent for nursing home care.

Paul's general corporate practice consists of assisting his clients in the negotiations for and the purchase or sale of a business, general contract review, commercial financing closings, and entity selection and formation.

Mark Dubois has practiced law for over 40 years. He is an assistant clinical professor of law at the University of Connecticut School of Law. He is also of-counsel with the New London firm of Geraghty & Bonnano. He was Connecticut's first Chief Disciplinary Counsel from 2003 until 2011. In that position he established an office that investigated and prosecuted attorney misconduct and the unauthorized practice of law. He is co-author of *Connecticut Legal Ethics and Malpractice*, the only book devoted to the topic of attorney ethics in Connecticut. He is a contributor to the *Connecticut Law Tribune* where he wrote the *Ethics Matters* column for over 7 years. He writes and lectures on matters related to lawyer ethics with a recent focus on senior attorneys.

Attorney Dubois has represented many individuals accused of ethical misconduct and malpractice. He has also served as an expert witness on matters of privilege, ethics and malpractice. He teaches lawyering skills at UConn Law School and has taught legal ethics there and at Quinnipiac University School of Law where he was Distinguished Practitioner in Residence in 2011. He has lectured in Connecticut and nationally on attorney ethics and has given or participated in over 100 presentations and symposia on attorney ethics and malpractice.

Attorney Dubois was board certified in civil trial advocacy by the National Board of Legal Specialty Certification for over 20 years. He is former president of the Connecticut Bar Association. In addition to being a member of the Bar Association, he is a member of the Professional Discipline, LGBT and Unauthorized Practice groups. He is a member of the New Britain, New London, and American Bar Associations, the American Board of Trial Advocates and the Association of Professional Responsibility Lawyers. He is the 2019 recipient of the Connecticut Bar Association's Edward Hennessey award for career professionalism, the Quintin Johnstone Service to the Profession Award in 2012 and the American Board of Trial Advocacy, Connecticut Chapter, annual award in 2007.



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John C. Kronholm

Experience	<p>9/2016–Present Brown & Brown of CT, Inc. Rocky Hill, CT Senior Vice President</p> <ul style="list-style-type: none"> ▪ Commercial Insurance Broker and Program Manager for marketing, sales and service of the Lawyers Professional Liability, and Court Bond divisions. <p>2002–2016 Kronholm Insurance Services Glastonbury, CT President & Owner</p> <p>1991–2001 Kronholm & Keeler, Inc. Glastonbury, CT Vice President</p> <p>1985–1988 Drexel Burnham Lambert New York, NY Assistant Corporate Investment Manager</p>
Education	<p>1989–1991 University of Southern California Los Angeles, CA <ul style="list-style-type: none"> ▪ Masters in Business Administration, Finance. <p>1983-1987 New York University New York, NY Bachelors of Science, Management.</p> </p>
Credentials	<p>Licensed for Property and Casualty, Life and Health</p> <p>Chartered Property Casualty Underwriter (CPCU) Eight of Ten Parts Completed</p>
Personal	<p>Married, Two Children</p>

Curriculum Vitae



EDWARD E. PRATESI
epratesi@uhy-us.com
860.558.0453

With more than 30 years of professional experience as a certified public accountant, Mr. Pratesi's area of specialization is in private company valuation and strategic consulting services. Mr. Pratesi has provided numerous opinions of value for various types of business entities for a number of different purposes including estate & gift tax compliance, buy-sell agreements, business owner disputes, financial reporting compliance and transaction purposes.

Professional Experience:

- Over 25 years' experience providing opinions of value for Estate & Gift compliance, business divorce, buy-sell agreements, promissory notes, start-up companies, Section 409A compliance, undivided fractional interests and intellectual property.
- Representing companies and their interest holders in M&A transactions (sell side) including the pre-positioning of the business, preparation of an offering memorandum, identifying and qualifying potential purchasers and the negotiation and closing of the sale.
- Transition planning including structuring transactions, valuing and financial modeling and consulting with business owners during a transition event.

Background:

- Licensed CPA in the state of Connecticut
- Accredited Senior Appraiser (ASA)
- Certified Merger & Acquisition Advisor (CM&AA)
- Certified Valuation Analyst (CVA)
- M.B.A. in Finance, University of New Haven
- B.S. in Accounting, University of New Haven

Active and Prior Professional Memberships:

- American Institute of Certified Public Accountants
- Connecticut Society of Certified Public Accountants
- American Bar Association
- American Society of Appraisers
- Alliance of Merger & Acquisition Advisors
- National Association of Certified Valuators & Analysts

Connecticut Bar Association

The Path Out: Succession Planning and Leaving the Practice of Law

December 4, 2019

**By Paul T. Czepiga
Czepiga Daly Pope & Perri LLC**

DISCLAIMER

This outline is a resource of general information, which is intended, but not promised or guaranteed, to be correct, complete and up-to-date. However, this outline is not intended to be a source of advertising, solicitation, or legal advice; thus the reader should not consider this information to be an invitation for an attorney-client relationship, should not rely on information provided herein and should always seek the advice of competent counsel.

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Attorney Succession Planning Thoughts

I. Solo or Small Firm

1. Starting Point: What do you do with your 40+ years of work? Have you ever thought about this before now?
2. Are solos different than small firms?
 - a) Small firm has a 'built in' successor, but otherwise the same factors come into play
3. Goals and Motivation for a Succession Plan:
 - a) protect clients
 - b) protect staff
 - c) ethically required
 - d) morally required
 - e) for profit
 - f) protect spouse/family/beneficiaries
4. What are the Ethical Rules in this area?
5. What resources does the CBA, ABA, CTLA, NAELA or other specialty organizations have?
6. Use of consultants and accountants—valuation/structure/tax advice
7. Should you be your own lawyer? What if you are an M&A atty or a CPA or have an MBA?
8. When do you start to plan your succession (hint: early on--5 years)?
9. How long will it take?
 - Depends on size and structure of deal
 - Depends on amount of due diligence
10. How many failed attempts can you take before your timeline runs out?
11. Notification requirements to clients (past/present)
12. Notifications to others: referral sources, friends of the firm, network
13. Is manner and content of notice dependent on your goals and financial arrangement? When you say "retire" does client hear "Well it's time to move on and find another atty?" What about referral sources? How does this affect client retention?
14. Merger vs. Sale vs. Walk Away vs. Give Away?

15. Stand-by Agreement for solos (ethical or moral obligation)
16. Post consummation of the 'deal'—do you then walk away or transition?
17. Who is a possible successor? Associates, Partners, competitors, complimentary law practices, those to whom you currently refer matters or who refer to you
18. Removal of you from company obligations (bank loans/guarantees/contracts)
19. Various triggers for a succession plan:
 - Death
 - Disability
 - Voluntary Retirement
20. Do you get paid?
- 19) How much do you get paid?
- 20) How to determine compensation (if desired):
 - Dependent on type of law being practiced?
 - Valuation expert
 - Client retention (%%%), but for how long? Declining balance? Part fixed and part retention? Floor or ceiling?
 - Standard Industry Formulas (X times gross revenues or X times normalized earnings]
 - Consulting Agreement
 - Non-compete agreement
 - Fiduciary roles retained (Ex'or, T'ee)
 - All cash or payout over years
- 21) Clawback if things don't go as planned post-succession
- 22) Do you even know what you have to sell? Why should I 'buy' you?
 - Example for an estate planning firm:
 - a) Will inventory
 - b) Forms library or document assembly system
 - c) Processes--efficiency
 - d) Good staff
 - e) Trusts inventory

- f) Active trusteeships
- g) Proprietary information or systems
- g) Can you name your successor if you are a fiduciary?
- h) phone number
- i) Website (i.e, Czepiga Law Group)

Czepiga Daly - Connecticut Estate Planning Lawyer

www.czepigalaw.com

Czepiga Daly Pope & Perri For seniors, families, caregivers, individuals with special needs, and the LGBT community, our Connecticut estate planning, elder law and special needs attorneys will help you reduce the stress that accompanies the financial and medical care challenges that come with change. Estate Planning ...

- 23) Relevant metrics and do you know yours?
- 24) What is included/excluded in sale?
- 25). How handle Work in process and Retainers? How/when do you get paid for Est Admin/Medicaid/Est Planning/Other?
- 26) What name?
- 27) Due Diligence on both sides: SWOT analysis

II. Small Firm

1. What is good for the goose is good for the gander. A zero sum game?
2. Who has the client relationships? Are you even needed? (cow and milk) (shopping around)
3. Protect yourself early on:
 - a. Employment agreements with attys
 - b. Non-compete agreements with attys
 - c. Confidentiality agreements with attys
 - d. Buy-Sell Agreement
 - e. Enforceability of restrictions
4. Protect yourself in By-laws/Operating Agreement/Partnership Agreement with voting %% as appropriate
5. For remaining partners, be sure to avoid probate to avoid public disclosure of value, especially if a sole remaining partner wants to sell after death of a partner

6. Buy-Sell Agreements

III. Miscellaneous

Tail policy for liability

Health insurance

Income tax issues – acquirer wants to ensure deductibility of what it pays out

What do you do with your life now?

Any personal guarantees from acquirer (as to payments, staffing, location, etc)?

Life insurance on the acquirer

SWOT analysis

Cultures

This list is generic and not geared to any particular fact situation. It is intended to merely to point out areas that can stimulate a discussion regarding a business relationship

Buy-Sell Items to Consider

1. What happens upon death? Must the decedent's interest be purchased? By who—the Company or the other shareholders? What will the source of funds be? Life insurance?
2. What happens if one of the shareholders wants to sell their shares or retire? Must the Company or the other shareholders buy them out? How will the purchase be paid for—over what period of time and at what interest rate?
3. What if one of the shareholders becomes permanently disabled and can no longer work? Can they force a purchase of their shares by the other shareholders? On what terms? Are all the shareholders obligated to purchase a pro-rata share?
4. In all of the above, how will the price be determined (i.e., what is the VALUE of the entire Company)? It need not be the same in all scenarios. Possibilities are stipulation yearly by the shareholders, binding determination by Company's CPA, formula such as 5 x average earnings of the Company over the prior 5 years, or appointment of appraisers by the parties.
5. If a key employee dies or retires, can the other shareholders force a sale of the business as a result of that event?
6. What if there are only two or three shareholders left and one of them dies or retires? Can the sole remaining or other 2 shareholders say that, rather than buy out the retiree or decedent, that the Company is sold?
7. Assuming that if retire or become disabled, then mandatory resignation as officer and director of the Company and entering into of a noncompete agreement
8. Should there be an employment agreement with any key personnel now?
9. What will be term of employment and scope of noncompete in terms of years and geographically?
10. Should there be amendments to Bylaws or Certificate of Incorporation to require unanimous vote for certain actions (sale of corporate assets, bank borrowing over \$XX, contracts or commitments that exceed \$XX or XX years in duration)?
11. Concern in any ownership or two family arrangement is deadlock at either the Shareholder level or the Director level. Potential solutions to this are 1) use of a deadlock trust with a non-family member trustee that owns 2% of shares and votes to break any deadlock or 2) 3 person Board of Advisors (nonvoting). Bring in a family business consultant to explore other alternatives.

Start of discussions for a merger arrangement

_____, __ 20 __

TO: _____:

In preparation for the next meeting on May 13th, we wanted to propose a framework for the discussions. As agreed, the discussion would focus on what a merger would look like. Perhaps, the way to think about it is to determine what the fully merged entity would look like at the end; then, discuss the key merger milestones that would occur over a period of time. We should “drill down” our discussions into the various elements of the business to fully appreciate what the merged entity would look like. Here are a few key questions to think about and discuss –

- 1) A strengths, weaknesses, opportunities and threats assessment (SWOT) of each organization – We would envision a discussion around each of our strengths, weaknesses, opportunities and threats for our business.
- 2) Identify the synergies of the merger – and agree on the key synergies.
- 3) Where is the real value of the merger? What areas of the two practices should be merged sooner than later that will increase the value of the combined business?
- 4) What is the vision of the combined business? What are the key strategic elements to merging and then growing the business? Is there agreement on these key elements?

The following is the discussion outline:

Revenues / Practice Areas

- Brand Strength & the Name
- Priority Areas for Growth

Partners

- Equity Model
- Non-Equity Model
- Economics / Compensation Model
- What expense categories are included in “net income to partners”?

Staff Support

- Organization Structure
- Roles / Responsibilities
- Compensation

Overhead

- Marketing
- Computer Systems / Services
- Offices
- Administrative Efficiency Priorities

Management

- Management process
- Decision making
- Budget

Exit Strategy

- Timing
- Transition Period
- Compensation

Culture

- What boards or organizations do volunteer your time to?
- What is amount of "donations" the firm contributes to non-profit organization?

This is meant as a draft. So, feel free to comment and amend. We look forward to continuing discussions. — _____

Due Diligence for a Solo Practitioner

**CZEPIGA DALY POPE & PERRI
OCTOBER 21, _____ MEETING
AGENDA**

To: _____
From: Paul, Brendan, and Carmine
Date: October 15, _____

To _____:

The following will guide us in our conversation during our meeting in _____ next Friday at 11:00. To the extent you are able, please, in advance of the meeting, provide us as much information as possible regarding the questions below. Please note, we understand, completely, that answering all of the below is a tall task that, more than likely, will not be completed by next Friday; frankly, it may even be an overly comprehensive list of items but, in our experience, going through as many details up front assists all parties with decision-making and expectations.

If you have any questions before next Friday, please call or email me.

1. DUE DILIGENCE LIST:

I. FINANCIAL

Schedule of all debts & contingent liabilities
Accounts Receivable schedule- 9-30- ____
Accounts Payable schedule- 9-30- ____
Schedule of fixed assets & depreciation schedules
General Ledger/Chart of Accounts
Income Statements

II. EMPLOYEES

Resumes/ Qualifications/ Background of all employees
Recent performance appraisals of all employees
Employee compensation schedule (20__ & 20__)
Retirement plans
Employee Handbook
Policies & Procedures Manual
Description of employee benefits program

Employment agreements, consulting, nondisclosure, noncompetition agreements

Personal information about key employees to use for performing background or credit checks

Signed permission forms to perform background credit checks

III. INSURANCE/LIABILITIES

General Liability & Property

Workers' compensation

Health insurance coverage

Documentation of recent insurance claims

Documentation of any legal actions against the firm, any attorney, or any employee

Description of unemployment & worker's compensation claim history

IV. LEGAL

Pending litigation

Equipment Lease agreements

All loan agreements

V. CLIENTS/ REVENUES

List of clients- last two years

Revenue by type of law; the number of clients within each category

List of key referral sources for the last two years- including top 10 quantified

Description of major competitors by practice area

List of strategic partners and alliances

Special customer agreements

VI. MISCELLANEOUS

Your new Title

- Non-Equity Partner
- Chair of _____ Department

Office Letterhead

Answering the phone

PC-LAW

Files in your office basement

Malpractice Tail Policy

Whether your Paralegal could take on more work

2. PROPOSED COMPENSATION PACKAGE

3. OUR FEE SCHEDULE

We disclosed our Fee Schedules for our offices.

4. OFFICE LOCATION

Our proposal is that for the next two years, you work out of our _____ office while maintaining your _____ office; principally for you to handle _____ matters and, occasionally, meet with a client (it is not lost on us that you have been at that location over twenty years). That said, we would also want you to begin to condition your clients to see you in our _____ office. We would be responsible for the cost of the build out of the _____ office and the office equipment. We would also be responsible for the cost of the CDPP sign at your _____ location. The long term plan would be for you to slowly transition your existing client base to follow you to our _____ office where your “new” office will be; although the planning is in its nascent stage, the build-out would offer additional office space, including a designated office for you, an office for your assistant, a conference room, and a kitchen unit.

5. CDP FOLLOW-UP QUESTIONS

- As to your employees, we have the following questions:
 - o Employee hours, each day and week.
 - o Each employee’s wages; more specific information regarding staff compensation.
 - o Employee age(s).

- Employee resumes (if they have one).
 - Employee background.
 - Employee benefits (do their benefits align with ours?)

- Current I.T. support – Contract?

- Computer inventory:
 - Ages and operating system of all including server

- Printer/Scanner Inventory
 - Make/Model
 - Who handles Maintenance

- PC Law:
 - Paralegal Rates
 - List of Law Types
 - Billable Time keeping policy

- List of Programs used and licensing costs (excluding PC Law)
 - In all practice areas, and admin functions (real estate, bookkeeping, etc)



Merger Agreement with a small firm (non-solo)

MERGER AND CONSULTING AGREEMENT

Among

AAAA LLC, XXXX, WWWW, and VVVV

And

BBBB LLC and YYYY

March 16, 20XX

Rev. 3-16-XX

MERGER and CONSULTING AGREEMENT

THIS MERGER and CONSULTING AGREEMENT (this "Agreement") made this 16th day of March 20XX among _____, L.L.C. ("BBBB LLC"), AAAA LLC ("AAAA"), XXXX, YYYY, WWW, and VVVV.

WITNESSETH:

WHEREAS the parties are engaged in the business of providing legal services primarily in the areas of elder law, special needs planning, estate planning, estate administration, fiduciary services (all of the preceding the "core areas") and legal services incidental to the core areas (all of the preceding the "Business");and

WHEREAS the parties hereto desire to enter into this Agreement pursuant to which BBBB LLC and AAAA will merge their practices upon the terms and subject to the conditions set forth herein and in accordance with the Connecticut Rules of Professional Conduct on a date to be determined but no later than January 1, 20XX, said merged entity to be referred to herein as the New LLC; and

WHEREAS YYYY has indicated a desire to retire from practicing law in the Business on a date between December 31, 20XX and December 21, 20XX; and

WHEREAS , WWW, XXXX and UUUU have indicated a desire to facilitate YYYY's retirement from the Business; and

WHEREAS the parties hereto desire to enter into this Agreement pursuant to which, upon YYYY's retirement from New LLC, New LLC will provide a consulting agreement to YYYY as part payment for YYYY's interest in New LLC upon the terms and subject to the conditions set forth herein;

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, agreements, representations, warranties and covenants hereinafter set forth, and the sum of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby specifically agreed to and acknowledged, the parties hereto agree as follows:

ARTICLE I.

Merger Agreement and Consulting Agreement

SECTION I.1 Terms of the Merger Agreement

- (a) The merger shall occur not later than January 1, 20XX (the "Merger Effective Date").

- (b) All employees of BBBB LLC and AAAA who are employees on the Merger Date shall be retained by New LLC for a period not less than _____.
- (c) The parties shall use their best efforts to ensure that employee benefits (“Benefits”), including but not limited to, sick time, vacation time, holidays, leaves and personal days, retirement benefits, and health insurance shall not be reduced for any employee of BBBB LLC or of AAAA as a result of the merger to a level less than what is being provided as of the date of this Agreement.
- (d) The respective liabilities of BBBB LLC and AAAA shall become liabilities of New LLC with the exception of the following: (1) payroll and withholding taxes accrued but not paid, (2) bonuses or profit sharing declared or accrued but not paid, (3) any outstanding balances on lines of credit or similar bank debt, (4) any accounts payable, (5) any liability that has no direct benefit to New LLC, or (6) any obligation of a party which that party has agreed herein to pay prior to the Merger Date or otherwise be solely responsible for.
- (e) The respective assets of BBBB LLC and AAAA shall become assets of New LLC with the exception of the following: (1) de minimis personal belongings; and (2) cash and accounts receivable, however New LLC may provide collection services for such accounts receivable and each firm shall contribute to New LLC as working capital the sum of \$ _____ multiplied by a fraction, the numerator of which is that firm’s gross revenues for the year 20XX and the denominator of which is the combined gross revenues of BBBB LLC and AAAA for 20XX.
- (f) Work in progress of AAAA and BBBB LLC shall be completed by New LLC. Any payments received by AAAA or by BBBB LLC for such work in progress prior to the Merger Effective Date shall remain the separate property of the respective LLC.
- (g) Benefits for YYYY, WWW, UUUU and VVVVV, to the extent that they differ from those for other employees, are as set forth on **Schedule A** attached. The parties recognize that this may change over time. For example, BBBB LLC may decide to add _____ to its benefits program.
- (h) New LLC shall minimally maintain offices in _____ and _____ similar to or the same as what BBBB LLC and AAAA presently occupy. It is anticipated that at the time of the merger AAAA and BBBB LLC may have one or more satellite offices in a location to be determined, which offices shall also be maintained by New LLC.
- (i) Each of _____ shall be equity members of New LLC. Compensation and payments (collectively “Compensation”), such as weekly draws and the division of profits and surplus cash, for _____ shall be as set forth on **Schedule B** attached.

- (j) New LLC shall be a Connecticut limited liability company managed by a Manager. The Manager shall be elected by majority vote of New LLC's members, with each member having one vote for this purpose.
- (k) **A draft Operating Agreement for New LLC is attached hereto as Schedule C** and the parties agree to enter into said Operating Agreement in fulfillment of their merger obligation herein.
- (l) _____ name no later than July 1, 20XX.
- (m) **The name of New LLC shall be** _____ **LLC.**
- (n) Each of AAAA and BBBB LLC shall to the extent possible have paid prior to the Merger Effective Date all outstanding vendor invoices and all monthly expenses for the upcoming month (i.e., rent for the month following the Merger Effective Date should be paid prior to the Merger Effective Date)
- (o) **BBBB LLC and AAAA will, to the extent practicable and as mutually agreed upon, during the period from the date of execution of this Agreement to the Merger Effective Date begin to affiliate their practices with the goals of, and using the methods described, below:**
- (1) **Acquainting each other's clients with aspects of the other's firm.** To this end, BBBB LLC and AAAA will consider using a unified color scheme, logo or moniker, intake forms, sponsoring the other firm for one or more marketing oriented presentations to the other's clients, and seeking out other ways to "set the stage" for the announcement of the merger;
 - (2) **Each firm learning from the other how it conducts its Business from an operation viewpoint (the back office),** the provision of substantive legal services, and marketing endeavors;
 - (3) **Referring clients to the other's firm (where it is believed that the other firm may have greater knowledge in the area of law involved)** and jointly working with one another on the provision of legal services for that client;
 - (4) **Having staff become acquainted with one another;**
 - (5) Authoring articles in each other's newsletters or other client communications;
 - (6) Sharing office space in their current and/or a new office, possibly _____, Connecticut, and each placing their sign at the other's principal places of business so as to further the concept of office sharing.
 - (7) **YYYY will, when ethically permissible and when consented to by the client, provide in documents that BBB LLC's firm drafts, that**
_____.
- (p) _____ **will meet once each calendar quarter preceding the Merger Effective Date to discuss the process of firm affiliation, maximizing synergies, utilizing**

the same systems and vendors, and to otherwise begin to collaborate on their respective firms to become one firm.

(q) BBBB LLC and AAAA shall commence work no later than June 1, 20XX on a budget for New LLC for 20XX, its first calendar year of operations.

(r) When the parties began the actual merger process and consolidation of their respective firms into one firm, the pre-merger costs of telephone, computer, accountant, and other service providers whose expertise will be needed to integrate the respective firms' systems shall be borne by AAAA and BBBB LLC as follows: in the relationship to which their gross revenues bore to one another for calendar year 20XX.

SECTION I.2. Terms of the Consulting Agreement

[Omitted]

SECTION I.3 Closing. The parties agree that the closing for the merger and the retirement shall occur not later than the Merger Effective Date and the Retirement Effective Date, respectively, and that the merger shall take place at the offices of AAAA and that the retirement shall take place at New LLC's _____ office.

ARTICLE II.

REPRESENTATIONS AND WARRANTIES OF THE PARTIES

Any representation herein by YYYY shall be deemed to have also been made by BBBB LLC and vice versa.

YYYY and BBBB LLC represent and warrant to AAAA, WWW and VVVVV as follows:

SECTION II.1 Organization, Power, Etc. BBBB LLC is a Connecticut limited liability corporation duly organized and validly existing under the laws of the state of Connecticut. YYYY and BBBB LLC each has the capacity and authority to execute and deliver this Agreement, to perform hereunder and to consummate the transactions contemplated hereby without the necessity of any act or consent of any other person whomsoever. BBBB LLC has heretofore delivered to AAAA accurate and complete copies of its Articles of Incorporation and Operating Agreement as currently in effect. BBBB LLC has the power and authority to own, lease and operate its properties and to carry on its business as currently conducted. YYYY is duly licensed to practice law in the State of Connecticut and is admitted in the following additional jurisdictions: _____

SECTION II.2 Authorization of Agreements, Etc. The execution, delivery and performance by BBBB LLC and YYYY of this Agreement and all agreements and undertakings contemplated

hereby to which they are a party, and the consummation of the transactions contemplated hereby have been duly authorized by all requisite company action and the consummation of the transactions contemplated by this Agreement (i) will not violate any provision of law, or any order of any court or other agency of government, the Articles of Association or Operating Agreement, or any indenture, agreement or other instrument to which BBBB LLC or YYYY are a party, or by which they or any of their respective properties or assets is bound or affected, (ii) will not result in a breach of or constitute a default under any such indenture, agreement or other instrument, or (iii) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever on the properties or assets of BBBB LLC .

SECTION II.3 Validity. This Agreement has been duly executed and delivered by BBBB LLC and YYYY and constitutes the legal, valid and binding obligation of them, enforceable against them in accordance with its terms.

SECTION II.4 Membership Interests . All issued and outstanding membership and economic interests of BBBB LLC are owned of record and beneficially by YYYY free and clear of any and all pledges, security interests, liens, claims, charges or other encumbrances of any nature whatsoever.

SECTION II.5 Financial Statements. Attached hereto as **Exhibit F** are the unaudited Income Statements of BBBB LLC for the periods ending December 31, 20XX, 20XX and 20XX (the "Financial Statements"). The Financial Statements are in accordance with the books and records of BBBB LLC and present fairly the financial position of BBBB LLC as of such dates and the results of its operations for the periods then ended in accordance with generally accepted accounting principles, consistently applied.

SECTION II.6 Best Efforts. YYYY, from the date hereof, shall continue to use her or his best efforts and to operate BBBB LLC in such a manner as to maintain her or his and its goodwill, increase BBBB LLC 's revenues, and expand its marketing endeavors.

SECTION II.7 Governmental Approvals. No order, authorization, approval or consent from, or filing with, any federal or state governmental or public body or other authority having jurisdiction over BBBB LLC or YYYY is required for the execution, delivery and performance of this Agreement by BBBB LLC or YYYY or is necessary in order to ensure the legality, validity, binding effect or enforceability of this Agreement.

SECTION II.8 Absence of Certain Changes or Events Prior to the Merger Effective Date. Since the execution date of this Agreement up to and including the Merger Effective Date, BBBB LLC has not and will not:

- (a) change or amend its Articles of Association (or similar governing documents);
- (b) incur any obligation or liability (fixed or contingent), except normal trade or business obligations incurred in the ordinary course of business;

(c) mortgage, pledge or subject to any lien, security interest, charge or other encumbrance any of its assets or properties;

(d) transfer, lease or otherwise dispose of any of its assets or properties except for a fair consideration in the ordinary course of business and consistent with past practice or, except in the ordinary course of business and consistent with past practice, acquire any assets or properties;

(e) split, combine or otherwise similarly change its membership interest or authorized the creation or issuance of or issue or sell any membership interest or give any person any right to acquire from YYYY or BBBB LLC , any economic or membership interest in BBBB LLC , or agree to take any such action;

(f) make any investment of a capital nature by the purchase of any material property or assets;

(g) change its accounting system from PCLaw.

(c) cancel or compromise any debt or claim other than in the ordinary course of business consistent with past practice;

(d) increase the rate or terms of compensation payable or to become payable by the BBBB LLC to its employees or increase the rates or terms of any bonus, insurance, pension, or other employee benefit plan, payment or arrangement except increases occurring in the ordinary course of business in accordance with customary practices;

(e) waive or release any rights of material value, except in the ordinary course of business;

(f) transfer or grant any rights under or with respect to any license, permit or other form of authorization, or permit any license, permit or other form of authorization (including the license to practice law) to lapse, except in the ordinary course of business;

(g) suffer any casualty loss or damage (whether or not such loss or damage shall or may be covered by insurance) which affects in any material respect its ability to conduct the Business; or

(m) suffer any material adverse change in its financial condition, assets, liabilities, results of operations, business, management or prospects.

Notwithstanding the above, nothing shall be construed herein to prevent BBBB LLC from undertaking new endeavors intended to grow the firm, to increase its revenues, to expand geographically, and to further develop its Business, including but limited to hiring staff or attorneys, or opening a branch office(s), even though such endeavors might not previously have been undertaken by BBBB LLC .

SECTION II.9 Litigation.

There are no claims, actions, grievances, suits, proceedings or investigations (all of the preceding "Claims") pending, by or against or involving YYYY or BBBB LLC or any of such entity's properties, rights or business and there exists no basis or grounds for any such Claim. A list of prior Claims and their disposition is set forth on **Schedule E** attached.

SECTION II.10 Labor Matters.

There are not any controversies between BBBB LLC or YYYY and any employee that might reasonably be expected to adversely affect the conduct of the Business. BBBB LLC has not received notice of any claim that it has failed to comply with any laws relating to the employment of labor, including any provisions thereof relating to wages, hours, the payment of social security and similar taxes, equal employment opportunity, employment discrimination and employment safety, or that BBBB LLC is liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing.

SECTION II.9 Insurance.

BBBB LLC has and shall maintain in place such policies of insurance, which are in full force and effect, including without limitation liability, workers compensation, and malpractice insurance, in such amounts and against such risks as is customary for companies engaged in similar businesses to the Business to protect the employees, properties, assets and operations of BBBB LLC and of YYYY.

SECTION II.12 Employee Benefit Plans.

Each "employee pension benefit plan" (as such term is defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) maintained by BBBB LLC or to which BBBB LLC contributes or is required to contribute or in which any employee of BBBB LLC participates (a "Plan") is in compliance, both as to form and operation in all respects, with the applicable provisions of ERISA and the Internal Revenue Code of 1986, as amended (the "Code"), respectively, with respect to each Plan.

Each of the Plans which is intended to be "qualified" with the meaning of Section 401(a) of the Code does so qualify and is exempt from taxation pursuant to Section 501(a) of the Code.

Upon request, BBBB LLC will provide AAAA with a summary plan description for each of the Plans; each trust agreement, insurance policy or other instrument relating to the funding of each of the Plans; and the most recent Annual Report (Form 5500 series) and accompanying schedules filed with the Internal Revenue Service with respect to each of the Plans.

SECTION II.13 Tax Matters.

There is not, and there will not be, any liability for federal, state or local income, sales, use, excise, payroll, employment or other taxes arising out of, or attributable to, or affecting the Assets or the conduct of the Business through the close of business on the Merger Effective Date, or attributable to the conduct of the operations of BBBB LLC at any time for which New LLC will have any liability for payment or otherwise. After the Merger Effective Date, there will not exist by virtue of the transactions contemplated by this Agreement any liability for taxes which may be asserted by any taxing authority against the assets or the operations of New LLC, and no lien or other encumbrance for taxes will attach to the assets or the operations of New LLC.

ARTICLE III.

Any representation by AAAA, VVVVV, or WWWW shall be deemed to have been made by the others of AAAA, VVVVV and WWWW.

WWWW and VVVVV and AAAA represent and warrant to BBBB LLC and to YYYY as follows:

SECTION III.1 Organization, Power, Etc. AAAA is a Connecticut limited liability corporation duly organized and validly existing under the laws of the state of Connecticut. WWWW, VVVVV and AAAA each has the capacity and authority to execute and deliver this Agreement, to perform hereunder and to consummate the transactions contemplated hereby without the necessity of any act or consent of any other person whomsoever. AAAA has heretofore delivered to BBBB LLC accurate and complete copies of its Articles of Incorporation and Operating Agreement as currently in effect. AAAA has the power and authority to own, lease and operate its properties and to carry on its business as currently conducted. VVVVV and WWWW are duly licensed to practice law in the State of Connecticut and are admitted in the following additional jurisdictions: VVVVV in the U.S. Tax Court and VVVVV and WWWW in the U.S. District Court and the Second Circuit Court of Appeals.

SECTION III.2 Authorization of Agreements, Etc. The execution, delivery and performance by AAAA and WWWW and VVVVV of this Agreement and all agreements contemplated hereby to which they are a party, and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action and the consummation of the transactions contemplated by this Agreement (i) will not violate any provision of law, or any order of any court or other agency of government, the Articles of Association or Operating Agreement, or any indenture, agreement or other instrument to which AAAA or WWWW and VVVVV are a party, or by which they or any of their respective properties or assets is bound or affected, (ii) will not result in a breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or (iii) will not result in the creation or imposition or any lien, charge or encumbrance of any nature whatsoever on the properties or assets of AAAA.

SECTION III.3 Validity. This Agreement has been duly executed and delivered by AAAA and WWW and VVVV and constitutes the legal, valid and binding obligation of them, enforceable against them in accordance with its terms.

SECTION III.4 Membership Interests. All issued and outstanding membership and economic interests of AAAA are owned of record and beneficially by WWW and VVVV free and clear of any and all pledges, security interests, liens, claims, charges or other encumbrances of any nature whatsoever.

SECTION III.5 Financial Statements. Attached hereto as **Exhibit G** are the Income Statements of AAAA for the periods ending December 31, 20XX 20XX and 20XX (the "Financial Statements"). The Financial Statements are in accordance with the books and records of AAAA and present fairly the financial position of AAAA as of such dates and the results of its operations for the periods then ended in accordance with generally accepted accounting principles, consistently applied.

SECTION III.6 Best Efforts. AAAA, WWW and VVVV, from the date hereof, shall continue to use their best efforts and to operate AAAA in such a manner as to maintain their and its goodwill, increase AAAA's revenues, and expand its marketing endeavors.

SECTION III.7 Governmental Approvals. No order, authorization, approval or consent from, or filing with, any federal or state governmental or public body or other authority having jurisdiction over AAAA or WWW and VVVV is required for the execution, delivery and performance of this Agreement by AAAA or WWW and VVVV or is necessary in order to ensure the legality, validity, binding effect or enforceability of this Agreement.

SECTION III.8 Absence of Certain Changes or Events Prior to the Merger Effective Date. Since the execution date of this Agreement up to and including the Merger Effective Date, AAAA has not and will not:

- (a) change or amend its Articles of Association (or similar governing documents);
- (b) incur any obligation or liability (fixed or contingent), except normal trade or business obligations incurred in the ordinary course of business;
- (c) mortgage, pledge or subject to any lien, security interest, charge or other encumbrance any of its assets or properties;
- (d) transfer, lease or otherwise dispose of any of its assets or properties except for a fair consideration in the ordinary course of business and consistent with past practice or, except in the ordinary course of business and consistent with past practice, acquire any assets or properties;
- (e) split, combine or otherwise similarly change its membership interest or authorized the creation or issuance of or issue or sell any membership interest or give any person any right to acquire from WWW and VVVV or AAAA, any economic or membership interest in AAAA, or agree to take any such action;

- (f) change its accounting system from PCLaw.
- (g) make any investment of a capital nature by the purchase of any material property or assets;
- (h) cancel or compromise any debt or claim other than in the ordinary course of business consistent with past practice;
- (i) increase the rate or terms of compensation payable or to become payable by AAAA to its employees or increase the rates or terms of any bonus, insurance, pension, or other employee benefit plan, payment or arrangement except increases occurring in the ordinary course of business in accordance with customary practices;
- (j) waive or release any rights of material value, except in the ordinary course of business;
- (k) transfer or grant any rights under or with respect to any license, permit or other form of authorization, or permit any license, permit or other form of authorization (including the license to practice law) to lapse, except in the ordinary course of business;
- (l) suffer any casualty loss or damage (whether or not such loss or damage shall or may be covered by insurance) which affects in any material respect its ability to conduct the Business; or
- (m) suffer any material adverse change in its financial condition, assets, liabilities, results of operations, business, management or prospects.

Notwithstanding the above, nothing shall be construed herein to prevent AAAA from undertaking new endeavors intended to grow the firm, to increase its revenues, to expand geographically, and to further develop its Business, including but limited to hiring staff or attorneys, or opening a branch office(s), even though such endeavors might not previously have been undertaken by AAAA.

SECTION III.9 Litigation.

There are no claims, actions, grievances, suits, proceedings or investigations (all of the preceding “Claims”) pending, by or against or involving AAAA or WWW and VVVV or any of such entity's properties, rights or business and there exists no basis or grounds for any such Claim. A list of prior Claims and their disposition is set forth on Schedule C attached.

SECTION III.9 Labor Matters.

There are not any controversies between AAAA or WWWW and VVVVV and any employee that might reasonably be expected to adversely affect the conduct of the Business. AAAA has not received notice of any claim that it has failed to comply with any laws relating to the employment of labor, including any provisions thereof relating to wages, hours, the payment of social security and similar taxes, equal employment opportunity, employment discrimination and employment safety, or that AAAA is liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing.

SECTION III.11 Insurance

AAAA had and shall maintain in place such policies of insurance, which are in full force and effect, including without limitation liability, workers compensation, and malpractice insurance, in such amounts and against such risks as is customary for companies engaged in similar businesses to the Business to protect the employees, properties, assets and operations of AAAA and of WWWW and VVVVV.

SECTION III.12 Employee Benefit Plans.

Each "employee pension benefit plan" (as such term is defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) maintained by AAAA or to which AAAA contributes or is required to contribute or in which any employee of AAAA participates (a "Plan") is in compliance, both as to form and operation in all respects, with the applicable provisions of ERISA and the Internal Revenue Code of 1986, as amended (the "Code"), respectively, with respect to each Plan.

Each of the Plans which is intended to be "qualified" with the meaning of Section 401(a) of the Code does so qualify and is exempt from taxation pursuant to Section 501(a) of the Code.

Upon request AAAA will provide BBBB LLC with a summary plan descriptions for each of the Plans; each trust agreement, insurance policy or other instrument relating to the funding of each of the Plans; and the most recent Annual Report (Form 5500 series) and accompanying schedules filed with the Internal Revenue Service with respect to each of the Plans.

SECTION III.13 Tax Matters. There is not, and there will not be, any liability for federal, state or local income, sales, use, excise, payroll, employment or other taxes arising out of, or attributable to, or affecting the Assets or the conduct of the Business through the close of business on the Merger Effective Date, or attributable to the conduct of the operations of AAAA at any time for which New LLC will have any liability for payment or otherwise. After the Merger Effective Date, there will not exist by virtue of the transactions contemplated by this Agreement any liability for taxes (except for sales taxes and realty transfer taxes, if any, incident to the consummation of the transactions contemplated herein) which may be asserted by any taxing authority against New LLC, and no lien or other encumbrance for taxes will attach to the assets or the operations of New LLC.

ARTICLE IV.

COVENANTS

SECTION IV.1 Certain Covenants of AAAA and BBBB LLC .

(a) During the period from the date of this Agreement to the Merger Effective Date, each of YYYY, BBBB LLC and XXXX, VVVVV, WWWWW, and AAAA shall operate their respective Business according to the ordinary course consistent with past practice and shall use their reasonable efforts (i) to preserve their relationships with business partners, referral sources, suppliers, employees and clients, (ii) to maintain the contracts, agreements, commitments or understandings with clients in full force and effect in accordance with their terms and (iii) to continue to provide their respective services to such clients.

(b) Between the date hereof and the Merger Effective Date, each of BBBB LLC and AAAA shall not enter into any transaction, make any agreement or commitment, or take any action, which would result in any of their representations, warranties or covenants contained in this Agreement not being true and correct at and as of the time immediately after the occurrence of such transaction, event or action.

(c) The parties acknowledge and agree that certain employees and independent contractors of the other parties have had access to valuable and necessary confidential trade secrets and proprietary information related to BBBB LLC or to AAAA or their assets or Business. In order to achieve the full benefits associated with the merger, each of the parties agrees that following the execution of this Agreement, they will keep any information they learn from another party confidential and, in the event that the merger does not take place, will return any such information to the party from whom the information was obtained and will not use any such information for its or anyone else's own profit or gain.

(d) During the period from the date of this Agreement to the Merger Effective Date, each of BBBB LLC and AAAA shall maintain malpractice liability insurance in the amount of \$ _____ .00 per incident and \$ _____ .00 in the aggregate.

(e) After the Retirement Effective Date, New LLC may list YYYY as "Of Counsel" on any printed or electronic materials of New LLC, provided that New LLC is not in default of any obligations to YYYY.

SECTION IV.2 Agreements and Instruments to be executed at or prior to the Effective Merger Date.

(a) YYYY covenants on the Merger Effective Date to enter into the Non-Competition and Confidentiality Agreement with New LLC contemplated above.

(b) The parties covenant at the Merger Effective Date to enter into such good and sufficient bills of sale, assignments, deeds and other good and sufficient instruments of sale, conveyance, transfer and assignment as shall be required or as may be appropriate in order to effectively vest in New LLC good and marketable title to the assets of BBBB LLC and AAAA free and clear of all liens, security interests and encumbrances of whatever nature.

(c) The parties covenant at the Closing to deliver such other certificates and instruments as are customarily required in connection with transactions similar to the transactions described in this Agreement.

ARTICLE V.

CONDITIONS PRECEDENT

SECTION V.1 Conditions Precedent to Obligations of the Parties. The obligations of BBBB LLC and YYYY, on the one hand, and of AAAA, XXXX, WWW and VVVVV, on the other, to consummate the transactions contemplated by this Agreement are subject to the satisfaction at or prior to the Merger Effective Date of each of the following conditions, all or any of which may be waived, in whole or in part, by the party against whom the condition is to be enforced, but without prejudice to any other right or remedy which they may have hereunder:

(a) Accuracy of Representations and Warranties. The representations and warranties of any party contained in this Agreement or in any certificate or document delivered to any other party shall be true and correct in all material respects on and as of the Merger Effective Date as though made at and as of that date and the party shall have delivered to the other parties a certificate to that effect.

(b) Compliance with Covenants. Each party shall have performed and complied with all terms, agreements, covenants and conditions of this Agreement to be performed or complied with by them at or prior to the Merger Effective, and that party shall have delivered to the other parties a certificate to that effect.

(c) All Proceedings to Be Satisfactory. All documents incident hereto shall be reasonably satisfactory in form and substance to parties.

(d) Consents and Approvals. All material authorizations, consents, waivers and approvals required of a party in connection with the execution, delivery and performance of this

Agreement shall have been duly obtained and shall be in form and substance reasonably satisfactory to the other party.

(e) Legal Actions or Proceedings. No legal action or proceeding shall have been instituted or threatened seeking to restrain, prohibit, invalidate or otherwise affect the consummation of the transactions contemplated hereby.

(f) Change. Since the date of this Agreement, there shall not have been any material adverse change, nor any event which could reasonably be foreseen to result in a material adverse change, in the financial condition, assets, liabilities, results of operations, Businesses, management, prospects, or operations of AAAA on the one hand or of BBBB LLC on the other hand, as determined by the other party. It is recognized that each firm, notwithstanding anything to the contrary herein, may take such actions as that party deems appropriate for the continued growth of its respective firm and the development of its business including, but not limited to, hiring staff or attorneys or opening new offices.

ARTICLE VI.

SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION

SECTION VI.1 Survival of Representations. All representations and warranties made by any party hereto in this Agreement or pursuant hereto are material, have been relied upon and shall survive the date of this Agreement and of the Merger Effective Date and shall not merge in the performance of any obligation by any party hereto.

SECTION VI.2 BBBB LLC and YYYY Indemnity. BBBB LLC and YYYY, jointly and severally, agree to and shall indemnify and hold harmless AAAA, XXXX, WWWW and VVVVV or any assignee of either of them after the Merger Effective Date from and against and in respect of, any liability, claim, deficiency, loss, damage, or injury and all reasonable costs and expenses (including reasonable counsel fees and costs of any suit related thereto) suffered or incurred by them (collectively, a "Loss") arising from (i) any misrepresentation by, or breach of any covenant or warranty of, BBBB LLC or of YYYY contained in this Agreement or any Schedule, certificate, or other instrument furnished or to be furnished by BBBB LLC or of YYYY hereunder, or any claim by a third party (regardless of whether the claimant is ultimately successful) which if true would be such a misrepresentation or breach; (ii) any nonfulfillment of any agreement on the part of BBBB LLC or of YYYY under this Agreement or from any misrepresentation in or omission from, any Schedule, certificate or other instrument furnished or to be furnished to AAAA, XXXX, WWWW or VVVVV hereunder; (iii) any suit, action, proceeding, claim or investigation, pending, or threatened against, or affecting the assets or the Business of BBBB LLC which arises from, which arose from, or which is based upon, any matter or state of facts existing prior to the Merger Effective Date, regardless of whether it was disclosed to AAAA, XXXX, WWWW or VVVVV; (iv) any claim or debt, obligation or liability of BBBB LLC that is not specifically assumed by New LLC; or (v) any claim against, or liability of, BBBB LLC that is of a nature that, if known at the Merger Effective Date, would have been required to have been disclosed pursuant to this Agreement. In addition to any other rights or remedies AAAA, WWWW or VVVVV may have, New LLC shall be entitled to

withhold from any payments that may be due to YYYY for her or his consulting and noncompete agreement the amount of any and all Losses which New LLC, XXXX, WWW or VVVV or AAAA has sustained or which any of them reasonably believes it may sustain, and to offset from such withheld amount any amount ultimately determined to be due and owing to any of them by way of indemnification pursuant to this Section. In connection with such withholding, YYYY shall be given reasonable detail of the reasons for such withholding.

SECTION VI.3 AAAA, XXXX, WWW and VVVV Indemnity. AAAA, XXXX, WWW and VVVV, jointly and severally, agree to and shall indemnify and hold harmless BBB LLC and YYYY after the Merger Effective Date from and against and in respect of, any liability, claim, deficiency, loss, damage or injury and all reasonable costs and expenses (including reasonable counsel fees and costs of any suit related thereto) suffered or incurred by BBB LLC or YYYY (collectively, a "Loss") arising from (i) any misrepresentation by, or breach of any covenant or warranty of AAAA, XXXX, WWW or of VVVV contained in this Agreement or any Schedule, certificate, or other instrument furnished or to be furnished by them hereunder, or any claim by a third party (regardless of whether the claimant is ultimately successful) which if true would be such a misrepresentation or breach; (ii) any nonfulfillment of any agreement on the part of AAAA, XXXX, WWW or of VVVV under this Agreement or from any misrepresentation in or omission from, any Schedule, certificate or other instrument furnished or to be furnished to BBB LLC or to YYYY hereunder; (iii) any suit, action, proceeding, claim or investigation, pending, or threatened against, or affecting the assets or the Business of AAAA which arises from, which arose from, or which is based upon, any matter or state of facts existing prior to the Merger Effective Date, regardless of whether it was disclosed to BBB LLC or to YYYY; (iv) any claim or debt, obligation or liability of AAAA that is not specifically assumed by New LLC; or (v) any claim against, or liability of AAAA, XXXX, WWW or of VVVV that is of a nature that, if known at the Merger Effective Date, would have been required to have been disclosed pursuant to this Agreement.

SECTION VI.4 Minimum Aggregate Liability Amount. No party shall seek recourse against, and shall not recover from, any other party under this Article VI on account of any Loss unless and until the aggregate amount thereof exceeds _____ Thousand Dollars (\$____,000.00) (the "Minimum Aggregate Liability Amount"), at which time claims may be asserted for the Minimum Aggregate Liability Amount and any excess.

SECTION VI.5 Survival Period for Claims.

(a) A claim for indemnification hereunder shall be forever barred unless made by notifying the party against whom enforcement is sought within ____ () years after the Merger Effective Date.

ARTICLE VII.

TERMINATION AND ABANDONMENT

SECTION VII.1 Method of Termination. This Agreement constitutes the binding and irrevocable agreement of the parties to consummate the transactions contemplated hereby, the

consideration for which is (i) the covenants set forth herein, and (ii) expenditures and obligations incurred and to be incurred by AAAA, XXXX, WWWW and VVVVV, on the one hand, and by BBBB LLC and YYYY, on the other hand, in respect of this Agreement. This Agreement may be terminated or abandoned only as follows:

- (a) by the mutual consent of all the parties hereto;
- (b) by BBBB LLC or YYYY if XXXX, WWWW or VVVVV shall have their license to practice law suspended on the Merger Effective Date, lose their license to practice law, die, or become disabled as determined by a Connecticut licensed physician and cannot practice law;
- (c) by AAAA, XXXX, WWWW or VVVVV if YYYY shall have her or his license to practice law suspended on the Merger Effective Date, lose her or his license to practice law, die, or become disabled and cannot practice law;
- (d) by any party if any of the conditions set forth in Section IV or V hereof have not been fulfilled, unless such fulfillment has been frustrated or made impossible by any act or failure to act of the party seeking termination;
- (e) by YYYY upon the withdrawal of either XXXX, VVVVV or WWWW from AAAA; or
- (f) by any party if any other party (1) shall have engaged in any conduct which, in the judgment of the any party would tend materially to impair his or her professional reputation; or (2) refuses to honor his or her commitments under this Agreement or is in breach of this Agreement.

SECTION VII.2 Effect of Termination. In the event of a termination of this Agreement pursuant to Section VII.1 hereof, each party shall pay the costs and expenses incurred by it in connection with this Agreement, and no party (or any of its officers, directors, employees, agents, representatives or members) shall be liable to any other party for any costs, expenses, damage or loss of anticipated profits hereunder. In the event of any other termination, the parties shall retain any and all rights attendant to a breach of any covenant, representation or warranty made hereunder.

ARTICLE VIII.

MISCELLANEOUS

SECTION VIII.1 Publicity. The parties hereto agree to cooperate in issuing any press release or other public announcement concerning this Agreement or the transactions contemplated hereby. Each party shall furnish to the other drafts of all such press releases or announcements prior to their release. Nothing contained herein shall prevent any party from at any time furnishing any information required by any government authority.

SECTION VIII.2 Execution in Counterparts. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION VIII.3 Notices. All notices which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, or (iii) sent via a nationally recognized overnight courier service or (iv) sent via facsimile confirmed in writing to the recipient, in each case as follows:

If to BBBB LLC or to YYYY, in care of:

If to AAAA, XXXX, WWWW or VVVVV, to:

or such other address or addresses as either party hereto shall have designated by notice in writing to the other party hereto.

SECTION VIII.4 Waivers. YYYY and BBBB LLC , on the one hand, and AAAA, XXXX, WWWW and VVVVV, on the other hand, may (i) waive any inaccuracies in the representations or warranties of the other contained in this Agreement or in any document delivered pursuant to this Agreement, (ii) waive compliance with any of the conditions or covenants of the other contained in this Agreement, or (iii) waive performance of any of the obligations of the other under this Agreement.

SECTION VIII.5 Amendments, Supplements, Etc. At any time this Agreement may be amended or supplemented by such additional agreements, articles or certificates, as may be determined by the parties hereto to be necessary, desirable or expedient to further the purposes of this Agreement, or to clarify the intention of the parties hereto, or to add to or modify the covenants, terms or conditions hereof or to effect or facilitate any governmental approval or acceptance of this Agreement or to effect or facilitate the filing or recording of this Agreement or the consummation of any of the transactions contemplated hereby. Any such instrument must be in writing and signed by all parties hereto.

SECTION VIII.6 Entire Agreement; Schedules and Exhibits. This Agreement, its Schedules, and the documents executed on the Merger Effective Date in connection herewith, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof. No representation, warranty, promise, inducement or statement of intention has been made by either party which is not embodied in this Agreement or such other documents, and neither party shall be bound by, or be liable for, any alleged

representation, warranty, promise, inducement or statement of intention not embodied herein or therein.

SECTION VIII.7 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut.

SECTION VIII.8 Binding Effect, Benefits. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and permitted assigns. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective heirs, successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

SECTION VIII.9 Assignability. Neither this Agreement nor any of the parties' rights hereunder shall be assignable by either party hereto without the prior written consent of the other party hereto.

SECTION VIII.10 Merger. This Agreement and the representations made herein shall survive the Merger Date.

ARTICLE IX

Good Faith Efforts

The parties recognize that the undertakings herein, to merge two firms by the Merger Effective Date and for YYYY to retire by the Retirement Effective Date, are consequential undertakings to be performed several years from now. The parties additionally recognize that events may occur and circumstances change that might affect their respective Businesses. The parties are entering into this Agreement at this time because they realize that their Businesses are a good “fit” and that YYYY’s retirement can be effectuated by this Agreement. Each party, consequently, agrees to use its best efforts and to act in good faith from the date of this Agreement to the Merger Effective Date to maintain the efficacy of this Agreement and to achieve the contemplated merger and retirement.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto or their duly authorized officers as of the day and year first above written.

XXXX, L.L.C.

AAAA LLC

Duly Authorized

Duly Authorized

STANDBY AGREEMENT

STANDBY AGREEMENT ("Agreement") made as of this 13th day of June 20 among _____, LLC ("_____"), with an office at _____ Connecticut and CzepigaDalyDillman LLC dba CzepigaDaly ("CD"), with an office at 15 Massirio Drive, Berlin, Connecticut, 06037.

WITNESSETH:

WHEREAS the parties are engaged in the business of providing legal services primarily in the areas of elder law, special needs planning, estate planning, estate administration, fiduciary services (all of the preceding the "core areas") and legal services incidental to the core areas (all of the preceding the "Business");and

WHEREAS the parties hereto desire to enter into this Agreement pursuant to which _____ and CD will affiliate their practices upon the terms and subject to the conditions set forth herein and in accordance with the Connecticut Rules of Professional Conduct as of the date first set forth above; and

WHEREAS _____ has indicated _____ has a potential desire to, in the future, reduce _____ time practicing law in the Business; and

WHEREAS _____ has indicated that in the event of his death or if he is permanently disabled, he will consequently need someone or entity to "take over" his files and _____; and

WHEREAS _____ has indicated a desire at some point to fully retire in which case he would like to transition his Business to CD; and

WHEREAS at this time the parties have chosen to address only _____ death or permanent disability wherein he is unable to practice law;

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, agreements, representations, warranties and covenants hereinafter set forth, and the sum of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby specifically agreed to and acknowledged, the parties hereto agree as follows:

Upon _____'s death or permanent disability, the following provisions shall take effect immediately:

- 1. For matters where _____ was paid the full legal fee up front for the matter (a fixed fee), but work remains to be done to complete the matter for which the fee was paid (primarily _____ and _____):**

a. CD shall, if CD feels that either it or [redacted]'s staff has the legal expertise do to so, complete the matter. In completing the matter, CD shall use [redacted]'s staff if they are available and suitable to complete the matter. For each such matter, [redacted], his authorized representative (AR), and [redacted] shall be jointly and severally liable to pay CD at the inception of CD taking over the matter an amount equal to [redacted] percent (0%) of the fixed fee for CD's oversight in completing the matter.

b. [redacted] his AR, and [redacted] shall be jointly and severally liable to compensate CD for CD's staff time at such CD staff person's regular hourly rate subject to a cap equal to the hourly pay rate of [redacted]'s highest paid non-attorney employee, including salaried employees. For such salaried employees, their hourly rate shall be determined by dividing their salary by 1,950 hours. To complete a matter, CD agrees to use, as much as practicable and subject to its discretion, [redacted]'s staff instead of CD's staff or CD's attorneys. For any non-partner CD attorney time that is devoted to completion of a matter, [redacted] his AR and [redacted] shall be jointly and severally liable to compensate CD at CD's then hourly rate of such attorney.

c. CD shall keep timesheets for all CD staff and attorney time and shall use its best efforts to keep timesheets for [redacted]'s staff, recognizing that [redacted]'s staff, unless hired by CD, will not be employees of CD. CD shall provide all timesheets to [redacted] or to his AR on a monthly basis.

d. For each timesheet received, [redacted] his AR, or [redacted] shall make payment to CD of the full amount reflected on such time sheet within 30 days of receiving such timesheet.

e. If [redacted] disputes a timesheet, then he shall within 30 days of receipt of a timesheet provide notice to CD (the "Dispute Notice") and if the parties cannot agree as to the amount of any time sheet remittance due to CD within 10 days of receipt by CD of the Dispute Notice (the expiration of said 10 day period after the dispute Notice to be referred to herein as the "Final Date"), then said amount shall immediately be paid by [redacted] his AR or [redacted] into an escrow account to be maintained by [redacted] CPA, of [redacted], Connecticut. The amount to be paid to CD shall then be conclusively determined by a Certified Public Accountant to be selected by each of [redacted] (or his AR) and CD selecting a CPA within 15 days of the Final Date and each of those two CPA's shall then select a third CPA within 30 days of the Final Date and said third CPA shall solely make the conclusive determination. If [redacted] does provide a Dispute Notice within 10 days of receipt of a time sheet, the amount set forth on such sheet shall be conclusively determined to be due to CD.

f. To ensure payment by [redacted] his AR, or [redacted] of amounts due to CD, [redacted] and [redacted] shall maintain in the name of [redacted] at all times at least \$100,000.00 of unencumbered, immediately available and fully liquid bank accounts in a bank having an office in the City of [redacted] or Berlin.

2. For a matter where [redacted] was not paid the full legal fee up front for the matter, but work remains to be done to complete the matter (primarily trust and probate work):

a. Prior to CD taking over responsibility for the matter, CD and [redacted] (or his AR or [redacted]) will attempt in good faith to reach agreement on what percentage of the matter was completed by [redacted]. If the parties cannot agree on the percentage above within 20 days of the date that CD is requested by [redacted], his AR, or [redacted] to take over the matter, the percentage shall be conclusively determined by an attorney to be selected by each of [redacted] (or his AR or [redacted]) and CD selecting an attorney and each of those two attorneys shall then select a third attorney and said third attorney shall solely make the conclusive determination as quickly as possible. Any attorney in this paragraph must be a member of the CBA Elder Law or Estates and Probate sections.

b. When CD bills the matter, [redacted] and CD shall split the payments received from any collections up to the amount due them respectively for the percentage of the matter each is responsible for.

3. [redacted] shall, upon execution of this Agreement, name Brendan F. Daly and Paul T. Czepiga, in a Springing Limited Power of Attorney as his agents with authority to act severally with sufficient authority to, in the event of his death or permanent disability, take such actions as are reasonably necessary to protect the interests of his clients, including the ability to access for purposes of [redacted]'s Business, his IOLTA and operating bank accounts. **A copy of such Springing Limited POA is attached as Exhibit I.**

4. This Agreement and the parties rights and obligations herein shall be construed in a manner that: i) recognizes that a law firm client "owns" the file and can direct whom is to work on it and ii) is consistent with the Connecticut Rules of Professional Conduct ("Rules") that govern attorneys. To the extent that there is a conflict between the Rules and this Agreement, the Rules shall take precedence and shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any offending term being construed as much as possible to carry out the intent and agreement of the parties as embodied herein to the maximum extent permitted by law.

5. Upon [redacted]'s death or permanent disability, [redacted] his AR, and [redacted] shall each take such steps as may be reasonably requested to transfer to CD all goodwill, phone numbers,

trade names (including the use of the name _____ and _____), and any domain names and related passwords related to, arising from, or that conjure up the _____'s participation and his history in the Business.

6. The parties covenant to enter into such good and sufficient bills of sale, assignments, and other good and sufficient instruments of sale, conveyance, transfer and assignment as shall be required or as may be appropriate in order to effectively vest in CD those items set forth in paragraph 5. above, free and clear of all liens, security interests and encumbrances of whatever nature.

7. Prior to _____'s death or permanent disability, this Agreement may be terminated by CD or _____ but not by _____'s AR or _____ by providing 60 days written notice to the other party.

8. All notices which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, or (iii) sent via a nationally recognized overnight courier service or (iv) sent via facsimile confirmed in writing to the recipient, in each case as follows:

If to _____

Connecticut

If to CD:

Paul T. Czepiga
CzepigaDalyDilman LLC
15 Massirio Drive
Berlin, Connecticut 06037

or such other address or addresses as either party hereto shall have designated by notice in writing to the other party hereto.

9. At any time this Agreement may be amended. Any such amendment must be in writing and signed by all parties hereto.

10. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof. No representation, warranty, promise, inducement or statement of intention has been made by either party which is not embodied in this Agreement or such other documents, and neither party shall be bound by, or be liable for, any alleged representation, warranty, promise, inducement or statement of intention not embodied herein or therein.

11. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and permitted assigns. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective heirs, successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

12. Neither this Agreement nor any of the parties' rights hereunder shall be assignable by either party hereto without the prior written consent of the other party hereto, with the exception that CD may assign its rights and obligations under this Agreement to any entity in which both Paul T. Czepiga and Brendan F. Daly have an ownership interest.

13. Where the term " [redacted] " is used, it shall be construed to mean or include his AR, as the context may so require. His AR can be his Conservator, executor, administrator, agent under a power of attorney, or some other person whom CD reasonably feels is authorized to act on [redacted]'s behalf, including a trustee under a trust of which [redacted] is the Grantor.

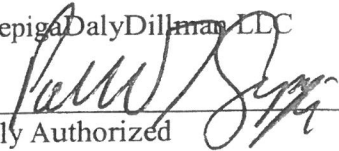
14. [redacted] shall be considered permanently disabled if he is unable to perform his usual duties in the Business for a continuous period in excess of twelve (12) months. The written statement of any reputable physician, ("Physician's Statement") licensed in the State of Connecticut, chosen by [redacted], shall be determinative that he is disabled if it states:

- a. [redacted] is unable to perform his usual duties of a principal in the Business and that it is likely that such inability will continue for a period in excess of twelve (12) months from the beginning of such disability; or
- b. [redacted] has been unable to perform his usual duties in the Business for a continuous period in excess of twelve (12) months.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto or their duly authorized officers as of the day and year first above written.

CzepigaDalyDillman LLC

Duly Authorized



DURABLE POWER OF ATTORNEY

Notice: The powers granted by this document are broad and sweeping. They are defined in the Connecticut Uniform Power of Attorney Act, which expressly permits the use of any other or different form of power of attorney desired by the parties concerned. The grantor of any power of attorney, the agent or such other person or entities as authorized by statute may make application to a Probate Court for an accounting as provided in subsection (d) of section 45a-175, of the general statutes. This power of attorney does not authorize the agent to make health care decisions for you.

Know All Persons by These Presents, which are intended to constitute a **GENERAL POWER OF ATTORNEY** pursuant to the Connecticut Uniform Power of Attorney Act codified at Connecticut General Statutes section 1-350 to 1-353b:

That I, «**Client**», presently of «**ClientsAddress**», do hereby appoint «**POA**», presently residing at «**Poaaddress**», my agent **TO ACT**:

First: In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in the Connecticut Uniform Power of Attorney Act to the extent that I am permitted by law to act through an Agent:

[Strike out and initial in the opposite box any one or more of the subparagraphs as to which the principal does NOT desire to give the agent authority.]

To strike out any subparagraph the principal must draw a line through the text of that subparagraph AND write his or her initials in the box opposite.

- (A) Real property; []
- (B) Operation of entity or business; []
- (C) Tangible personal property; []
- (D) Banks and other financial institutions; []
- (E) To take such actions and perform such tasks as my agent may deem necessary for my agent to fulfill my obligations under a certain Standby Agreement dated _____ by and between me and Czepiga Daly Pope & Perri LLC; []

Special provisions and limitations may be included in the statutory form power of attorney only if they conform to the requirements of the Connecticut Uniform Power of Attorney Act.)

(F) In addition, I give my Agent the power, exercisable in the discretion of my Agent, and without court order, 1) to retain any business interest, including shares of stock, membership interests, or other interest in or indebtedness of any corporations, partnerships, limited liability companies, or other entities (collectively “business”) as shareholder, security holder, creditor, partner, member or otherwise (collectively “business interest” or “interest”), for any period of time whatsoever, even though it may constitute all or a large portion of my trust or estate; 2) to comply with the provisions of any agreement restricting transfer of the interest; 3) to participate in the conduct of the business or rely upon others to do so, and 4) to take or delegate to others discretionary power to take any action with respect to such business’ management and affairs which an individual could take as outright owner of the business or business interest, including the voting of stock, partnership or membership interest (by separate trust or otherwise regardless of whether that separate trust will extend for a term within or beyond the date of final distribution of my estate) and the determination of all questions of policy; to execute and amend partnership and limited liability operating agreements; 5) to participate in any incorporation, reorganization, merger, consolidation, sale of assets, recapitalization, liquidation, or dissolution of the business, or any change in its nature, or in any buy-sell, stock, partnership, or membership restriction, or stock, partnership or membership redemption agreements; 6) to invest in additional stock or securities of, or make secured, unsecured, or subordinated loans to, the business with my funds; 7) to elect or employ with compensation, as directors, officers, employees, or agents of the business, any persons, or any director, officer, employee; 8) to rely upon reports of certified public accountants as to the operations and financial condition of the business, without independent investigation; and, if the business is so continued, my agent shall incur no liability for any loss to me or my estate arising therefrom; 9) to sell, assign, transfer, deliver, pledge as collateral or otherwise encumber, and to otherwise deal with any patents, now existing or hereafter arising, which may be issued in my name alone or jointly with others; and 10) to complete, pursue, appeal, file for, and otherwise deal with any patent applications, now existing or hereafter arising, filed in my name alone or jointly with others.

LIMITATION ON AGENT'S AUTHORITY

Notwithstanding anything to the contrary herein, including (A) through (F) above and the provisions set forth below, my agent’s authority herein shall be limited to those powers or authorities deemed necessary by my agent to fulfill the obligations of Czepiga Daly Pope & Perri LLC under the Standby Agreement referred to in Paragraph (E) above.

**THE FOLLOWING IS AN OPTIONAL POWER
YOU SHOULD SEEK LEGAL ADVICE BEFORE INCLUDING THE FOLLOWING
POWER:**

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.)

My agent MAY NOT do the following **UNLESS I HAVE INITIALED** the specific authority to do so and may not exercise the following power to violate any of the agent's duties listed in Connecticut General Statutes section 1-350m:

1. **Digital Assets.** To exercise all powers I may have over any digital [] device, digital asset, user account and electronically stored information, including any user account and digital asset that currently exists or may exist as technology develops, whether the same is in my own name or that I own or lawfully use jointly with any other individual; such powers include, but are not limited to, changing and circumventing my username and password to gain access to such user accounts and information; transferring or withdrawing funds or other digital assets among or from such user accounts; opening new user accounts in my name; all as my agent determines is necessary or advisable. I hereby give my lawful consent and fully authorize my agent to access, manage, control, delete and terminate any electronically stored information and communications of mine to the fullest extent allowable under the federal Electronic Communications Privacy Act of 1986, 18 USC 2510 et seq., as amended from time to time, the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act and any other federal, state or international privacy law or other law and to take any actions I am authorized to take under all applicable terms of service, terms of use, licensing and other account agreements or laws. To the extent a specific reference to any federal, state, local or international law is required in order to give effect to this provision, I specifically provide that my intention is to so reference such law, whether such law is now in existence or comes into existence or is amended after the date of this document.

Second: With full and unqualified authority to exercise or delegate any or all of the foregoing powers granted under this power of attorney to any person or persons whom my agent(s) shall select.

Third: Hereby ratifying and confirming all that said agent(s) or substitute(s) do or cause to be done.

Fourth:

DESIGNATION OF SUCCESSOR AGENT(S)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: «**BackupPOA**»

Successor Agent's Address: «**BackupPOAaddress**»

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: «**SecondBackupPOA**»

Second Successor Agent's Address: «**SecondBackupPOAaddress**»

Fifth:

EFFECTIVE DATE

This Power of Attorney shall take effect only upon the occurrence of the following contingency: **When I am incapable of performing my usual duties as a principal of _____ (“LLC”) and it is likely, as determined by my agent, that 1) such inability will continue for a period in excess of ____ months or 2) I have been unable to perform my usual duties in said LLC for a continuous period of _____ months AND, in either event, only upon the execution of a written affidavit signed by my agent stating 1) that such contingency has occurred and 2) that this Power of Attorney is in full force and effect.**

Sixth: Pursuant to Connecticut General Statutes sections 1-350 through 1-353b, any third party receiving a copy or facsimile of this executed instrument must act in reliance thereon. In addition, I, for myself and my heirs, assigns and legal representatives, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of reliance on such copy of this instrument. Revocation or termination of this power of attorney shall be ineffective as to such third party unless and until actual notice or knowledge thereof shall have been received by such third party.

Seventh: This Power of Attorney shall be governed by the laws of the State of Connecticut in all respects, including its validity, durability, construction, interpretation and termination.

Eighth: My Agent and my Agent's heirs, successors and assigns are hereby released and forever discharged from any and all liability upon any claim or demand of any nature whatsoever by me or my heirs and assigns arising out of the acts or omissions of my Agent, and I hereby bind myself, my heirs, devisees, and personal representatives to indemnify my Agent and any successor Agent who shall so act against any and all claims, demands, losses, damages, actions, and causes of action, including expenses, costs, and reasonable attorneys' fees that my Agent at any time may sustain or incur in connection with carrying out the authority granted in this power of attorney. My Agent shall have no responsibility to make my property productive of income, to increase the value of my estate or to diversify my investments. My Agent shall have no liability for entering into transactions authorized by this instrument in my Agent's individual capacity so long as my Agent believes in good faith that such transactions are in my best interests or the best interests of my estate and those persons interested in my estate. Notwithstanding anything herein to the contrary, this paragraph shall not apply to any actions of my Agent which constitute willful misconduct, gross negligence or breach of duty committed dishonestly, with an improper motive or with reckless indifference to the purposes of the power of attorney or my best interests.

Ninth: My Agent is entitled to reimbursement of expenses reasonably incurred on my behalf and to compensation that is reasonable under the circumstances.

Tenth: My Agent may take such actions as my agent shall deem necessary to enforce the provisions contained herein, including bringing suit or taking other action against any third party that does not comply with the instructions of my agent, and to use my assets to fund such suit or other action

Eleventh: I hereby agree that any third party receiving a copy or facsimile of this executed instrument may act in reliance thereon and that revocation or termination of this power of attorney shall be ineffective as to such third party unless and until actual notice or knowledge thereof shall have been received by such third party, and I, for myself and my heirs, assigns and legal representatives, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of reliance on such copy of this instrument.

**SURVIVAL OF AUTHORITY UPON DISABILITY AND
INCOMPETENCE OF PRINCIPALS AND LAPSE OF TIME**

This Power of Attorney SHALL NOT be affected by the subsequent disability or incompetence of the principal or by the lapse of time since its date of execution.

The execution of this power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgment of a conveyance of real property.

Valuation of a Law Practice

Prepared for:

CBA Meeting December 4, 2109

Presented by:

Edward Pratesi, CPA, ASA, ABV, CM&AA

Managing Director

A commitment to deliver superior client service anywhere you need us.

Topics For Consideration

- **A Simple Valuation Formula**
- **Cash Flow**
- **Risk (Rate of Return or Earnings Multiple)**
- **Value Drivers**

A Simple Valuation Formula

$$V = CF_T^S \times MM(R) \pm BSA^{TM}$$

V = Value

CF = Cash Flow

S = Sustainable

T = Transferable

MM(R) = Risk or Rate of Return

BSA = Balance Sheet Adjustments

Cash Flow

- **Typically measured as earnings before Taxes**
- **Ideally what is Sustainable and Transferable**
- **Could be Revenues**
- **Any Cash Flow metric needs to be adjusted for unusual and non-recurring items**

Risk (Rate of Return or Valuation Multiple)

Whether Earnings or Revenue Multiple it is adjusted for:

- Market demographics & location
- **Stability & quality of client base**
- **Sources of clients and referral sources**
- Nature of relationships
- Ability of remaining attorneys to perpetuate the practice
- **Name recognition and reputation in community**
- **Type of practice and pricing/billing/payment terms**
- Concentration of revenues (clients or types of cases)
- **Profitability**
- Size
- Stability of partner group
- **Reinvestment of profits for future growth**
- Quality of infrastructure – team

Source: Altman Weil, Inc. – Valuation of Law Firm and a Law Practice, 2014

Valuation Multiples

Earnings multiples fall within a range of 0.50 to 3.33

Earnings Multiplier for Law Firms			
<u>Type of Firm</u>	<u>Low Multiple</u>	<u>Likely Range</u>	<u>High Multiple</u>
Law Firms	0.50	1.00 – 2.50	3.33

Source: Altman Weil, Inc. – Valuation of Law Firm and a Law Practice, 2014

Valuation Multiples

Revenue multiples fall within a range of 0.25 to 1.00

Comparison of Revenue Multiple to Earnings Multiples

Revenue multiplier – Adjusted profit margin
Adjusted earnings equivalents

Revenue Multiplier	Adjusted Profit Margin							
	25%	30%	35%	40%	45%	50%	55%	60%
0.20	0.800	0.667	0.571	0.500	0.444	0.400	0.364	0.333
0.25	1.000	0.833	0.714	0.625	0.556	0.500	0.455	0.417
0.40	1.600	1.333	1.143	1.000	0.889	0.800	0.727	0.667
0.50	2.000	1.667	1.429	1.250	1.111	1.000	0.909	0.833
0.60	2.400	2.000	1.714	1.500	1.333	1.200	1.091	1.000
0.75	3.000	2.500	2.143	1.875	1.667	1.500	1.364	1.250
0.80	3.200	2.667	2.286	2.000	1.778	1.600	1.455	1.333
1.00	4.000	3.333	2.857	2.500	2.222	2.000	1.818	1.667
1.25	5.000	4.167	3.571	3.125	2.778	2.500	2.273	2.083
1.50	6.000	5.000	4.286	3.750	3.333	3.000	2.727	2.500

Source: Altman Weil, Inc. – Valuation of Law Firm and a Law Practice, 2014

Value Drivers

- **Team**
- **Client Base**
- **Referral Sources**
- **Service Offering – Level of Differentiation**
- **Investment**

Taxing Issues

- **Ordinary income vs Capital gain**
- **Depreciation recapture**
- **Non-piracy provision**
- **Goodwill (IRC Section 179 Assets)**
- **Installment Sale or Payment Based on Retention**
- **Asset Sale – handling of AR**

Thank you!

Ed Pratesi
UHY Advisors, LLC
18 North Main Street
West Hartford, CT 06107
860.519.5648 (o)
860.558.0453 (c)
Epratesi@UHY-US.com

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ETHICS ISSUES RELATED TO WINDING UP A LAW PRACTICE

Mark A. Dubois
Geraghty & Bonnano, LLC
38 Granite Street
New London, CT 06320
mdubois@gereaghtybonnano.com

- Advance Exit Plan
- Sale of a Law Practice
- Preserving/Disposing of Records
- IOLTA Issues
- Malpractice Exposure
- Surrender/Preserving the Law License

The Advance Exit Plan

THE PATH OUT

A GUIDE FOR LAWYERS PLANNING FOR THE FUTURE

- **STEP 1:** Designate an Assisting Attorney to manage or close your practice in the event of your disability, incapacity, retirement or death.
- **STEP 2:** Prepare written instructions to your family, your designated Assisting Attorney, your nominated executor, and your key office staff.
- **STEP 3:** Discuss your Advance Exit Plan with the appropriate persons
- **STEP 4:** Your Advance Exit Plan should describe arrangements you enter into with your designated Assisting Attorney

The actors in this drama:

- The Planning Attorney
- The Assisting Attorney
- The Fiduciary Attorney

Sale of Your Law Practice

Rule 1.17 allows sale of whole practice, practice area or good will.

Rule 5.4 allows payment for sale to representatives of dead or disabled lawyer's estate.

Rule 5.6 prohibits non-competition agreements by lawyers but 1.17 prohibits continued work in area sold.

Retirement plans in firms not subject to rule.

Rule does not apply to sale of assets.

Preserving/Disposing of Records

- CBA Guidelines <https://www.ctbar.org/about/governance/board-of-governors/file-retention-guidelines>
- Rule 1.15(j)
- Grievance Statute of Limitations
- Special Considerations Concerning Intent in Estate Planning

CBA File Retention Guidelines

- **Guideline 1.** Notwithstanding any of the other policies set forth below, the retention or destruction of documents may be determined by written agreement between the attorney and the client.
- **Guideline 2.** A copy of a document need not be kept after the original has been returned to the client or other owner.
- **Guideline 3.** All documents shall be kept seven years from the date of completion of services rendered by an attorney.
- **Guideline 4.** All original documents signed by the client and documents conferring or imposing legal rights or obligations shall be kept seven years from date of such signing or the cessation of such rights or obligations whichever is longer. No such document shall be destroyed until the client or owner is mailed written notice at least 30 days before destruction of the document.
- **Guideline 5.** Documents may be copied and retained in any medium which accurately depicts the original document and from which accurate copies can be made. The originals of any documents so copied, other than those documents set forth in paragraph 4 above, need not be kept after their copying.
- **Guideline 6.** Any document which is kept as a permanent public record need not be kept after its recording. No such document shall be destroyed until the client or owner of the document is mailed written notice at least 30 days before destruction of the document.
- **Guideline 7.** Subject to the above guidelines, upon termination of practice, any documents still being retained by the attorney should be returned to the client or the client notified of any successor attorney agreeing to take upon the obligations of retaining those documents.

1.15(j) A lawyer who practices in this jurisdiction shall maintain current financial records as provided in this Rule and shall retain the following records for a period of seven years after termination of the representation:

- (1) receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement;
- (2) ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed;
- (3) copies of retainer and compensation agreements with clients as required by Rule 1.5 of the Rules of Professional Conduct;
- (4) copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf;
- (5) copies of bills for legal fees and expenses rendered to clients;
- (6) copies of records showing disbursements on behalf of clients;
- (7) the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks provided by a financial institution;
- (8) records of all electronic transfers from client trust accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient and confirmation from the financial institution of the trust account number from which money was withdrawn and the date and the time the transfer was completed;
- (9) copies of monthly trial balances and at least quarterly reconciliations of the client trust accounts maintained by the lawyer; and
- (10) copies of those portions of client files that are reasonably related to client trust account transactions.

Special IOLTA Issues

- Excess funds left in IOLTA Account
- Random Audits

Malpractice Exposure

Extended Reporting Period Endorsement to MP Policy.

https://www.americanbar.org/content/dam/aba/administrative/lawyers_professional_liability/lpl_tail_coverage_faq_glossary.authcheckdam.pdf

Traps to avoid/be wary of.

Surrendering/Preserving The Law License

Annual Registration

PB 2-26, 2-27(d)

MCLE compliance

PB 2-27A(5) and (6) exceptions

P.B. 2-55 Revocable vs. 2-55A Permanent Retirement

Of Counsel/Dabbling/Pro Bono/Referral Fees

THE PATH OUT

A GUIDE FOR LAWYERS PLANNING FOR THE FUTURE

**Connecticut Bar Association
30 Bank Street**

New Britain, CT 06050-0350

30 Bank Street
New Britain, Connecticut

Dear CBA Member,

Too often, lawyers forget their own practices, their own partners and staff, and their own families when it comes to planning for both the expected and the unexpected. The sudden death or incapacity of a lawyer can cause havoc with the lawyer's clients, with their office, and with the courts. A law practice is an asset which, if handled properly, can be sold for value. But a law office where the solo lawyer has not planned for the future can be an albatross, causing great harm to many.

What follows is the beginning of what we at the Connecticut Bar Association hope will be an ongoing project providing "open source" documents and information to you, our members, to assist in planning for the future. These materials have been collected from many sources, not the least of which is the fine work done by the New York and Florida bars. Thus, we claim no rights of ownership. Feel free to use them, modify them, or reject them.

If you have good documents or valuable information of your own on this topic, feel free to share this with us. Working together, we plan to create a resource that will assist the bar in planning for the future and protect the public, the courts, our clients and our loved ones. Collectively fostering such a project represents the best of professionalism.

Sincerely,

Kimberly A. Knox, President

INTRODUCTION

We do not like to think about unexpected events that could cause us to abruptly cease practicing law. However, events such as accidents, unexpected illnesses, and untimely death are known to occur. If any of these events were to happen to you, have you made adequate plans to assure that your clients' interests will be protected? If not, this handbook was prepared to help you start immediately to protect your interests and those of your clients.

A lawyer has a duty of competent representation pursuant to Rule 1.1 of the Rules of Professional Conduct. This includes making arrangements that will safeguard the client's interests (including the integrity of any trust moneys, confidentiality of information, and the continuing viability of the client's legal matter) in the event of the lawyer's death, disability, impairment, or incapacity. ABA Formal Op. 92-369. Many malpractice carriers require that the lawyers they insure make arrangements for the appropriate disposition of client matters in the event of the insured lawyer's death or disability.

The commentary to Rule 1.3 (Diligence) tells us that part of ethical lawyering is planning how the needs of clients will be met if a lawyer becomes disabled, dies, or is otherwise unable to continue in practice. By arranging in advance for the temporary management or closing of your practice, your ongoing matters will be handled in a timely manner and there will be less likelihood that a court date will be missed or a closing delayed (for example, because of an inability to access your escrow account), or clients' interests otherwise prejudiced. Funds and property belonging to your clients will be returned to them promptly, as required by Rules 1.15 and 1.16. You also will be assured that your clients' files will be protected and that the bookkeeping records will be maintained as required by Rule 1.15.

Attorney professionalism is often equated with dedication to clients, service, competence and the display of good judgment. By formulating a plan today, you will be fulfilling both your ethical responsibilities and your obligations of attorney professionalism. The information in this Guide is designed to assist you in protecting your clients and your practice.

Following this narrative is a compilation of materials that will assist you in this process. It has been designed to encourage you to take steps to properly protect your clients and to carry out your wishes if you personally are unable to act. We have included forms, FAQ's and checklists which raise issues which should be taken into consideration in making plans to protect clients' interests in the case of the sudden unavailability of a sole practitioner to handle his/her practice, or in closing one's own office or that of another attorney, or in temporarily assuming responsibility for another attorney's practice.

TERMINOLOGY

The term "Assisting Attorney" is used throughout this handbook. It refers to the lawyer(s) you have made arrangements with to close down your practice or to handle it while you are incapacitated.

The term "Authorized Signer" is used to refer to the person you have authorized as a signer on and fiduciary for your lawyer trust account.

The term "Planning Attorney" refers to you, your estate, or your personal representative.

The term “Acquiring Attorney,” refers to one who buys a law practice.

GETTING STARTED

First, you must find one or more attorneys to maintain or close your practice in the event of your death, disability, impairment, or incapacity. The arrangements you make for closure of your office, or the temporary takeover of your practice, should include a signed consent form authorizing one or more Assisting Attorney(s) to contact your clients for instructions on transferring their files, authorization to obtain extensions of time in litigation matters when needed, and authorization to provide all relevant people with notice of closure or transfer of your practice.

The agreement should also include provisions that give the Assisting Attorney authority to: wind down your financial affairs; provide your clients with a final accounting and statement; collect fees on your behalf; and liquidate or sell your practice. Arrangements for payment by you or your estate to the Assisting Attorney for services rendered can also be included in the agreement.

At the outset of your negotiations with the Assisting Attorney, it is important for the two of you to nail down the scope of the Assisting Attorney’s duties to both you and your clients. If the Assisting Attorney is representing your interests as your attorney, he or she may be prohibited from also representing your clients on some, or possibly all, matters. Under this arrangement, the Assisting Attorney would owe his or her fiduciary obligations to you. For example, the Assisting Attorney could not inform a client of your legal malpractice or ethical violations, unless you consented in writing. However, if the Assisting Attorney is expected to represent your clients, he or she may have an ethical obligation to inform the client of your errors or omissions.

In either event, the Assisting Attorney must be aware of conflict of interest issues and must check for conflicts if he or she (1) is providing legal services to your clients or (2) must review confidential file information to assist in transferring clients’ files. In the latter case, the conflicts check must occur before the file review.

Not only do you need to have at least one Assisting Attorney, you may also need to recruit an Authorized Signer who can sign on your trust account under these circumstances. The Authorized Signer may or may not be someone other than the Assisting Attorney. You may want a separate Authorized Signer to provide for checks and balances, since two people will have access to your records and information. It also avoids the potential for any conflicting fiduciary duties that could arise if the trust account does not balance or there is some question about who owns the funds in your clients’ funds account. Not surprisingly, there have been occasions when a disabled attorney’s trust account contained funds belonging to him, such as earned fees, but his family was unable to access them because the trustee believed that if money was in the clients’ funds account it must belong to clients.

This planning process, which is intended to protect your clients’ interests in the event of your disability or death, involves some difficult decisions, including: the type of access that the Assisting Attorney and/or Authorized Signer will have; the conditions under which they will have access; and who will determine when those conditions are met. Commentators have expressed the belief that these decisions are the hardest part of this advance planning.

For example, if you are incapacitated, you may not be able to give consent to someone to

assist you. Have you determined under what circumstances you want someone to assert the right to help you or take over your practice? Who decides that you are incapacitated and what criteria will be used?

One suggested approach is to give the Assisting Attorney and/or the Authorized Signer access during a specific time period or after a specific event and to allow the Assisting Attorney and/or the Authorized Signer to determine whether the contingency has occurred. Another approach is to have someone else (such as a spouse, trusted friend, or family member) keep the applicable documents (such as a limited power of attorney for the Assisting Attorney and/or the Authorized Signer) until he or she determines that the specific event has occurred. A third approach is to provide the Assisting Attorney and/or Authorized Signer with access to records and accounts at all times. In accordance with Rules 1.6 and 1.15, access to and control of both client files and client moneys should be restricted to a licensed attorney.

If you want the Assisting Attorney and/or the Authorized Signer to have access to your accounts contingent on a specific event or during a particular time period, you have to decide how you are going to document the agreement. Depending on where you live and the bank you use, some approaches may work better than others. Some banks require only a letter signed by both parties granting authorization to sign on the account. You may want to sign a limited power of attorney in favor of the Assisting Attorney and/or the Authorized Signer. Most banks prefer a power of attorney. Signing a separate limited power of attorney increases the likelihood that the bank will honor the agreement. It also provides you and the Assisting Attorney and/or the Authorized Signer with a document limited to bank business that can be given to the bank. The bank does not need to know all the terms and conditions of the agreement between you and the Assisting Attorney and/or the Authorized Signer.

Another best practice is to consult the manager of your bank with regard to the mechanics of how an Assisting Attorney or an Authorized Signer will take over management of your accounts. Some banks use their own power of attorney forms. Be aware that the power of attorney forms provided by the bank are generally unconditional authorizations to sign on your account and may include an agreement to indemnify the bank. Get written confirmation that the bank will honor *your* limited power of attorney or other written agreement. Otherwise, you may think you have taken all necessary steps to allow access to your accounts, yet when the time comes the bank may not allow the access you intended.

If the access is going to be contingent, you may want to have someone (such as your spouse, family member, personal representative, or trusted friend) to hold the power of attorney until the contingency occurs. This can be documented in a letter of understanding, signed by you and the trusted friend or family member. Then, when the event occurs, the trusted friend or family member provides the Assisting Attorney and/or the Authorized Signer with the power of attorney.

If the authorization will be contingent on an event or for a limited duration, the terms must be specific and the agreement should state how to determine whether the event has taken place. For example, are the Assisting Attorney and/or the Authorized Signer authorized to sign on your accounts only after obtaining a letter from a physician that you're disabled or incapacitated? Is it when the Assisting Attorney and/or the Authorized Signer, based on reasonable belief, says so? Is it for a specific period of time -- for example, a period during which you are on vacation? You and the Assisting Attorney and /or the Authorized Signer must review the specific terms and be comfortable with them.

The same issues apply if you choose to have a family member or friend hold a general power of attorney until the events or contingency occurs. All parties need to know what to do and when to do it. Likewise, to avoid problems with the bank, the terms should be specific, and it must be easy for the bank to determine whether the terms are met.

Another approach is to allow the Assisting Attorney and/or the Authorized Signer access at all times. With respect to your bank accounts, this approach requires going to the bank and having the Assisting Attorney and/or Authorized Signer sign the appropriate cards and paperwork. When the Assisting Attorney and/or Authorized Signer are authorized to sign on your account, he or she has complete access to the account. This is an easy approach that allows the Assisting Attorney and/or Authorized Signer to carry out office business even if you are just unexpectedly delayed from vacation.

Adding someone as signer on your accounts allows him or her to write checks, withdraw money, or close the account at any time, even if you are not dead, disabled, impaired, or otherwise unable to conduct your business affairs. Under this arrangement, you cannot control the signer's access. These risks make it an extremely important decision. If you choose to give another person full access to your accounts, it had better be an attorney you know and trust. Your choice of signer is crucial to the protection of your clients' interests, as well as your own.

CREATE THE ADVANCE EXIT PLAN

STEP 1: Designate an Assisting Attorney to manage or close your practice in the event of your disability, incapacity, retirement or death. This may be accomplished by a limited power of attorney, a comprehensive agreement with detailed powers, or a short form authorization and consent form to close or manage a law practice. Samples of such forms are set forth in the Appendices. If you are a professional corporation, resolutions may be necessary authorizing you, as sole shareholder and director, to appoint another attorney to manage or close your practice. Suggested forms are found in the Appendices.

STEP 2: Prepare written instructions to your family, your designated Assisting Attorney, your nominated executor, and your key office staff containing:

- General information and guidance to minimize uncertainty, confusion and possible oversights;
- Authorizations to release medical information (required by HIPAA) that may be needed to determine your incapacity and for your Assisting Attorney to seek to have you placed on inactive status with the court in accordance with Practice Book 2-56 et seq., and/or to seek to be appointed trustee pursuant to Practice Book 2-64;
- Information on where a complete inventory of your open files can be found, including passwords and other information needed to access case management software;
- Specific and detailed information and authorizations needed to run and transition or close your law practice, including lists of all bank accounts, lists of all insurance policies and their physical location, computer passwords, e-filing passwords, information and data concerning leases or other

arrangements related to office space, equipment, phones, computer systems, websites, subscriptions and other details related to day to day operations;

- Steps to be taken to assure that your written instructions are updated and reviewed periodically for completeness and accuracy.

STEP 3: Discuss your Advance Exit Plan with the appropriate persons (e.g., your family, your designated Assisting Attorney, your nominated executor, and your key office staff) to avoid confusion or delay in the event of your disability, incapacity, retirement or death. For example, your executor should be aware of your wishes with respect to your practice in the event of death, including any instructions you may have given to an Assisting Attorney and/or Authorized Signer. Not only will this protect your practice, but it will also save considerable time and expense that may be incurred in the administration of your estate.

STEP 4: Your Advance Exit Plan should describe arrangements you enter into with your designated Assisting Attorney and should cover the following:

- Authorization to obtain medical information to assist the Assisting Attorney (or other designated person, e.g., family member) in determining your incapacity to continue in practice;
- Authorization to provide all relevant people with notice of closure of your law practice;
- Authorization to your Assisting Attorney to contact your clients for instructions on transferring their files;
- Authorization to obtain extensions of time in litigation matters, where needed.

Your Advance Exit Plan might also include sample letters notifying clients of your inability to continue in practice, and arranging for transfer or return of files. See “Letter Advising That Lawyer is Unable to Continue in Practice” and “Request for File/ Acknowledgement of Receipt for File/Authorization for Transfer of Client File”. In the Appendices you will find a helpful list of questions and answers on the subject of document destruction and preservation, providing you with guidance on file disposition.

If you are retiring, you should prepare a letter to your clients advising them of your retirement, the need to obtain new counsel, and a procedure for transfer of their files. See “Letter from Planning Attorney Advising that Lawyer is Closing His/Her Office.” If there are other attorneys in your firm who would be available to represent the clients in the event of your own inability to practice, your Advance Exit Plan should include a letter from your colleague(s) to your clients advising them of your disability and their availability to continue handling their matter.

Your Advance Exit Plan also should include instructions as to:

- Disposition of closed files;
- Location of wills and other original client materials;

- Disposition of your office furnishings and equipment;
- Authorization to draw checks on your office and trust accounts;
- Payment of current liabilities of the office;
- Billing fees on open files;
- Referral files on which you may be entitled to fees;
- Collecting accounts receivable;
- Access to important information (e.g., passwords to your computer); and
- Insurance matters.

Your Advance Exit Plan also might include provisions that give your Assisting Attorney or executor, as the case may be, authority to:

- Wind down your business financial affairs;
- Provide your clients with a final accounting and statement of work done by you/your office;
- Collect fees on your behalf;
- Liquidate or sell your practice;
- Act on behalf of your PC or your LLC in the event of your death or disability, See Appendices sample “Waiver of Notice of Special Joint Meeting of the Sole Shareholder and Sole Director of Corp.” and “Minutes of the Special Joint Meeting of the Sole Shareholder And Sole Director of Corp.”

INCLUDE FAMILY AND STAFF

Your Advance Exit Plan also should include written letters of instruction to your family and office staff. In the event of death, these letters should ease the administration of your estate by describing what you have, where it is located, how to access it, and what to do with it. Your family, your executor (in the event of death), your designated Assisting Attorney, your Authorized Signer and your office staff need to share information and coordinate their activities in the event of your disability, incapacity or death. Care should be taken to safeguard against improper access to client files and information by unauthorized persons, e.g., non-attorney family members. Generally, these instructions should cover the following:

- All pertinent personal and family information and financial information;
- Identification and location of all estate planning documents, including original

wills/trusts;

-
- Location of personal and business insurance records, among other things.
- Guidance to your staff should include directions as to:
- Notifying your professional liability carrier;
- Notifying all courts, boards and administrative agencies where your matters are pending;
- Closing your office;
- Reviewing all depositories, including trust accounts and safe contents;
- Coordinating with your accountant.

COMPENSATING YOUR ASSISTING ATTORNEY, AUTHORIZED SIGNER AND STAFF

Your Advance Exit Plan should include an arrangement for payment by you or your estate to your Assisting Attorney, Authorized Signer and staff for services rendered on your behalf in closing, temporarily managing until your return, or managing your practice pending its sale. For example, the agreement with your Assisting Attorney may provide for compensation based on an hourly rate, for reimbursement of reasonably necessary expenses, and for billing on a monthly basis.

You also will need to address the issue of how to fund this compensation to your Assisting Attorney, Authorized Signer and support staff. You can direct that payment be made from your office receipts. If you are concerned that your law practice income will be insufficient to defray this expense, you may want to consider disability insurance in an amount sufficient to cover this potential liability. Business Overhead Expense Insurance is a variation on Disability Income Insurance that specifically covers the ongoing expenses of running your office (including non-lawyer staff salaries, rent, equipment leasing, etc.), in the event of your disability.

In the case of death, since your estate will be responsible for payment to the Assisting Attorney or Authorized Signer, your executor or other personal representative should be notified in advance of any arrangements you may have made with regard to this issue. You may want to consider reiterating those instructions in your will, especially if you neglected to make such arrangements in a separate written agreement. As in the case of disability or incapacity, since your practice may be your only probate asset and insufficient to cover the cost of compensation to the Assisting Attorney or Authorized Signer and disbursements incurred in closing your practice, you may want to consider purchasing an insurance policy naming the estate as beneficiary and specify in your will that the proceeds from the policy be used for this purpose.

OTHER STEPS

There are a number of other steps that you can take while you are in practice to make the closing of your office smooth, timely and cost efficient in the event of disability, incapacity, retirement or death. These steps include:

- Making sure that your office procedures manual explains or your staff or your Assisting Attorney how to produce a list of client names and addresses for open files;
- Keeping a calendaring system with all deadlines and follow-up dates;
- Thoroughly documenting client files including contact information;
- Keeping your time and billing records up-to-date;
- Familiarizing your Assisting Attorney and Authorized Signer with your office systems;
- Reviewing and updating on a regular basis your written agreement with your Assisting Attorney;
- Periodically purging old and closed files;
- Periodically communicating with clients for whom wills or other original documents are held by your firm to confirm that contact information and addresses are up-to-date and documents are still relevant.

If your office is organized and in good order, your designated Assisting Attorney or Authorized Signer will be able to manage, close or wind down your law practice in a timely and cost efficient manner. It also will make your law office a more valuable asset which may be sold and the proceeds remitted to you or your estate.

SPECIAL CONSIDERATIONS IN THE EVENT OF DEATH

Whether or not you have an Advance Exit Plan, it is critical that you have a current will so that management and closure of your law practice can be addressed without delay and attendant harm to clients. In the event of your death, your practice will be an asset of your estate. Your personal representative, be it executor or administrator, is the person ultimately responsible for the administration of this asset, including insuring that all obligations to clients are met.

If you have designated an Assisting Attorney or Authorized Signer prior to your death, you should notify your personal representative of the appointment and review your Advance Exit Plan with him or her. This will avoid confusion and enable your personal representative to promptly, upon the award of letters testamentary or administration, authorize your Assisting Attorney or Authorized Signer to embark upon his or her duties. You may wish to include in your will a direction to your executor that authorizes and requests delegation of responsibilities relating to the administration and closing of your practice to your Assisting Attorney and Authorized Signer and refers, specifically, to the Advance Exit Plan, if appropriate.

If you have not designated an Assisting Attorney or Authorized Signer in advance of your death, your executor or the superior court may appoint an attorney to manage and close (or assist in selling) your practice. You may want to include language in your will that provides guidelines to your executor and any attorneys that your executor may retain regarding the management/closing of your practice. For example, you may want to name specific attorneys to take over certain of your files and enumerate powers to close your practice similar to those set forth in an Advance Exit Plan. If your nominated executor is not an attorney, it is important that he or she avoid

inappropriate access to client files and information and rely instead, on an attorney or office staff to attend to these matters.

You also should consider a source of funding to compensate your designated Assisting Attorney, Authorized Signed, office staff, or attorney and staff retained by your executor or administrator who will be working during this transition period. Since your practice may be your only probate asset and your operating account may not have sufficient funds for this purpose, you may want to consider an insurance policy as a source of funding to defray this expense. The beneficiary of the policy could be the estate with specific instructions in your will that proceeds be used for this purpose.

SALE OF A LAW PRACTICE

Your practice also may be an asset that can be sold to benefit you and/or your family or estate if you are no longer able to practice. Taking the appropriate steps as outlined above will not only protect your clients, but also may be necessary to preserve the value of your practice so that it may be transferred to another attorney or firm. Included in these materials are guidelines for the transfer of a practice, detailed suggestions for structuring such a sale, and a sample agreement and forms that would be relevant if your practice is sold.

WHAT IF?

ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT CLOSING A LAW PRACTICE ON A TEMPORARY OR PERMANENT BASIS

If you are planning to close your office or if you are considering helping a friend or colleague close his or her practice, there are numerous issues to resolve. How you structure your agreement will determine what the Assisting Attorney or Authorized Signer must do if either of them finds (1) errors in the files, such as missed time limitations, (2) errors in the Planning Attorney's trust account, or (3) defalcations of client funds.

Discussing these issues at the beginning of the relationship with your friend or colleague will help to avoid misunderstandings later when the Assisting Attorney or Authorized Signer interacts with the Planning Attorney's former clients. If these issues are not discussed, the Planning Attorney and the Assisting Attorney or Authorized Signer may be surprised to find that the Assisting Attorney (1) has an obligation to inform the Planning Attorney's clients about a potential malpractice claim or (2) that the Assisting Attorney may be required to report the Planning Attorney to the Grievance Committee.

The best way to avoid these problems is for the Planning Attorney and the Assisting Attorney or Authorized Signer to have a written agreement, and, when applicable, for the Assisting Attorney or Authorized Signer to have a written agreement with the Planning Attorney's former clients. If there is no written agreement clarifying the obligations and relationships, an Assisting Attorney may find that the Planning Attorney believes that the Assisting Attorney is representing the Planning Attorney's interests. At the same time, the former clients of the Planning Attorney may also believe that the Assisting Attorney is representing their interests. It is important to keep in mind that an attorney-client relationship can be established by the reasonable belief of a would-be client.

This section reviews some of these issues and the various arrangements that the Planning Attorney and the Assisting Attorney can make. All of these frequently asked questions, except #9, are presented as if the Assisting Attorney is posing the questions.

1. Must I notify the former clients of the Planning Attorney if I discover a potential malpractice claim against the Planning Attorney?

The answer is largely determined by the agreement that you have with the Planning Attorney and the Planning Attorney's former clients. If you do not have an attorney-client relationship with the Planning Attorney, and you are the new lawyer for the Planning Attorney's former clients, you must inform your client (the Planning Attorney's former client) of the error, and advise him or her to submit a claim to the professional malpractice insurance carrier of the Planning Attorney, unless the scope of your representation of the client excludes actions against the Planning Attorney. If you want to limit the scope of your representation, do so in writing and advise your clients to get independent advice on the issues.

If you are the Planning Attorney's lawyer, and not the lawyer for his or her former clients, you should discuss the error with the Planning Attorney and review the obligation to inform the client and the Planning Attorney's malpractice insurance carrier of the error. If you are the attorney for the Planning Attorney, you would not be obligated to inform the Planning Attorney's client of the error. You would, however, want to be careful not to make any misrepresentations. [For

example, if the Planning Attorney had previously told the client a complaint had been filed, and the complaint had not been filed, you should not say or do anything that would lead the client to believe the complaint had been filed. In any case, you should notify the Planning Attorney's malpractice insurance carrier as soon as you become aware of any error or omission that may be a potential malpractice claim in order to prevent denial of coverage under the policy due to the "late notice" provision.

If you are the Planning Attorney's lawyer, an alternative arrangement that you can make with the Planning Attorney is to agree that you may inform the Planning Attorney's former clients of any malpractice errors. This would not be permission to represent the former clients on malpractice actions against the Planning Attorney. It would authorize you to inform the Planning Attorney's former clients that a potential error exists and that they should seek independent counsel.

2. I know sensitive information about the Planning Attorney. The Planning Attorney's former client is asking questions. What information can I give the Planning Attorney's former client?

Again, the answer is based on your relationship with the Planning Attorney and the Planning Attorney's clients. If you are the Planning Attorney's lawyer, you would be limited to disclosing any information that the Planning Attorney wished you to disclose. You would, however, want to make clear to the Planning Attorney's clients that you do not represent them and that they should seek independent counsel. If the Planning Attorney suffered from a condition of a sensitive nature and did not want you to disclose this information to the client, you could not do so.

3. Since the Planning Attorney is no longer practicing law, does the Planning Attorney have malpractice coverage?

This depends on the type of coverage the Planning Attorney had. Most malpractice policies include a short automatic extended reporting period of 60 or 90 days, which provides the opportunity to report known or potential malpractice claims when a policy ends and will not be renewed. In addition, most malpractice policies provide options to purchase an extended reporting period endorsement for longer periods of time. These extended reporting period endorsements do not provide ongoing coverage for new errors, but they do provide the opportunity to lock in coverage under the expiring policy for errors that surface after the end of the policy, but within the extended reporting endorsement timeframe. Consideration should be given to how funding the payment of such an endorsement will be achieved, as the premiums often are a multiple of the last year's premium.

4. What protection will I have under the Planning Attorney's malpractice insurance coverage, if I participate in the closing or sale of the office?

You must check the definition of "Insured" in the malpractice policy. Most policies define "Insured" as both the firm and the individual lawyers employed by or affiliated with the firm. This typically is broadened to include past employees and "of counsel" attorneys. In addition, most lawyers' professional liability policies specifically provide coverage for the "estate, heirs, executors, trustees in bankruptcy and legal representatives" of the Insured, as additional insureds under the policy. Check with the Planning Attorney's insurance agent and make sure that any endorsement necessary to include you on the coverage is done in a timely fashion.

5. In addition to transferring files and helping to close the Planning Attorney's practice, I want to represent the Planning Attorney's former clients. Am I permitted to do so?

Whether you are permitted to represent the former clients of the Planning Attorney depends on (1) if the clients want you to represent them and (2) whom else you represent.

If you are representing the Planning Attorney, you are unable to represent the Planning Attorney's former clients on any matter against the Planning Attorney. This would include representing the Planning Attorney's former client on a malpractice claim, ethics complaint, or fee claim against the Planning Attorney. If you do not represent the Planning Attorney, you are limited by conflicts arising from your other cases and clients. You must check your client list for possible client conflicts before undergoing representation or reviewing confidential information of a former client of the Planning Attorney.

Even if a conflict check reveals that you are permitted to represent the client, you may prefer to refer the case. A referral is advisable if the matter is outside your area of expertise, or if you do not have adequate time or staff to handle the case. In addition, if the Planning Attorney is a friend, bringing a legal malpractice claim or fee claim against him or her may make you vulnerable to the allegation that you didn't zealously advocate on behalf of your new client. To avoid this potential exposure, you might provide the client with names of other attorneys, or refer the client to a lawyer referral service.

6. What procedures should I follow for distributing the funds that are in the Planning Attorney's escrow account?

If your review of the Planning Attorney's escrow account indicates that there may be conflicting claims to the funds in the account, you should initiate a procedure for distributing the existing funds, such as an interpleader. If proceedings have been instituted pursuant to Practice Book 2-56 et seq., you might file a motion with the court asking for advice. You may also get advice from the Office of the Chief Disciplinary Counsel which assists trustees and others in the management of attorneys' matters when they have died or become disabled.

7. If there was a serious ethical violation, must I tell the Planning Attorney's former clients or the Grievance Committee?

The answer depends on the circumstances.

If you are the Planning Attorney's lawyer, you are not obligated to inform the Planning Attorney's former clients or the Grievance Committee of any ethics violations. (See Rule 8.3 (c).) Although you may have no duty to report, you may have other responsibilities. For example, if you discover that some of the client funds are not in the Planning Attorney's escrow account as they should be, you, as the attorney for the Planning Attorney, should discuss this matter with the Planning Attorney, and encourage the Planning Attorney to correct the shortfall. If the Planning Attorney does not correct the shortfall, and you believe the Planning Attorney's conduct violates the disciplinary rules, you should resign.

If you are the attorney for the Planning Attorney, and the Planning Attorney is deceased, you should contact the personal representative of the estate. If the Planning Attorney is alive but unable to function, you may have to disburse what you can, and inform the Planning Attorney's former clients that they have the right to seek legal advice.

If you are the Planning Attorney's lawyer, you should make certain that former clients of the Planning Attorney do not perceive you as their attorney. This may include informing them in writing that you do not represent them.

If you are not the attorney for the Planning Attorney, and you are not representing any of the former clients of the Planning Attorney, you may still have a fiduciary obligation (as an authorized signer on the escrow account) to notify the clients of the shortfall, and you may have an obligation under Rule 8.3 to report the Planning Attorney to the Grievance Committee. You should also report any notice of a potential claim to the Planning Attorney's malpractice insurance carrier in order to preserve coverage under the Planning Attorney's malpractice insurance policy.

If you are the attorney for a former client of the Planning Attorney, you have an obligation to inform the client about the shortfall and advise the client of available remedies such as pursuing the Planning Attorney for the shortfall, filing a claim with the Client Security Fund or the malpractice insurance carrier and filing an ethics complaint with the Grievance Committee.

If you are a friend of the Planning Attorney, this is a particularly important issue. You should determine ahead of time whether you are prepared to assume the obligation to inform the Planning Attorney's former clients or the Grievance Committee of the Planning Attorney's ethical errors. If you do not want to inform your clients about possible ethics violations, you must explain to your clients (the former clients of Planning Attorney) that you are not providing the clients with any advice on ethics violations of the Planning Attorney. You should advise the client, in writing, to seek independent representation on these issues. Limiting the scope of your representation, however, does not eliminate your duty to report pursuant to Rule 8.3.

As a general rule, whether you have an obligation to disclose a mistake to a client will depend on the nature of the Planning Attorney's possible error or omission, whether it is possible to correct it in the pending proceeding, the extent of the harm from the possible error or omission, and the likelihood that the Planning Attorney's conduct would be deemed unreasonable and therefore give rise to a malpractice claim. Ordinarily, since lawyers have an obligation to keep their clients informed and to provide information that their clients need to make decisions relating to the representation, you would have an obligation to disclose to the client the possibility that the Planning Attorney has made a significant error or omission.

8. If the Planning Attorney stole client funds, do I have exposure to an ethics complaint against me?

You do not have exposure to an ethics complaint for stealing the money, unless in some way you aided or abetted the Planning Attorney in the unethical conduct. Whether you have an obligation to inform the Planning Attorney's former clients of the defalcation depends on your relationship with the Planning Attorney and with the Planning Attorney's former clients.

If you are the new attorney for a former client of the Planning Attorney, and you fail to advise the client of the Planning Attorney's ethical violations, you may be exposed to the allegation that you have violated your ethical responsibilities to your new client.

9. What are the pros and cons of allowing someone to have access to my escrow account? How do I make arrangements to give my Assisting Attorney or Authorized Signer access?

The most important reason for authorizing someone to sign on your trust account is the convenience it provides for your clients. If you suddenly become unavailable or unable to continue your practice, an Assisting Attorney or Authorized Signer is able to transfer money from your trust account to pay appropriate fees, disbursements and costs, to provide your clients with settlement checks, and to refund unearned fees. If these arrangements are not made, the clients' money must remain in the trust account, until a court allows access. This court order may be through a trustee proceeding, or an order for a court-directed interpleader. This delay may leave your clients at a disadvantage, since settlement funds, or unearned fees held in trust, may be needed by them to hire a new lawyer.

On the other hand, a serious risk of authorizing access is your inability to control the person who has been granted access. Since serving as an authorized signer gives the Assisting Attorney or Authorized Signer the ability to write trust account checks, withdraw funds, or close the account, he or she can do so at any time, even if you are not disabled, incapacitated, or for some other reason unable to conduct your business affairs, or dead. It is very important to carefully choose the person you authorize as a signer, and when possible, to continue monitoring your accounts.

If you decide to allow your Assisting Attorney or Authorized Signer to be an authorized signer, you must decide if you want to give that person (A) access only during a specific time period or when a specific event occurs (e.g., incapacity) or (B) access all of the time.

10. The Planning Attorney wants me to both be her Assisting Attorney and her Authorized Signer. Am I permitted to do both if I am the attorney for the Planning Attorney?

Not if there is a conflict of interest. As an Authorized Signer on the Planning Attorney's clients' funds account, you would have a duty to properly account for the funds belonging to the former clients of the Planning Attorney. This duty could conflict with your duty to the Planning Attorney if (A) you were hired to represent him or her on issues related to the closure of his or her law practice and (B) there were defalcations in the escrow account. Because of this potential conflict, it is probably best to choose to be an authorized signer or to represent the Planning Attorney on issues related to the closure of his or her practice, but not both.

**CHECKLIST FOR LAWYERS PLANNING TO PROTECT
CLIENTS' INTERESTS IN THE EVENT OF THE LAWYER'S DISABILITY,
IMPAIRMENT, INCAPACITY OR DEATH**

1. Consider using retainer agreements with your clients that state that you have arranged for an Assisting Attorney to manage or close your practice in the event of your death, disability, impairment or incapacity, and identifying such attorney.
2. Have a thorough and up-to-date office procedure manual that includes information on:
 - a. How to check for conflicts of interest;
 - b. How to use the calendaring system;
 - c. How to generate a list of active client files, including client names, addresses, and phone numbers;
 - d. Where client ledgers are kept;
 - e. How the open/active files are organized;
 - f. How the closed files are organized and assigned numbers;
 - g. Where the closed files are kept and how to access them;
 - h. The office policy on keeping original documents of clients;
 - i. Where original client documents are kept;
 - j. Where the safe deposit box is located and how to access it;
 - k. The bank name, address, account signers, and account numbers for all law office bank accounts;
 - l. The location of all law office bank account records (trust and general);
 - m. Where to find, or who knows about, the computer passwords;
 - n. How to access your voice mail (or answering machine) and the access code numbers; and
 - o. Business and personal insurance policies with contact information for brokers and insurance companies.
3. Make sure all of your file deadlines (including follow-up deadlines) are on your calendaring system.
4. Document your files.
5. Keep your time and billing records up-to-date.
6. Have a written agreement and/or power of attorney with an attorney who will manage or close your practice (the "Assisting Attorney") that outlines the responsibilities delegated to the Assisting Attorney who will be managing or closing your practice. Include a procedure to enable your Assisting Attorney to determine whether your incapacity renders you unable to practice law, and complete, in advance, a medical release and authorization form as required by HIPAA permitting disclosure of medical information to assist in this determination. Determine whether the Assisting Attorney also will be your personal attorney. Choose an Assisting Attorney who is sensitive to conflict of interest issues.
7. If your written agreement authorizes the Assisting Attorney to sign trust or general account checks, follow the procedures required by your local bank. Alternatively, you may select a different person to handle the financial aspects of closing or transitioning our office, called an Authorized Signer. Decide whether you want to authorize access at all times, at specific

times, or only upon the happening of a specific event. In some instances, you and the Assisting Attorney will be required to sign bank forms authorizing the Assisting Attorney or Authorized Signer to have access to your trust or general account. Choose your Assisting Attorney or Authorized Signer wisely for he or she may have access to your clients' funds.

8. Familiarize your Assisting Attorney or Authorized Signer with your office systems and keep him or her apprised of office changes.
9. Introduce your Assisting Attorney or Authorized Signer to your office staff. Make certain your staff knows where you keep the written agreement with your Assisting Attorney and how to contact the Assisting Attorney if an emergency occurs before or after office hours. If you practice without a regular staff, make sure your Assisting Attorney knows whom to contact (the landlord, for example) to gain access to your office.
10. Inform your spouse or closest living relative and your named executor of the existence of this agreement and how to contact the Assisting Attorney or Authorized Signer.
11. Renew your written agreement with your Assisting Attorney or Authorized Signer each year. If you include the name of your Assisting Attorney in your retainer agreement, make sure the information concerning that attorney is current.

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 matters. The letter should explain how and where they can pick up copies of their files and should give a deadline for doing so.
3. For cases that have pending court dates, depositions or hearings, discuss with affected clients how to proceed. Where appropriate, request extensions, continuances and the rescheduling of hearing dates. Send written confirmations of these extensions, continuances and rescheduled dates to opposing counsel and to your client.
4. For cases before administrative bodies and courts, obtain clients' permission to submit motions and orders to withdraw as counsel of record.
5. In cases where the client is obtaining a new attorney, be certain that an appearance in lieu of yours is filed.
6. Select an appropriate date and check to see if all matters have a motion and order allowing your withdrawal as counsel of record or an appearance in lieu has been filed with the court.
7. Make copies of files for clients. Retain your original files (except, in the case of original documents such as deeds, retain a copy and provide the client with the original). All clients should either pick up copies of their files (and sign a receipt acknowledging that they have received them) or sign an authorization for you to release copies of their files to their new attorneys.
8. Write to all clients for whom you have retained original wills or other papers, advising them that you are closing your office and request that they pick up their original materials. Ask them to sign a receipt and maintain a record of all documents that are retrieved.
9. Tell all clients where their closed files will be stored and whom they should contact in order to retrieve them. Obtain all clients' permission to destroy their files after seven years. If a closed file is to be stored by another attorney, obtain the client's permission to allow the attorney to store the file for you and provide the client with the attorney's name, address, and phone number.
10. If you have sold your practice, tell your clients the name, address, and phone number of the purchasing attorney.
11. If you are a sole practitioner, arrange to have your calls forwarded to you or another person who can assist your clients. 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.

CHECKLIST FOR CLOSING ANOTHER ATTORNEY'S OFFICE

If you are handling the closing or sale of another attorney's practice, the following checklist will be of assistance to you and your staff. The reason that the attorney is closing his or her practice will also affect how you make these decisions. For example, if the attorney is disabled or dead, you may need to make decisions without the attorney's assistance. To the extent that the terminating attorney or his or her staff is available, you should make every effort to use that assistance.

You should review Practice Book 2-64 and consider whether you should seek to be appointed as Trustee for the attorney. This will give you the assistance of the Disciplinary Counsel's office and will allow you to submit expenses to the Judicial Branch for reimbursement. Disciplinary Counsel also has a handbook for court-appointed trustees which will assist you in your duties.

Costs involved in taking over the responsibility for another attorney's practice can be substantial. Be prepared and be careful about who is responsible for these expenses.

The term "Affected Attorney" refers to the attorney whose office is being closed or sold. "Assisting Attorney" refers to the attorney who is handling the closing or sale of another attorney's practice. "Acquiring Attorney" refers to one who is purchasing another attorney's practice.

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

If possible, discuss with the Affected Attorney the status of open files – what has been completed, what has not, what has been billed, etc.

If a sale of the practice is being contemplated or pursued, whether by the Affected Attorney or the estate, review and understand Rule 1.17 which deals with the sale of a law practice. .

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

Consider consulting other lawyers if you do not have the expertise in one or more of the areas in which the Affected Attorney practiced.

Consider the overhead costs involved in purchasing a practice or closing a practice.

3. Contact courts and opposing counsel about files that require immediate discovery or court appearances. Reschedule hearings or obtain extensions where necessary. Confirm extensions and reschedulings 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. In cases where the client is obtaining a new attorney, be certain that an appearance in lieu is filed.
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. Send clients who have active files a letter explaining that the law office is being closed, instructing them to retain a new attorney and/or to pick up the open file.
9. Provide clients with a date by which they should pick up copies of their files.
10. Inform clients that new counsel should be chosen immediately.
11. If you, as Assisting Attorney, will represent the Affected Attorney's clients, or if you are buying the practice, consider whether the fee policy will be the same as the Affected Attorney's policy. For example, if hourly rates are used, and if so, are they similar? Are set fees used, and are they similar? Have retainers historically been used, and are the policies and retainer requirements of the purchasing attorney the same? A new fee letter should be sent in all matters. If the matter is a contingency fee case, the fee letter must comply with Rule 1.5 and the statute.

In open estate files, are your practices consistent with the Affected Attorney's practices with respect to what is covered on a quoted fee? For example, is a fee for probate limited to just the probate of the will or does it cover estate tax return preparation, will contests, etc. Carefully review retainer letters and send modifications if necessary. An attorney may have varied from normal and usual fee arrangements. Make sure you know what you are agreeing to before stating that you are honoring "all" the arrangements with all the clients.

If the Affected Attorney is available and willing, he or she should introduce you to non-lawyer staff members, and referral sources such as insurance agents, bankers, realtors, and accountants with whom the Affected Attorney worked. If the Affected Attorney is not available or willing to assist in this capacity, you should make these contacts immediately, not only for purposes of preserving client relations, but also to determine the location of clients, history of clients, etc. Many clients work with a team of advisors and, with the client's consent, you should have discussions with each of these other professionals. Clients may be looking to these other advisors for recommendations for new counsel.

9. Make sure that all court cases have either a motion and order allowing withdrawal of the Affected Attorney or an appearance in lieu filed with the court.
10. Make copies of files for clients. Retain the Affected Attorney's original file. All clients should either pick up a copy of their file (and sign a receipt acknowledging that they received it) or sign an authorization for you to release a copy to a new attorney. If the client is picking up a copy of the file and there are original documents in it that the client needs (such as a title abstract to property), return the original documents to the client and keep copies for the Affected Attorney's file. Determine who or what entity is responsible for storing the Affected Attorney's files and records. Return original wills and other documents or property to clients.

Make contact with firms or practices with which the Affected Attorney was associated to determine what, if any, files remain with those practices. This will save the acquiring attorney a significant amount of time "searching" for files demanded by clients for past

representation by the Affected Attorney. Also, determine who will bear the cost and the responsibility for acquiring or copying those files: Is it the Assisting Attorney, the Affected Attorney or the court or other agency that has taken over the primary responsibility for the Affected Attorney's practice?

Consider file storage: The older the practice, the more time and expense will be involved in file review and management.

Determine whether "closed" files contain valuable documents such as wills, agreements, etc. Practices differ: one attorney's "closed" files may be considered another attorney's "open and continuing" files. For example, an attorney may habitually notify clients following every service that the representation has ceased, and that the file is closed. Others may never take this step and always assume that the client may be coming back for further representation.

When returning files, make sure that you are returning files to the proper "client." If a husband and wife have a will file from years ago, and the wife responds to your client inquiry letter by asking for the file, do you send back both wills? We advise not. What if there has been a divorce, or there is presently a dispute between the husband and wife? The same rule applies with corporations, shareholders, partners, etc. Obtain consent from all that are involved. Look for court or disciplinary committee guidance where appropriate.

Review the content of files before returning them to clients who have requested them; decide whether you need to retain a copy of all or some portion of the file, in relation to any potential liability you might face for having been responsible at some point for the file. Consider retaining documents for the benefit of the Affected Attorney so that her or his estate could defend any claims against them? Proceed with caution.

11. Advise all clients where their closed files will be stored, and who they should contact in order to retrieve a closed file. Again, carefully address the issue of file storage costs with all parties.
12. To locate clients for whom there is no current address, contact the postal service, referral sources of the Affected Attorney, and clients in the same geographic area. Consider publication to advertise that the firm has closed – be careful about any specific comments concerning Affected Attorney's actions that led to closing of the office.
13. If the attorney whose practice is being closed was a sole practitioner, 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.
14. Make arrangements through the executor or through the Affected Attorney to obtain reporting endorsement coverage on professional liability insurance for continuing malpractice insurance.
15. Obtain written instructions from clients concerning any funds in their trust accounts. Contact other signatories on the IOLTA account. Comply with Rule 1.15 in all respects.
16. Determine responsibility for the IOLA and other attorney escrow accounts immediately. Your rights and obligations as the Acquiring Attorney must be known — potential liability is significant.
17. Prepare a final billing statement showing any outstanding fees due, and/or any money in trust. Remit money received from clients for services rendered by the Affected Attorney to

the Affected Attorney or his/her estate. Remember, in many cases, the client has an entirely different understanding of what the billing arrangement is than the Affected Attorney. Be prepared for the time and expense of discussing and negotiating fee arrangements with clients. Immediately notify, and schedule a meeting with the Affected Attorney's accountant to obtain a full understanding of the financial reporting policy of the Affected Attorney. If the Affected Attorney did his or her own accounting and tax preparation, the Assisting Attorney's accountant should be given immediate access to books and records to determine tax and financial liabilities of the Affected Attorney.

18. If authorized, pay business expenses and liquidate or sell the practice. If the Affected Attorney is deceased, work with his/her executor in taking care of these matters.
19. Review and analyze technology systems for compatibility with Acquiring Attorney's systems. Because of the constant change in technology, the Affected Attorney or his/her staff should participate in transferring over not only current technology in use but also provide access to systems that have historically been used by the attorney but which are not current. A significant amount of client information exists in the old files and systems. Obtain passwords. Review "vendor" relationships with the Affected Attorney's vendors. Were prepayments made for services, products that are not going to be used? Are there outstanding bills for storage of files, stationery, supplies, etc. that must be paid, and if so, who is responsible?
20. Review business insurance policies. When are renewal policies due? Which policies can be renewed and which can be cancelled, and by what date? Some policies may be cancelled mid-term and a pro-rata premium refund may be available, depending on the type of coverage. Also, if a Business Overhead Expense (BOE) policy is in place, and if the Affected Attorney suffered a period of covered disability prior to the office closing, benefits may be available for some office expense.

AGREEMENT TO CLOSE LAW PRACTICE IN THE FUTURE

This Agreement is entered into this ___ day of _____, 200__, by and between _____ (“Planning Attorney”), an attorney licensed in the State of Connecticut and whose office for the practice of law is located at _____ and _____ (“Assisting Attorney”), an individual admitted and licensed to practice as an attorney in Connecticut and whose office for the practice of law is located at _____.

RECITALS

WHEREAS, Planning Attorney is a sole practitioner engaged in the practice of law; and

WHEREAS, Planning Attorney recognizes the importance of protecting the interests of his clients in the event that he is unable to practice law by reason of his death, disability, incapacity or other inability to act; and

WHEREAS, Planning Attorney wishes to plan for the orderly Assisting of his law practice if he is unable to practice law for the above stated reasons; and

WHEREAS, Planning Attorney has requested Assisting Attorney to act as his agent to take all necessary actions to close Planning Attorney’s practice and Assisting Attorney has consented to this appointment; and

WHEREAS, Planning Attorney and Assisting Attorney are entering into this Agreement to define their rights and obligations in connection with the Assisting of Planning Attorney’s practice.

1. **Effective Date.** This Agreement shall become effective only upon Planning Attorney’s death, disability, incapacity or other inability to act, as established by paragraph 2. The appointment and authority of Assisting Attorney shall remain in full force and effect as long as it is necessary or convenient to carry out the terms of this Agreement, or unless sooner terminated under paragraphs 8 or 9.

2. **Determination of Death, Disability, Incapacity.** Assisting Attorney shall make the determination that Planning Attorney is dead, disabled, incapacitated or otherwise unable to practice law, and if disabled or incapacitated, that such disability or incapacity is permanent in nature or likely to continue indefinitely. Assisting Attorney shall base his determination on reliable evidence such as communications with the members of Planning Attorney’s family and written opinions of licensed physicians and other medical professionals who diagnosed or treated Planning Attorney. As part of the process of determining whether the Planning Attorney is disabled, incapacitated, or otherwise unable to continue the practice of law, all individually identifiable health information and medical records may be released to Assisting Attorney, even though the authority of the Assisting Attorney has not yet become effective. This release and authorization applies to any information governed by the Health Insurance Portability and

Accountability Act of 1996 (“HIPAA”) 42 U.S.C. 1320d and 45 C.F.R. 160-164.¹ Assisting Attorney may also consider the opinions of colleagues, employees, friends or other individuals with whom Planning Attorney maintained a continuous and close relationship. Assisting Attorney shall sign an affidavit stating the facts upon which his determination is based, and such affidavit shall, for the purposes of this agreement, be conclusive proof that the Planning Attorney is disabled, incapacitated, or otherwise unable to continue the practice of law.

[or consider having the family or physicians determine incapacity, and including a measurable standard such as a determination by two physicians that Planning Attorney is incapable of conducting law practice by reason of incapacity]

3. General Power and Appointment of Assisting Attorney as Attorney-In-Fact.

Upon the determination that Planning Attorney is unable to continue the practice of law by reason of death, disability, incapacity or other inability to act as provided herein, and is unable to close his own practice, Planning Attorney consents to and authorizes the losing Attorney to take all necessary actions to close Planning Attorney’s law practice. Planning Attorney appoints Assisting Attorney as his attorney-in-fact with full power to do and accomplish all of the actions expressed and implied by this Agreement as fully and completely as Planning Attorney would do personally but for his inability.

4. Specific Powers. Planning Attorney consents to and authorizes the following actions by Assisting Attorney in addition to any other actions Assisting Attorney in his sole discretion deems necessary to carry out the terms of this Agreement.

- a. Access to Planning Attorney’s Office.** To enter Planning Attorney’s office and use his equipment and supplies as needed to close Planning Attorney’s practice.
- b. Designation as Signatory on Financial Accounts.** To replace Planning Attorney as signatory on all of Planning Attorney’s law office accounts with any bank or financial institution, including without limitation, attorney trust, escrow or special accounts, checking accounts, and savings accounts. Planning Attorney’s bank or financial institution may rely on this authorization unless such bank or financial institution has actual knowledge that this Agreement has been terminated or is no longer in effect.
- c. Opening of Mail.** To receive, sign for and open Planning Attorney’s law practice mail and deliveries by courier and to process and respond to them, as necessary.
- g. Possession of Property.** To take possession, custody and control over all of Planning Attorney’s property relating to his law practice, real and personal, including client files and records.
- h. Access to and Inventory/Examination of Files.** To enter any storage location where Planning Attorney maintained his files and to inventory and examine all client case files, including client wills, property and other records of Planning Attorney. If Assisting Attorney identifies a conflict of

¹ To assist in this process, HIPAA compliant medical releases have been executed at the same time this document is signed.

interest with a specific file or client, he shall assign the file to the Successor Assisting Attorney in accordance with paragraph 8(b).

- i. **Notification to Clients.** To notify clients, potential clients and those who appear to be clients, of Planning Attorney's death, disability, incapacity or other inability to act, and to take whatever action Assisting Attorney deems appropriate to protect the interests of the clients, including advising the clients to obtain substitute counsel.
- j. **Transfer of Files.** To safeguard files and arrange for their return to clients; to obtain consent from clients to transfer files to new attorneys, to transfer files and property to clients or their new attorneys; to obtain receipts therefor.
- k. **Storage of Files and Attorney's Records.** To arrange for storage of closed files, unclaimed files, and records that must be preserved for seven years under Rule 1.15.
- l. **Transfer of Original Documents.** To arrange for and transfer to clients all original documents, including wills, trusts and deeds.
- m. **Extensions of Time.** To obtain client's consent for extensions of time, to contact opposing counsel and courts/administrative agencies to obtain extensions of time, and to apply for extensions of time if necessary pending employment of new counsel by clients.
- n. **Litigation.** To file motions, pleadings, appear before court, and take any other necessary steps where the clients' interests must be immediately protected pending retention of other counsel.
- o. **Notification to Court and Others.** To contact all appropriate agencies, courts, adversaries and other attorneys, professional membership organizations such as state or local bar associations, Bar Counsel, Disciplinary Counsel, the Statewide Grievance Committee, the Office of the Chief Court Administrator, and any other individual or organization that may be affected and advise them of Planning Attorney's death or other inability to act and that Planning Attorney has given this authorization to Assisting Attorney.
- p. **Collection of Fees and Return of Client Funds.** To send out invoices for unbilled work by Planning Attorney and outstanding invoices; to prepare an accounting for clients on retainer, including return of client funds; to collect fees and accounts receivables on behalf of Planning Attorney or Planning Attorney's estate; to prepare an accounting of each client's escrow fund and arrange for transfer of escrow funds, including obtaining consent from client to transfer escrow funds and acknowledgment of receipt of escrow funds by new counsel or client.
- q. **Payment of Business Expenses and Creditors.** To pay business expenses such as office rent, rent for any leased equipment, library expenses, salaries to employees or other personnel, to determine the nature and amount of all claims of creditors, including clients, of Planning Attorney and to pay or settle same.
- r. **Personnel.** To continue the employment of Planning Attorney's employees and other personnel to the extent necessary to assist the Assisting Attorney in the performance of his duties, to compensate and to terminate such employees or other personnel; to employ or dismiss agents, accountants, attorneys or others and to compensate them.
- s. **Termination of Obligations.** To terminate or cancel business

obligations of Planning Attorney, including office lease; lease of equipment such as copier, computer, furniture; library, magazine or newspaper subscriptions.

- t. **Insurance.** To purchase, renew, maintain, cancel, make claims against or collect benefits under fire, casualty, professional liability, or other office insurance of Planning Attorney; to notify any professional liability insurance carriers of Planning Attorney's death, disability, incapacity or other inability to act; to cooperate with such insurance carriers regarding matters related to Planning Attorney's coverage, including addition of Assisting Attorney as an insured under said policy.
- t. **Taxes.** To prepare, execute or file income, information or other tax returns or forms and to act on behalf of Planning Attorney's law practice in dealing with the Internal Revenue Service, any division of the Connecticut State Department of Taxation and Finance, or any office of any other tax department or agency.
- u. **Settlement of Claims.** To settle or compromise, or submit to arbitration or mediation, all debts, taxes, accounts, claims, or disputes between Planning Attorney's law practice and any other person or entity; to commence or defend all actions affecting Planning Attorney's law practice.
- v. **Execution of Instruments.** To execute, as Planning Attorney's attorney-in-fact, any deed, contract, affidavit or other instrument on behalf of Planning Attorney.
- w. **Attorney as Fiduciary.** To resign any position which Planning Attorney holds as a fiduciary, such as executor or trustee, and to notify other named fiduciary, if any, and beneficiaries of the estate or trust; if the trust or will does not name a successor fiduciary, to apply to the court for appointment of a successor fiduciary; to confer with the personal representative of the Planning Attorney's estate with respect to the obligation of such personal representative to account for the assets of the estate or trust that Planning Attorney was administering.
- x. **Power of Sale and Disposition.** To sell or otherwise arrange for disposition of Planning Attorney's furniture, books, or other personal property located in Planning Attorney's law office.
- y. **Representation of Planning Attorney's Clients.** To provide legal services to Planning Attorney's clients, provided that Assisting Attorney has no conflict of interest, obtains the consent of Planning Attorney's clients, and does not engage in conduct that violates Disciplinary Rule 2-103 of the Code of Professional Responsibility. If Planning Attorney's clients engage Assisting Attorney to perform legal services, Assisting Attorney shall have the right to payment for such services from such clients.
- z. **Access to Safe Deposit Box.** To open Planning Attorney's safe deposit box used for law practice, to inventory same, and to arrange for return of property to clients.

5. **Preservation of Attorney-Client Privilege and Confidences and Secrets of Client.** Assisting shall maintain the confidences and secrets of a client and protect the attorney-client privilege as if the Assisting Attorney represented the clients of Planning Attorney.

6. **Sale of Planning Attorney's Practice.** In the event of Planning Attorney's death, disability, incapacity, or other inability to act, Assisting Attorney shall have the power to sell Planning Attorney's law practice in accordance with Rule 1.17. In the case of the death of the Planning Attorney, the sale shall be approved by the personal representative of the deceased Planning Attorney. Such power shall include, without limitation, the authority to sell all assets of the Planning Attorney's practice such as good will, client files and fixed assets such as furniture and books; to advertise Planning Attorney's law practice; to arrange for appraisals; and to retain professionals such as lawyers and accountants to assist Assisting Attorney in the sale of the practice. Upon the sale of the practice, Assisting Attorney will pay Planning Attorney or Planning Attorney's estate all net proceeds of sale.

[note: in case of death, Planning Attorney should provide in Will that sale of practice is to be handled by Assisting Attorney; alternative would be to specifically authorize Executor to sell the practice in which case this power to Assisting Attorney should be deleted from above provision in the event of sale by reason of death.]

Assisting Attorney shall have the right to purchase, in whole or in part, Planning Attorney's practice, provided that the purchase price is the fair market value as determined by an appraiser and that the terms of the sale are approved by the Executor or Administrator of Planning Attorney's estate or an independent third party (But note potential issues—see DR 5-101 and 5-104).

[note: consider giving Assisting Attorney first option to purchase. Also, terms and conditions of sale to Assisting Attorney may be described in this Agreement or by separate agreement]

7. **Compensation.** Assisting Attorney shall be paid reasonable compensation for the services performed in Assisting the law practice of Planning Attorney. Such compensation shall be based on time and Assisting Attorney agrees to maintain accurate and complete time records for the purposes of determining his compensation. Assisting Attorney's compensation shall be paid from Planning Attorney's law practice *(or from the estate of the deceased Planning Attorney, in which case provision should be made in Planning Attorney's Will for such payment)*.
8. **Resignation of Assisting Attorney and Appointment of Successor Assisting Attorney.**

A. Prior to the effective date of this Agreement, Assisting Attorney may resign at any time by giving written notice to Planning Attorney. After the effective date of this Agreement, Assisting Attorney may resign by giving written notice to Planning Attorney, or if Planning Attorney is deceased, to Planning Attorney's Executor or Administrator, subject to any ethical or professional obligation to continue or complete any matter undertaken by Assisting Attorney.

B. If Assisting Attorney resigns or otherwise is unable to serve, Planning Attorney appoints _____ as Successor Assisting Attorney, and Successor Assisting Attorney consents to this appointment as evidenced by his signature to this Agreement. Successor Assisting Attorney shall have all the rights

and powers, and be subject to all the duties and obligations of Assisting Attorney. During the tenure of Assisting Attorney, Successor Assisting Attorney shall review and take any necessary action with respect to those client files of Planning Attorney in which Assisting Attorney identifies a conflict of interest.

C. Assisting Attorney shall not be required to post any bond or other security to act in their capacity.

9. Liability and Indemnification of Assisting Attorney. Assisting Attorney shall not be liable to Planning Attorney or Planning Attorney's estate for any act or failure to act in the performance of his duties hereunder, except for willful misconduct or gross negligence. Planning Attorney agrees to indemnify and hold harmless Assisting Party from any claims, loss or damage arising out of any act or omission by Assisting Attorney under this Agreement, except for liability or expense arising from Assisting Attorney's willful misconduct. This indemnification does not extend to any acts, errors or omissions of Assisting Attorney while rendering or failing to render professional services as attorney for former clients of Planning Attorney.

10. Revocation, Amendment and Termination.

- a. Prior to the effective date of this Agreement, Planning Attorney may at any time remove the Assisting Attorney, or revoke, amend or alter this Agreement by written instrument delivered to Assisting Attorney and Successor Assisting Attorney, provided that any amendment or modification to Assisting Attorney's obligations hereunder and to his rate of compensation shall require Assisting Attorney's written consent.
- b. This Agreement shall terminate upon (i) prior to the effective date of this Agreement, delivery of written notice of termination by Planning Attorney to Assisting Attorney and Successor Assisting Attorney; and (ii) after the effective date of this Agreement, delivery of a written notice of termination to Assisting Attorney by the Executor or Administrator of Planning Attorney's estate upon a showing of good cause, by a conservator of the property of Planning Attorney appointed by a court of competent jurisdiction or of a trustee appointed pursuant to Practice Book 2-64.

11. Miscellaneous.

- a. This Agreement shall be governed and interpreted in all respects by the laws of the State of Connecticut.
- b. Whenever necessary or appropriate for the interpretation of his Agreement, the gender herein shall be deemed to include the other gender and the use of either the singular or the plural shall be deemed to include the other.
- c. The paragraph headings are for convenience only and are not to be relied upon for interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day

and year first above written.

_____ Planning Attorney

_____ Assisting Attorney

_____ Successor Assisting Attorney

**AUTHORIZATION AND CONSENT TO CLOSE OFFICE
(Short Form)**

This Authorization and Consent is entered into between _____, and
_____.

I, _____, a sole practitioner who engages in the practice of law at offices located at _____ (“Planning Attorney”) authorizes _____ who engages in the practice of law and has an office located at _____ (“Assisting Attorney”) to take all actions necessary to close my law practice upon my death, disability, impairment, or incapacity.

These actions include but are not limited to:

- Entering my office and utilizing my equipment and supplies as needed to close my practice;
- Opening and processing my mail;
- Taking possession and control of all property comprising my law office, including client files and records;
- Examining files and records of my law practice and obtaining information about any pending matters that may require attention, except for those files in which Closing Attorney has a conflict of interest;
- Notifying clients, potential clients, and others who appear to be clients that I have given this authorization and that it is in their best interest to obtain other legal counsel;
- Copying my files;
- Obtaining client consent to transfer files and client property to new attorneys;
- Transferring client files and property to clients or their new attorneys;
- Obtaining client consent to obtain extensions of time and contacting opposing counsel and courts/administrative agencies to obtain extensions of time;
- Applying for extensions of time pending employment of other counsel by my clients;
- Filing notices, motions, and pleadings on behalf of my clients where their interests must be immediately protected and other legal counsel has not yet been retained;
- Contacting all appropriate persons, entities and professional organizations that may be affected and informing them that I have given this authorization;
- Signing checks on my trust account and providing an accounting to my clients of funds in trust; and
- Contacting my professional liability carrier concerning claims and potential claims.

My bank or financial institution may rely on the authorizations in this Agreement unless such bank or financial institution has actual knowledge that this Agreement has been

terminated or is no longer in effect.

For the purpose of this consent, death, disability, impairment, or incapacity shall be determined by evidence the Assisting Attorney deems reasonably reliable, including but not limited to communications with my family, other representatives or a written opinion of one or more duly licensed physicians. Upon such evidence, the Assisting Attorney is relieved from any responsibility or liability for acting in good faith in carrying out the provisions of this Authorization and Consent.

The Assisting Attorney agrees to preserve client confidences and secrets and the attorney-client privilege of my clients and to make disclosure only to the extent reasonably necessary to carry out the purpose of this consent. The Assisting Attorney is appointed as my agent for purposes of preserving my clients' confidences and secrets, the attorney-client privilege, and the work product privilege. This authorization does not waive any attorney-client privilege.

I appoint the Assisting Attorney as signator, or in substitution of my signature, on my lawyer trust account(s) upon my death, disability, impairment, or incapacity.

I understand that the Assisting Attorney will not process, pay, or in any other way be responsible for payment of my personal or business bills.

I agree to indemnify the Assisting Attorney against any claims, loss, or damage arising out of any act or omission by Assisting Attorney under this Agreement, provided the actions or omissions of the Closing Attorney were in good faith and in a manner reasonably believed to be in my best interest. The Assisting Attorney shall be responsible for all acts and omissions of willful misconduct.

The Assisting Attorney shall be paid reasonable compensation for services rendered in closing my law office.

The Assisting Attorney may revoke this acceptance at any time prior to my death or disability, and after such time, Assisting Attorney has the power to appoint a new Assisting Attorney to serve in the Assisting Attorney's place. If the Assisting Attorney revokes this acceptance, the Assisting Attorney must promptly notify me in writing.

Prior to my death or disability, I may revoke this Authorization and Consent by written notification to Assisting Attorney.

Date

Planning Attorney

Date

Assisting Attorney

**LETTER FROM CLOSING OR CARETAKER ATTORNEY ADVISING
THAT LAWYER IS UNABLE TO CONTINUE IN PRACTICE**

Re: [Name of Case]

Dear [Name]:

Due to _____ (reason for ill health),
[Affected Attorney] is no longer able to continue in the practice of law. You will need, therefore, to retain the services of another attorney to represent you in your legal matter(s), and I recommend you do so immediately so that your legal interests may be protected. I will assist [Affected Attorney] in closing [his/her] practice.

You will need [a copy/copies] of your file(s). Accordingly, I enclose a written authorization for your file(s) to be released directly to your new attorney. You or your new attorney may forward this authorization to us and we will release your file(s) as instructed. If you prefer, you may come to [address of office or location for file pick-up] and pick [it/them] up so that you may deliver [it/them] to your new attorney. In either case it is imperative that you act promptly, and in no case later than [provide date] so that all of your legal rights may be preserved.

Your closed file(s) if any, will be stored at [location]. If you need a closed file, you may contact me at the following address and phone number until [date]:

[Name] [Address] [Phone]

After that time, you may contact [Attorney in charge of closed files] for your closed file(s) at the following address and phone number:

[Name] [Address] [Phone]

You will shortly receive a final accounting from [Affected Attorney], which will include any outstanding balance(s) you owe [him/her], and an accounting of any funds in your client trust account.

On behalf of [Affected Attorney], I would like to thank you for affording [him/her] the opportunity to provide you with legal services. If you have any additional concerns or questions, please feel free to contact me.

Thank you.

Sincerely,

**LETTER FROM PLANNING ATTORNEY ADVISING THAT LAWYER IS
CLOSING HIS/HER OFFICE**

Re: [Name of Case] Dear

[Name]:

Please be advised that as of [date], I will be closing my law practice due to [provide reason, if possible]. I will be unable, therefore, to continue to represent you in your legal matter(s). I recommend that you immediately retain new counsel to handle your matter(s). You may 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 to the extent that I can.

When you select your new attorney, please provide me with written authority to transfer your file(s) to [him/her]. If you prefer, you may come to our office and pick up [a copy/copies] of your file(s), and deliver [it/them] to your new attorney. In either case, it is imperative that you obtain a new attorney as soon as possible, and in no case later than [date], so that your legal rights may be preserved. *[Insert appropriate language regarding time limitations or other critical time lines of which the client should be aware.]*

I [or: insert name of the attorney who will store files] will continue to store my copy of your closed file(s) for seven years. After that time, I [or, insert name of other attorney if relevant] may destroy my [copy/copies] unless you notify me forthwith in writing 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/copies] of your closed file(s), please let me know immediately and I will make alternative arrangements.]

If you or your new attorney need [a copy/copies] of your closed file(s), please feel free to contact me.

Within the next [fill in number] weeks I will provide you with a full accounting of your funds in my trust account, if any, and of 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 may reach me at the

following phone number and address:

[Name]

[Address]

[Phone]

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

Thank you.

LETTER FROM FIRM OFFERING TO CONTINUE REPRESENTATION

Re: [Name of Case]

Dear [Name]:

Due to _____ (reason for ill health)

[*Affected Attorney*] is no longer able to continue representing you in your legal matter(s). A member of this firm, [name], is available to continue handling your matter(s) if you wish. You have the right, however, to select any attorney of your choice to represent you.

If you wish our firm to continue handling your matter(s), please sign the authorization at the end of this letter and return it to us.

If you wish to retain another attorney, however, please provide us with written authority to release your file(s) directly to [him/her]. If you prefer, you may come to our office and pick up [a copy/copies] of your file(s) and deliver [it/them] to your new attorney. We have enclosed these authorizations for your convenience.

Since time deadlines may be involved in your case, it is imperative that you act immediately. Please provide a written authorization for us either to represent you or to transfer your file(s) by [date].

I wish to make this transition as easy as possible. Please feel free to contact me with any questions you may have.

Thank you.

Enclosures

I want a member of the firm of [insert law firm's name] to handle my matter(s) in place of [*insert Affected Attorney's name*]

[Client]

**LIMITED POWER OF ATTORNEY TO MANAGE LAW PRACTICE
AT A FUTURE DATE**

I, (name of principal), residing at _____, an attorney licensed and in good standing to practice law in the State of Connecticut, with offices located at _____, do hereby appoint _____ (name of Agent), residing at _____, an attorney licensed and in good standing to practice law in the State of Connecticut, with offices located at _____, as my agent and attorney-in-fact to act for me, in my name and in my behalf as hereinafter provided. This limited power of attorney shall become and remain effective, however, only upon and during a period of my incapacity by reason of my disappearance, disability, or other inability to act which renders me incapable of conducting my law practice in a competent manner. Such determination of incapacity shall be made by me or written certification by:

(i) _____ a physician duly licensed to practice medicine who has treated me within one year preceding the date of such certification [*or consider two physicians*],

OR

(ii) _____ my Agent, who shall base his findings on reliable sources, including one or more members of my immediate family, a written opinion of one or more licensed physicians who diagnosed or treated me within one year preceding the date of my incapacity, my law firm colleagues and/or my office staff with whom I maintained a close and continuous relationship during the period immediately preceding my incapacity,

OR

(iii) _____ [name and address of other person(s) and statement of conditions, if any.]

As part of the process of determining whether I lack decision-making capacity, all individually identifiable health information and medical records may be released to my Agent even though such representative's appointment has not yet become effective [*or, if the principal/ attorney has selected a person other than the Agent to make the determination of incapacity, insert such other person's name*]. This release and authorization applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d and 45 C.F.R. § 160-164.

I hereby appoint my Agent, for the sole and limited purpose and in my name and stead, of conducting all matters and managing all property, whether real or personal, that are related to or associated with my law practice in any way wherein I myself might act if I personally were present and to the extent that I am permitted by law to act through such an agent. These powers shall include, but shall not be limited to, the following:

a. Access to my Office. To enter my office, take possession, custody and control of all my office property, real and personal, including client files, office equipment, supplies, and records and to use such property to manage and/or close my law practice;

b. Designation as Signatory on Financial Accounts. To replace me as signatory on all my law office accounts with any bank or financial institution, including without limitation attorney trust, escrow or special accounts and checking or savings accounts, and my banks or financial institutions may rely upon this authorization unless they have or acquire actual knowledge that this instrument has been revoked or is no longer in effect;

c. Opening of Mail. To receive, sign for and open my law practice mail and deliveries whether by courier or otherwise, and to process and respond to them as appropriate;

d. Access To and Inventory/Examination of Files. To enter any storage location where I maintain my files (whether in my office or off site); to inventory and examine all my client case files, property and records and, should (s)he identify a conflict of interest with a specific file or client, to assign such file upon client consent to my successor Agent named herein or to such other attorney as my Agent may deem appropriate;

e. Notification to Clients. To notify my clients, potential clients and those who appear to be my clients, of my disability, incapacity or other inability to act, and to take whatever action (s)he may deem appropriate to protect the interests of such persons and entities, including advising them to obtain substitute counsel;

f. Transfer of Files. To safeguard and return my clients' files upon request or as otherwise may be appropriate, or in the alternative to obtain consent from them to transfer their files to new counsel, all upon the acquisition of receipts therefore;

g. Storage of Files and Attorney's records. To arrange for the storage of such of my closed and unclaimed files and records as must be preserved for seven years pursuant to the provisions of Disciplinary Rule 9-102(d) of The Lawyer's Code of Professional Responsibility;

h. Transfer of Property and Original Documents. To transfer to my clients where appropriate, or to their designees, all their property and original documents, including wills, trusts and deeds;

i. Access to Safe Deposit Box. To open my safe deposit box used for my law practice and located at, to inventory same, and to arrange for return of property to clients.

k. Notification to Courts and Others. To advise all appropriate

courts, agencies, opposing and other counsel, professional membership organizations such as the Connecticut State Bar Association or local bar associations, the Office of Court Administration, and other appropriate individuals or entities, of my inability to act and of my Agent's authority to act in my behalf;

l. Extensions of Time. To obtain consent from my clients for extensions of time, to contact opposing counsel and courts/administrative agencies to obtain extensions of time, and to apply for such extensions if necessary pending my clients' retention of new counsel;

m. Litigation. To file pleadings, motions and other documents, to appear before courts, administrative offices and agencies, and to take any and all other steps necessary to protect my clients' interests until their retention of other counsel;

n. Collection of Fees and Return of Client Funds. To dispatch invoices for my unbilled work; to collect fees and accounts receivable on my behalf; to prepare accountings for clients on retainer; to return client funds where appropriate; to prepare an accounting of each of my client's escrow funds and arrange for transfer of escrow funds, including the obtaining of consent from my clients to the transfer of such funds to new counsel or to my clients as appropriate;

o. Payment of Business Expenses and Creditors. To pay my business expenses, including office rent, rent for any leased equipment, library expenses, salaries to employees or other personnel; to determine the nature and amount of all claims of creditors, including my clients; and to pay or settle all such claims or accounts;

p. Personnel. To continue to employ such of my office staff as may be necessary to assist my Agent in the performance of his duties and to compensate them therefore; to terminate such employees or other personnel; and to employ such assistants, agents, accountants, attorneys or others as may be appropriate;

q. Termination of Obligations. To terminate or cancel my business obligations, including office and equipment leases, subscriptions and otherwise;

r. Insurance. To purchase, renew, maintain, cancel, make claims against or collect benefits under fire, casualty, professional liability insurance, or my other office insurance; to notify as appropriate all professional liability insurance carriers of my disability, incapacity or other inability to act; and to cooperate with such insurance carriers regarding matters related to my coverage, including the addition of my Agent as an insured under any such policies;

s. Taxes. To prepare, execute and file income, information or other tax returns, reports or other forms and to act on my behalf in dealing with the Internal Revenue Service, the Connecticut State Department of Taxation and

Finance, or any other federal, state and local tax departments, agencies or authorities;

t. Disposition of Debts and Claims. To prosecute, settle, defend, compromise, or submit to arbitration or mediation all debts, taxes, accounts, claims, or disputes involving my law practice and any other person or entity;

u. Attorney as Fiduciary. To resign any position which I hold as a fiduciary and to notify all other affected fiduciaries and beneficiaries thereof, and wherever appropriate to apply to any court of competent jurisdiction for the appointment of a successor fiduciary; and to account for the assets, income and disbursements attendant upon each such resigned fiduciary appointment;

v. Power of Sale and Disposition. To sell or otherwise arrange for the sale or other disposition of my office furniture, books or other office property.

w. Representation of my Clients. To provide legal services to my clients, provided that my agent has no conflict of interest, obtains the consent of my clients, and does not engage in conduct that violates Disciplinary Rule 2-103 of The Lawyer's Code of Professional Responsibility. If my clients engage my Agent to perform legal services, my Agent shall have the right to payment for such services from such clients.

I hereby reserve the right to revoke this Limited Power of Attorney by written instrument, which shall not affect the validity of any actions taken by my Agent prior to such revocation.

To induce third parties to act hereunder, I hereby agree that any such third party receiving a duly executed original copy of this instrument, or a copy certified in such manner as to make it viable and effective as provided by law, may act hereunder, and that the revocation or termination of this instrument shall be ineffective as to any such third party unless and until such third party's knowledge or receipt of notice of such revocation or termination, and I, for myself, my heirs, executors, administrators, legal representatives, successors and assigns hereby agree to indemnify and hold harmless any such third party against any claim(s) that may arise against such third party by reason of his or her having so relied upon the provisions of this instrument.

If _____ (name of Agent) is unable or unwilling to serve as my Agent hereunder, or no longer practices law, I hereby appoint _____, an attorney licensed and in good standing to practice law in the State of Connecticut, residing at _____, and with offices located at _____, to be my Agent for the limited purposes set forth herein,

This Limited Power of Attorney shall not be affected by my subsequent disability or incapacity, and shall be governed in all respects by the laws of the State of Connecticut.

GENERAL MEDICAL RECORDS RELEASE AND AUTHORIZATION FOR USE OR
DISCLOSURE OF PROTECTED HEALTH INFORMATION

PATIENT NAME: _____

ADDRESS: _____

SOCIAL SECURITY NUMBER: _____

I AUTHORIZE THE CUSTODIAN OF THE RECORDS TO DISCLOSE/RELEASE THE FOLLOWING INFORMATION _____ [ALL MEDICAL RECORDS, INCLUDING MENTAL HEALTH, SUBSTANCE ABUSE AND HIV/AIDS RECORDS] OR [A SUBSET OF RECORDS]. THESE RECORDS ARE FOR SERVICES RENDERED [IN THE LAST TWO YEARS] OR _____.

PLEASE SEND THE RECORDS LISTED ABOVE TO [AGENT]

NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

THE INFORMATION MAY BE USED/DISCLOSED TO ASSIST IN THE DETERMINATION OF MY MENTAL OR PHYSICAL CAPACITY TO PRACTICE LAW.

THE AUTHORIZATION EXPIRES ONE (1) YEAR FROM THE DATE IT IS PRESENTED TO THE CUSTODIAN OF RECORDS.

I UNDERSTAND THAT AFTER THE CUSTODIAN OF RECORDS DISCLOSES MY HEALTH INFORMATION, IT MAY NO LONGER BE PROTECTED BY FEDERAL PRIVACY LAWS. BY SIGNING BELOW I REPRESENT AND WARRANT THAT I HAVE AUTHORITY TO SIGN THIS DOCUMENT AND AUTHORIZE THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION AND THAT THERE ARE NO CLAIMS OR ORDERS PENDING OR IN EFFECT THAT WOULD PROHIBIT, LIMIT OR OTHERWISE RESTRICT MY ABILITY TO AUTHORIZE THE USE OR DISCLOSURE OF THIS PROTECTED HEALTH INFORMATION.

SIGNATURE OF PATIENT

DATE

**WAIVER OF NOTICE OF SPECIAL JOINT MEETING OF
THE SOLE SHAREHOLDER AND SOLE DIRECTOR OF
[NAME OF CORPORATION]**

The undersigned, being the sole Shareholder and sole member of the Board of Directors of [NAME OF CORPORATION], a Connecticut professional corporation, does hereby waive notice of the time, place and purpose of the special joint meeting of the sole Shareholder and sole member of the Board of Directors of said corporation, and does hereby consent that the same be held at the office of the Corporation, [CITY], Connecticut , on [DATE OF MEETING], at [TIME], for the following purposes:

1. To appoint an agent to act on behalf of the Corporation in the event of the death, disability or incapacity of the sole Shareholder of the Corporation; and
2. For the transaction of such other business as may properly come before the meeting.

SHAREHOLDER:

DIRECTOR:

**MINUTES OF THE SPECIAL JOINT MEETING OF
THE SOLE SHAREHOLDER AND SOLE DIRECTOR OF
[NAME OF CORPORATION]**

MINUTES OF THE SPECIAL JOINT MEETING OF THE SOLE SHAREHOLDER AND SOLE DIRECTOR of [NAME OF CORPORATION], a Connecticut professional corporation, held at [CITY], Connecticut, on [DATE OF MEETING], at [TIME].

The following was present, being the sole Shareholder and sole member of the Board of Directors of the Corporation:

The meeting was called to order and _____
acted as Chair and as Secretary of the meeting.

The Chair then stated that a quorum was present and the meeting was ready to transact business.

The Secretary presented to the meeting a written Waiver of Notice signed by the sole Shareholder and sole Director of this Corporation. The Chair directed that such Waiver be affixed to the minutes of this meeting.

The Chair stated that in the event the sole shareholder of the Corporation is no longer able to practice law, whether on a permanent or a temporary basis, it is important to have a designee who could act in the capacity of the sole Shareholder. He noted as a corporation, the sole Shareholder and Director could appoint a licensed attorney who would act in the position of President of this Corporation until such time as the practice of the Corporation is sold or in the case of temporary incapacity, the sole Shareholder is able to return to practice. He recommended that _____ be appointed to this position in such an event.

The Chairman further stated that this individual would be appointed to act on behalf of the Corporation and to perform any and all duties, take any and all actions and to execute any and all documents necessary in the event the sole Shareholder of the Corporation can no longer perform the day-to-day operations of the Corporation due to death, disability or incapacity. After thorough discussion, upon motion duly made, seconded and unanimously adopted, it was

RESOLVED,

That _____ is hereby appointed as an agent of _____ the Corporation to act on behalf of the Corporation and to perform any and all duties, to take any and all actions and to execute any and all documents and agreements necessary which are associated with the maintenance of the Corporation's practice of law or the sale, winding-up, liquidation and/or dissolution of the Corporation in the event

of the death, disability or incapacity of the sole Shareholder of the Corporation, and it was

FURTHER RESOLVED, that this Corporation be authorized and directed to enter into any Agreements and the officers of this Corporation are directed and authorized to execute and deliver any documentation that may be necessary to effectuate the foregoing resolution, and it was

FURTHER RESOLVED, that the Secretary of this Corporation be directed to append to the minutes of this meeting and to include in the records of the Corporation any and all agreements and documentation to which the Corporation is a party that evidence the appointment of in the capacity set forth in the foregoing resolutions.

There being no further business to come before the meeting, it was, upon motion duly made, seconded and unanimously adopted, adjourned.

Secretary

CHECKLIST FOR THE EXECUTOR OF A SOLO PRACTITIONER

Plan Ahead. A practice and its value can quickly disappear without proper administration at the time of death. In addition there can be significant liability for the estate if the practice is not properly taken care of in such a time of crisis. If a solo practitioner has requested that you act as the executor or trustee for his or her estate, you should address all of these items with the attorney during the estate planning stages. None of these matters should be left until the time of death to address. What follows is a form to give to your executor for use if you pass away before you wind up your practice.

If you have been appointed as the Executor of the estate of an attorney who is practicing as a solo practitioner at the time of his or her death, it is important to quickly address many issues that are unique to the deceased practitioner's practice. This is especially true if the death of the solo practitioner was sudden and unexpected.

A solo practitioner's practice is unique in that it cannot continue to operate during the administration of an estate without a licensed and qualified attorney in place to take care of client matters. **Therefore, the very first thing that should be done is to retain legal counsel immediately. You must under no circumstances review the files yourself since to do so might violate attorney-client confidentiality.**

If a solo practitioner has died, his or her clients for whom services were being performed at the time of death must be advised immediately. In addition, steps must be taken to insure that those clients are properly advised as to the status of their matter and how they may retain substitute counsel. This must be done in a manner that will preserve the attorney client confidentiality that existed between the attorney and the client. This checklist is intended to address those matters that are unique to being the executor of an attorney's estate. It is not, however, an exhaustive list of all matters that are to be handled by an executor of an estate. The estate's legal counsel should be consulted to insure that your duties are properly carried out during the administration of the estate.

As stated below, all of these issues should be addressed while the attorney is alive and well. Many matters involving an attorney's practice are time sensitive and if not handled properly in the event of death, the estate may find itself faced with unnecessary liability. Hopefully, this checklist can act as a planning tool as well as a tool to be used in a time of crisis upon an attorney's death.

1. Retain legal counsel immediately. Legal counsel should be retained immediately to review the open matters that were being handled by the deceased attorney. If the attorney has designated an attorney to handle the closing of his or her

office that attorney should be contacted immediately. The attorney's will should be reviewed to determine if there was a specific attorney designated. If not in the will, it is possible that someone working with the attorney as an employee may have that information.

A designated attorney can insure that attorney-client confidentiality is maintained for the protection of the client. Hopefully, he or she has also had conversations with the attorney so that they are aware of what needs to be done with respect to closing or transferring the practice.

2. Work with staff. If the attorney had a secretary or assistants working with him or her at the time of death, contact them and determine what emergencies must be attended to and what needs to be done to begin the closing process.

If possible, retain and compensate staff during the closing phase of the practice. In many cases, staff members have a relationship with the clients of the practice and a great deal of knowledge that will be helpful to you as executor and to any attorney designated or appointed.

3. Preservation of the practice. Although the attorney has died, it may be important to the attorney's estate and his or her family to ensure that the value of the practice is maintained in order to allow the estate to sell the practice to another attorney or law firm, if that is a viable option. If an Assisting Attorney has been designated as described above, he or she may be the intended transferee. Consult with legal counsel for the estate to be certain that the proper steps are being taken to maintain the value of the practice within the estate.

4. Contact accountant. Contact the deceased attorney's accountant immediately to insure that work in process is properly billed, that receivables are collected and that all financial matters involving the practice are properly taken care of as soon as possible. All trust accounts should be carefully reviewed by estate counsel and the accountant for the firm to ensure that funds are properly handled during the administration of the estate.

5. Office matters. Contact the landlord and, if necessary, arrange for the assignment of the lease to the Assisting Attorney or firm, the termination of the lease or the subletting of the lease to another party.

Contact all vendors and stop services as soon as possible. This would include publishers who are providing services to the attorney's library. Cancel all subscriptions. Contact law schools, libraries or colleges to determine whether they would be interested in purchasing or receiving a donation of the library (if it is not to be transferred to another attorney).

Contact equipment leasing companies (including vehicle leasing companies) as soon as possible. In some cases, vehicle lease arrangements, among others will provide for

a termination of the lease in the event of death. This should be investigated. If leases cannot be terminated without penalty, subleasing should be considered. Otherwise, it will be necessary to set aside enough funds in order to pay the leasing fees for the duration of the lease terms.

Notify utility companies of the change in the customer. During the administration of the estate, it may be necessary to have the estate as the customer.

Contact the Connecticut Judicial Branch, Office of Bar Counsel at 860-568-5157 and the Office of Disciplinary Counsel at 860-706-5055 and report the death of the lawyer. You may also wish to contact all associations with which the attorney had memberships and terminate the memberships. This would include the Connecticut, American and any local or specialty bar associations. Office staff should be helpful in determining what memberships are in effect.

Continue malpractice insurance if necessary. Most policies will provide that the insured must be insured at the time a claim is made against the attorney. Therefore, obtain "Reporting Endorsement Coverage" which will provide protection to the attorney's estate until all applicable statutes of limitations expire. The carrier may provide such coverage at no cost in the event of death. This should be determined immediately.

6. The Advisory Team. There will, of course, be many matters that must be handled during the administration of an estate. The items listed above are only a few of the many matters that must be addressed. However, a solo practitioner's practice is unique in that it cannot continue to operate during the administration of an estate without a licensed and qualified attorney in place to take care of clients' matters. Because it may not be possible for someone to immediately step in and take over a practice, it is extremely important that a team of qualified advisors be quickly assembled to insure that the practice and its clients are protected.

SPECIAL PROVISIONS FOR ATTORNEY'S WILL

INSTRUCTIONS REGARDING MY LAW PRACTICE

I currently practice law as a solo practitioner. In order to provide a smooth transition for my clients and to assist my family, I am providing these guidelines to my Executor and any attorney(s) representing my Executor.

If my practice can be sold to a competent lawyer, I authorize my Executor to make such sale for such price and upon such terms as my Executor may negotiate, subject, however, to compliance with Connecticut's Rules of Professional Conduct and other applicable provisions of law. If such sale is possible, I believe that it will provide maximum benefits for my clients as well as my employees and family. [It is my preference that the practice be sold to my associate, [name], if satisfactory terms can be reached with respect to such a sale; (or It is my wish that my Executor first consider a sale of my practice to my colleague, [name], if satisfactory terms can be reached with respect to such a sale .

Such a sale should include the transfer of all my client files (and his agreement to hold the same or to transfer them to any clients requesting such transfer), as well as all office furnishings and equipment, books, and rights under my office lease and any outstanding contracts with my firm, such as software and publishing companies, equipment leases.

If my practice cannot be sold and I have active client files, I recommend that, subject to consent of my clients, estate planning and probate files be referred to (name); real estate files to (name); corporation, partnership, and limited liability company files to (name); family law matters to (name); and personal injury files to (name).

In either instance, I recognize that my practice has developed because of personal relationships with my clients and that they are free to disregard my suggestions.

Regardless of the method of disposing of my practice, I authorize my Executor to take all actions necessary to close my law practice and dispose of its assets. In doing so and without limiting the foregoing, my Executor may do each of the following:

(a) Engage one or more attorneys to wind up my law practice, make arrangements to complete work on active files and to allocate compensation for past and future services.

(b) Continue employment of staff members to assist in closing my practice and arrange for their payment, and to offer key staff members such incentives as they deem appropriate to continue in such employment for as long as my Executors deem it appropriate.

(c) Request that the attorney(s) engaged to wind up the practice, with

my Executor's assistance, where appropriate:

(d) Enter my office and utilize my equipment and supplies as helpful in closing my practice.

(e) Obtain access to my safe deposit boxes and obtain possession of items belonging to clients.

(f) Take possession and control of all assets of my law practice including client files and records. Open and process my mail.

(g) Examine my calendar, files, and records to obtain information about pending matters that may require attention.

(h) Notify courts agencies, opposing counsel, and other appropriate entities of my death and, with client consent, seek and obtain extensions of time.

(i) Notify clients and those who appear to be clients of my death and that it is in their best interests to obtain other counsel

(j) Obtain client consent to transfer client property and assets to other counsel.

(k) Provide clients with their property and assets and copies of material in their files and return unearned retainers and deposits.

(l) File notices, motions and pleadings on behalf of clients who cannot be contacted prior to immediately required action.

(m) Contact my malpractice carrier concerning claims or potential claims, to notify of my death, and to obtain extended reporting or "tail" coverage.

(n) Dispose of closed and inactive files by delivery to clients, storage, and arranging for destruction, remembering that records of my trust account are to be preserved for at least seven years after my death as required by the Connecticut Lawyer's Code of Professional Responsibility or other provisions of law, and files relating to minors should be kept for five years after the minor's eighteenth birthday.

(o) Send statements for unbilled services and expenses and assist in collecting receivables.

(p) Pay current liabilities and expenses of my practice, terminate leases, and discontinue subscriptions, listing, and memberships.

(q) Determine if I was serving as registered agent for any corporations and, if so, notify the corporation of the need to designate a new registered agent (and perhaps registered address).

(r) Determine if I was serving as an Executor or Trustee of any

estate or trust, or in any other fiduciary capacity and, if so, determine the appropriate parties to be notified of the need, if any, to designate a successor fiduciary; take the steps deemed necessary to obtain discharge of my responsibilities in such fiduciary capacity.

(s) Rent or lease alternative space if a smaller office would serve as well as my present office.

In performing the foregoing, my Executor is to preserve client confidences and secrets and the attorney-client privilege and to make disclosure only to the extent necessary for such purposes. For example: Client files are to be reviewed only by employees of my firm, to whom attorney-client privilege attaches (e.g., my secretary, my paralegal, my associates (if any), or attorneys retained by my Executor to assist him in closing the practice). It is for this reason that I have authorized my Executor to retain the services of these personnel, and to give them sufficient incentives to remain in the employ of the firm through its wind-up.

Though there are special rules permitting disclosure of certain client information in connection with the sale of a practice, my Executor is to abide scrupulously with such rules. My Executor shall rely, without independent investigation, on employees of my firm to (i) supply data concerning the outstanding fees owed by my clients at the time of my death, and the unused retainers paid by clients for which services have not yet been rendered; (ii) to communicate with clients concerning the disposition of their files; and (iii) to review clients' files in response to any inquiries that arise in the course of my estate's administration.

My Executor shall be indemnified against claims of loss or damage arising out of any omission where such acts or omissions were in good faith and reasonable believed to be in the best interest of my estate and were not the result of gross negligence or willful misconduct, or, if my Executor is an attorney licensed to practice in Connecticut, such acts or omissions did not relate to my Executor's representation of clients as an attorney retained by those clients. Any such indemnity shall be satisfied first from assets of my law practice, including my malpractice insurance coverage.

CHECKLIST OF CONCERNS WHEN ASSUMING THE RESPONSIBILITY OF ANOTHER ATTORNEY'S PRACTICE WHETHER RESULTING FROM THE PURCHASE OF THE PRACTICE OR TERMINATION OF THE OTHER ATTORNEY'S PRACTICE

The term "Acquiring Attorney" refers to the attorney purchasing the law practice. "Terminating Attorney" refers to the attorney selling or otherwise terminating the practice.

1. Status of Files. If possible, the Acquiring Attorney and the Terminating Attorney should discuss the status of open files – what has been completed, what has not, what has been billed, etc.
2. Consider the overhead costs involved in acquiring a practice or the responsibility for a practice for an interim period.
3. Where the Acquiring Attorney does not have the expertise in one or more of the areas in which the Terminating Attorney practiced, he should refer such matters to other practitioners.
4. Immediately determine responsibility or the lack of responsibility for the IOLA and attorney escrow accounts. Rights and obligations of the Acquiring Attorney must be known – potential liability is significant.
5. Consider and recognize the personalities and practice habits of the Terminating and Acquiring Attorney. For example, if the Terminating Attorney met with clients in their homes or places of business, or if the staff was actively involved in the Terminating Attorney's client relations, etc., the Acquiring Attorney should consider continuing in this same manner or advising the clients of the Acquiring Attorney's practices.

Consider whether to maintain the same fee policy as the Terminating Attorney. If possible, determine in advance whether hourly rates or set fees will be used, and at what amounts; and, whether to use retainer agreements. Disclosure of these items is required under the disciplinary rules governing the sale of a law practice.

6. If time and the Terminating Attorney's condition allow, that attorney should introduce the Acquiring Attorney to non-lawyer staff members, and referral sources such as insurance agents, bankers, realtors, accountants with whom the Terminating Attorney worked. If the Terminating Attorney is not available to assist in this capacity, the Acquiring Attorney should make immediate contact with those individuals, not only for purposes of preserving client relations, but to determine location of clients, history of clients, etc. Many clients work with a team of advisors and with the client's consent, the Acquiring Attorney should have discussions with each of these other professionals.
7. Review and analyze the Terminating Attorney's technology systems for compatibility with Acquiring Attorney's systems. Because of the constant change in technology, the Terminating Attorney or his or her staff should not only participate in transferring over current technology in use, but also should provide access to systems that historically have been used by the Terminating Attorney but which are not kept current. There is a significant amount of client information in the old files and

systems.

8. If a sale of the practice, whether by the terminating attorney or the estate, Rule 1.17 of the Rules of Professional Conduct must be fully reviewed and understood. There are critical notice and time requirements which must be followed. Note, however, that the commentary to Rule 1.17 acknowledges that a sale of assets by a lawyer or a firm is not a sale of a practice as defined by the Rule. Care and attention should be given as to how the transaction is structured.
9. Immediately notify the Terminating Attorney's accountant and/or bookkeeper and schedule a meeting in order to fully understand the financial reporting policy and habits of the Terminating Attorney. If the Terminating Attorney did his or her own accounting and tax preparation, the Acquiring Attorney's accountant should be given immediate access to those books and records that may be available to determine tax and financial liabilities of the Terminating Attorney and the Acquiring Attorney.
10. Contact firms or practices with which the Terminating Attorney was associated to determine whether any files remain with those practices. This will save the Acquiring Attorney a significant amount of time "searching" for files demanded by clients for past representation by the terminating attorney. Also determine who bears the cost and the responsibility for acquiring or copying those files: the Acquiring Attorney, the Terminating Attorney or the court or other agency that has taken over the primary responsibility for the Terminating Attorney's practice.
11. Consider file storage. The older the practice, the more time and expense will be involved in file review and management.
12. Determine whether "closed" files contain valuable documents such as wills, agreements, etc. Practices differ: one attorney's "closed" files may be considered another attorney's "open and continuing" files. For example, an attorney may habitually notify clients following every service that the representation has ceased and closes a file. Others may never take this step and always assume that the client may be coming back for further representation.
13. In returning files, ensure that you are returning files to the "client." Obtain appropriate consents before returning files to individual spouses.
14. Review "vendor" relationships with the Terminating Attorney's vendors to determine whether prepayments were made for services or products that are not going to be used and whether bills are due for storage of files, stationery, supplies, etc.
15. In open estate files, determine whether the Terminating Attorney's practices are consistent with the acquiring attorney's practices with respect to what services are covered on a quoted fee. For example, is a fee for probate limited to just the probate of the will or does it cover estate tax return preparation, will contests, etc. Carefully review retainer letters and send modifications if necessary. Arrangements differ. As the Acquiring Attorney, make sure you know what you are agreeing to before stating that you are honoring "all" the fee arrangements with all the clients.
16. Review accounts receivable when you are purchasing an attorney's practice. You may need to take steps with clients who have a poor payment history.

17. Consider referring a client to another attorney. Know your limitations, both with time and expertise. You need not assume all clients as an Acquiring Attorney.
18. When returning files to clients who have requested them, make a decision as to what you are returning. Will it be everything in the file? Are you responsible for anything in the file for which you will want to retain copies for your own liability protection? Are there documents that should be retained for the benefit of the terminating attorney so that he or his estate could defend any claims against them? Proceed with caution.
19. Continuing liability insurance. If the attorney has died or has retired from practice, reporting endorsement coverage or "tail coverage" should be obtained. In the event of death, the policy may provide reporting endorsement coverage for a period of time at no additional cost

SAMPLE PURCHASE AND SALE AGREEMENT FOR ASSET OR BUSINESS SALE

[NOTE: THIS IS A SAMPLE AGREEMENT ONLY CONTAINING SOME CLAUSES IDENTIFYING SOME ISSUES THAT MAY BE USED IN A PURCHASE/SALE AGREEMENT. IT IS FOR ILLUSTRATIVE PURPOSES ONLY. CONSULT COMPETENT COUNSEL WHEN DRAFTING SUCH AN AGREEMENT.]

THIS AGREEMENT is entered into as of the ___ day of [date], by and between _____, (“Seller”) and _____ (“Purchaser”), an attorney licensed

WITNESSETH:

WHEREAS, Seller is an attorney [is the attorney in fact for an attorney/is the executor or administrator of the estate of [name] a deceased attorney] and:

WHEREAS, at the time of _____’s death, had in his possession and owned certain Assets (as defined below) which assets are now in the possession of Seller; and

WHEREAS, Seller desires to sell the Assets and Purchaser desires to purchase the
Assets.

NOW, THEREFORE, in consideration of the mutual promises and premises contained herein, the sum of One Dollar (\$1.00), each to the other paid in hand, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Sale of [Assets/Business]. In accordance with the terms and conditions contained herein, Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, all of the Seller’s clients records and files pertaining to [name]’s client files and matters as such records and files were utilized by[name]in the operation of his practice of law (“Business”).

Notwithstanding the foregoing, Purchaser shall have the right to reject any client file which would result in a conflict of interest to Purchaser or for any other reason as determined by Purchaser. In the event Purchaser elects to reject or decline any client matter or file, Purchaser will use its reasonable best efforts

to assist the client in engaging substitute legal counsel.

2. Definitions. Whenever used in this Agreement:

(a) "Assets" shall mean those assets of the utilized in the operation of his business and in [name]'s possession or under [name]'s control on the date of his death, as specifically set forth on Exhibit _____, attached hereto and made a part hereof, including but not limited to Seller's client records (in paper and electronic formats), telephone numbers and goodwill.

(b) "Closing Date" means the execution date of this Agreement.

(c) "Closing Place" shall be at the offices of Seller, in [city], Connecticut, or such other place as the parties may mutually agree.

(d) "Liabilities" shall mean all liabilities of Seller, including but not limited to, any liabilities to employees of any nature, accounts payable, payroll taxes, promissory notes or liabilities for taxes based on income, sales, use, employment or otherwise.

3. Purchase Price and Allocation.

(a) Purchase Price. The purchase price for the [business/assets] to be purchased hereunder shall be _____ and 00/100 Dollars (\$ _____) ("Purchase Price").

(b) Allocation. The Purchase Price shall be allocated among the Assets in accordance with Exhibit _____. Seller and Purchaser jointly shall complete and separately file Form 8594 with their respective federal income tax returns for the tax year in which the Closing Date occurs in accordance with such allocation and the IRS guidelines, and neither Seller nor Purchaser shall, without the written consent of the other, take a position on any tax return or before any governmental agency charged with the collection of any such tax, or in judicial proceeding, that is in any manner inconsistent with the terms of such allocation.

4. Method of Payment. Upon execution of this Agreement, the Purchase Price shall be paid in thirty-six (36) equal monthly installments commencing on the _____ (____) day of _____ 201__ of _____ and 00/100 Dollars (\$ _____) each and a final payment on the ____ (____) day of _____ 201__ of _____ and 00/100 Dollars (\$ _____) pursuant to the terms and conditions of a promissory note, attached hereto as **Exhibit** _____, and made a part hereof (the "Note"). Interest on the outstanding balance shall be computed at the rate of _____ percent (____%) per annum. An amortization schedule shall be attached as a Schedule to the Note.

5. Exclusion of Seller's Other Assets. Purchaser is not acquiring any right, title or interest in or to the following:

(a) Seller's cash or cash equivalents;

(b) Any personal belongings of Seller;

- (c) Seller's Accounts Receivable; and
- (d) Seller's office equipment and office supplies.

6. Accounts Receivable. Purchaser shall not purchase, and Seller shall not sell, any right, title, or interest in Seller's accounts receivable ("Accounts Receivable"). Seller shall continue to collect his outstanding Accounts Receivable after the Closing. If, at any time after the Closing Date, Purchaser shall collect or receive any monies, in any manner whatsoever, in payment of any of Seller's Accounts Receivable, Purchaser shall immediately forward such amount(s) to Seller at no cost to Seller.

7. Assumption of Liabilities. Purchaser shall not assume any Liabilities of Seller whether firm or contingent, known or unknown. In addition to the foregoing, Purchaser [shall/shall not] assume Seller's IOLTA accounts. Seller was signatory on one or more accounts containing clients funds for the benefit of Seller's clients, as such account, client sub-accounts and a general ledger of such are set forth on Exhibit _____, attached hereto and made a part hereof. Exhibit _____ shall be certified by Seller as to the correctness thereof. Purchaser shall use its reasonable best efforts to comply with the provisions of Rule 1.15 of the Rules of Professional Conduct pertaining to the designation of successor signatories with respect to Seller's IOLTA funds provided, however, that Purchaser shall not assume or be liable for any inaccuracies or liability with respect to such accounts. Seller will indemnify and hold Purchaser harmless for any and all liability, cause of action or loss with respect to such IOLTA account.

8. Transfer of Client Records. At Closing, Seller shall deliver to Purchaser his files and records (including but not limited to all electronic records related to such files) relating to all clients included on Exhibit _____ for which Seller has provided services. Exhibit _____ shall include a list of all client names and all addresses of such clients. Seller and Purchaser shall comply with Rule 1.17, Rule 1.15 and any and all other applicable Rules of Professional Conduct pertaining to the sale of a law practice in all respects, including the written notice to each of Seller's clients. Seller will cooperate with Purchaser and assist Purchaser with obtaining any client consents that may be required in order to transfer any client property to Purchaser.

9. Delivery of Documents.

(a) At the Closing, Seller shall deliver to Purchaser the following:

- (i) a bill of sale and an assignment which effectively transfer, assign and convey to Purchaser good and marketable title to all of the Assets free and clear of all mortgages, pledges, liens, security interests, restrictions, or other encumbrances;
- (ii) all Assets subject to the terms of this Agreement; and
- (iii) all other documents, instruments or writings required to be delivered to Purchaser at or prior to the Closing pursuant to this Agreement and such other certificates of authority and documents as Purchaser may reasonably request.

(b) At the Closing, Purchaser shall deliver to Seller the following:

- (i) the Promissory Note;
- (ii) cash or a certified check for sales tax pursuant to this Agreement;
- (iii) all other documents, instruments or writings required to be delivered to Seller at or prior to the Closing pursuant to this Agreement and such other certificates of authority and documents as Seller may reasonably request.

10. Seller's Representations and Warranties. Seller makes the following representations and warranties to Purchaser, each of which is true and correct on the date hereof, shall remain true and correct to and including the Closing Date, shall be unaffected by any investigation heretofore or hereafter made by Purchaser, or any knowledge of Purchaser other than as specifically disclosed in the disclosure schedules delivered to Purchaser at the time of the execution of this Agreement, and shall survive the Closing of the transaction provided for herein.

(a) Authority. This Agreement constitutes a valid and binding agreement of Seller in accordance with its terms and does not require any consent, notification to or other action of any person, entity or governmental agency other than filings with respect to sales and other transfer taxes. Seller has complete power to own and to sell, transfer and deliver all assets to be transferred hereunder and instruments to be executed to vest effectively in Purchaser good and marketable title to the Assets.

(b) Effect of Agreement. The execution, delivery and performance of this Agreement by Seller is not conditioned on or prohibited by, and will not conflict with or result in the breach of the terms, conditions or provisions of, or constitute a default under any law applicable to Seller or any agreement or instrument to which Seller is a party or is otherwise subject.

(c) Licenses and Permits. At the time of [_____]'s death/sale], Seller was in compliance with all permits, licenses, franchises and authorizations necessary for the operation of his law practice (the "Business") as operated and all such permits, licenses, franchises and authorizations were, at the time of's death, valid and in full force and effect. All applications, reports and other disclosures relating to the operation of the Business required by the appropriate governmental bodies have been filed or will have been filed by the Closing in a timely manner.

(d) Assets.

(i) **Schedule _____** hereof contains a complete and accurate list, as of the date hereof, of certain assets owned or leased by Seller which are used or useful in the operation of the Business and which are being purchased by Purchaser.

(ii) On the Closing Date, Seller shall have good and marketable title to all the Assets, free and clear of all mortgages, liens (statutory or

otherwise), security interests, claims, pledges, licenses, equities, options, conditional sales contracts, assessments, levies, easements, covenants, reservations, restrictions, exceptions, limitations, charges, encumbrances or any rights of any third parties of any nature whatsoever (collectively, "Liens").

(iii) All tangible assets constituting Assets hereunder are in good operating condition and repair, free from any defects (except such minor defects as do not interfere with the use thereof in the conduct of the normal operations of Seller), have been maintained consistent with Seller's historical practice and are sufficient to carry on the business of Seller as conducted during the preceding twelve (12) months.

(e) Insurance. All of the Assets used or useful in the operation of the Business which are to be conveyed to Purchaser hereunder and which are of an insurable character are insured above deductible limits by financially sound and reputable insurance companies against loss or damage by fires and other risks to the extent and in the manner customary for such assets. Copies of the pertinent insurance policies have been delivered to Purchaser and are in full force and effect. Seller will maintain such insurance between the date hereof and the Closing Date. There are no pending claims. No notice of cancellation or termination has been received with respect to any such policy.

(f) Litigation. There is as of the date hereof no suit, action or legal administrative arbitration or other proceeding or governmental investigation (including workers' compensation claims) pending or threatened against the Seller, including without limitation, any malpractice suit, action or legal proceeding against Seller.

(g) Taxes. Seller has duly filed with the appropriate federal, state and local governmental agencies all tax returns and reports which are required to be filed by Seller, and has paid in full all taxes (including interest and penalties) owed by Seller arising prior to the Closing Date. Seller is not a party to any pending action or proceeding, nor, to the best knowledge of Seller, is any action or proceeding threatened, by any governmental authority for assessment or collection of taxes, and no claim for assessment or collection of taxes has been asserted against Seller.

(h) Contracts. Each contract, agreement, lease and commitment to which Seller is a party is in full force and effect and constitutes a valid and binding obligation of, and is legally enforceable in accordance with its terms against, the parties thereto. There are no leases that affect any of the Assets.

(i) Financial Statements. Seller has delivered to Purchaser true and complete copies of the income tax returns of Seller relating to the operation of the Business consisting of tax returns as of December 31, of the three (3) most recent years, and the related statements of income and cash flows since such dates (the "Recent Balance Sheet"). All of such financial statements (including all notes and schedules contained therein or annexed thereto) are true, complete and accurate, have been prepared in accordance with Seller's historical practices

applied on a consistent basis, have been prepared in accordance with the books and records of Seller, and fairly present, in accordance with Seller's historical practices, the assets, liabilities and financial position, the results of operations and cash flows of Seller as of the dates and for the years and periods indicated. Seller shall prepare his 2001 Form 1040 Schedule "C" and any interim statements in accordance with his historical practice and shall deliver the same to Purchaser immediately upon completion.

(k) Accounts Payable. There are no accounts payable of the Seller regarding the Business.

(l) Client Relations. There exists no condition or state of facts or circumstances involving the Seller's clients that Seller can reasonably foresee could adversely affect the Business after the Closing Date. To Seller's knowledge, the Business may be maintained after the date hereof in the same manner in all respects (financial and otherwise) as at the time of _____'s death.

(m) Absence of Certain Changes. Since [date], Seller has operated the business in the ordinary course consistent with historical practice.

(n) Absence of Undisclosed Liabilities. Except as and to the extent specifically disclosed in the Recent Balance Sheet, Seller does not have any liabilities relating to the operation of the Business.

(o) General Representation and Warranty. Neither this Agreement nor any other document furnished by Seller in connection with this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements contained herein or therein not misleading in any material respect. There is no fact or circumstance known to Seller which materially adversely affects, or in the future, as now reasonably foreseeable, is likely to materially adversely affect the condition (financial or otherwise), properties, assets, liabilities, business, operations or prospects of the Business which has not been set forth in this Agreement or the schedules hereto.

(a) Disclosure. No representation or warranty by Seller in this Agreement, nor any statement, certificate, schedule, document or exhibit hereto furnished or to be furnished by or on behalf of Seller pursuant to this Agreement or in connection with the transactions contemplated hereby, contains or shall contain any untrue statement of material fact or omits or shall omit a material fact necessary to make the statements contained therein not misleading.

11. Representations, Warranties and Covenants of Purchaser. Purchaser does hereby represent and warrant that:

(a) Organization of Purchaser. Purchaser is duly organized, validly existing, and in good standing under the laws of the State of Connecticut. Purchaser has full power and authority to own its assets and to carry on its business as presently conducted.

(b) Authority to Purchase. Purchaser has all necessary right,

authority and power to execute and deliver this Agreement and to consummate the transaction contemplated hereunder. The execution and delivery of this Agreement and the performance by Purchaser of its obligations hereunder (i) have been duly and validly authorized by the shareholders and directors of Purchaser and no other corporate or other approvals are required and (ii) to Purchaser's knowledge, will not materially violate any provision of law and will not conflict with, result in a breach of any of the terms, conditions or provisions of, or constitute a default (or an event which with the giving of notice or the lapse of time or both would constitute a default) under or pursuant to any corporate charter, bylaw, indenture, note, mortgage, lease, license, permit, agreement or other instrument to which Purchaser is a party. When executed and delivered by Purchaser, this Agreement is a legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms.

(c) Litigation. There is no litigation pending or threatened against Purchaser.

(d) Accuracy of Representations and Warranties on the Closing Date. Each of the representations and warranties set forth in this Paragraph 11 shall be true and correct as of the Closing Date with the same force and effect as though made at and as of the Closing Date.

12. Rights of Indemnification.

(a) Survival of Covenants, Warranties and Representations. All covenants, agreements, representations and warranties of the parties under this Agreement, in any Schedule or certificate or other document delivered pursuant hereto, shall remain effective through and shall survive the Closing Date as provided for herein regardless of any investigation at any time made by or on behalf of Purchaser or of any information Purchaser may have with respect thereof.

(b) Indemnification of Purchaser. Seller shall defend, indemnify and hold Purchaser harmless from and against (1) any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising from or relative to (A) the operation or ownership of the Business or the Assets prior to or on the Closing Date, irrespective of when asserted and (B) a breach of any of Seller's representations, warranties or covenants hereunder, and (2) any and all actions, suits, proceedings, damages, assessments, judgments, costs and expenses (including reasonable attorneys' fees) incident to any of the foregoing.

(c) Indemnification of Seller. Purchaser shall defend, indemnify and hold Seller harmless from and against (1) any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising from or relative to (A) the operation or ownership of the Business or the Assets on and after the Closing Date and (B) a breach of any of Purchaser's representations and warranties hereunder, and (2) any and all actions, suits, proceedings, damages, assessments, judgments, costs and expenses (including reasonable attorneys'

fees) incident to any of the foregoing.

(d) Summary of Obligations. The obligations and rights of the parties under this Paragraph 12 shall survive the Closing Date and shall be binding upon and inure to the benefit of their respective successors and assigns.

13. Additional Agreements of Seller.

(a) Conduct of Business Pending the Closing Date. Seller shall use its best efforts to preserve for Purchaser its present relationships with clients and others having business relationships with Seller that pertain to the Business. Seller will immediately notify Purchaser if there is the loss or expected loss or other disruption of any relationship between Seller and a vendor, customer or employee.

(b) No Material Contracts. Seller shall not enter into any contract or commitment pertaining to the Business, except contracts or commitments which are in the ordinary course of business and consistent with past practice and are not material to the Business (individually or in the aggregate).

(c) Maintenance of Insurance. Seller shall maintain all of the insurance related to the Business and the Assets in effect as of the date hereof and shall procure such additional insurance as shall be reasonably requested by Purchaser.

(d) Maintenance of Property. Seller shall use, operate, maintain and repair all assets of Seller which are defined herein as Assets in a normal business manner.

(e) No Negotiations. Seller shall not directly or indirectly (through a representative or otherwise) solicit or furnish any information to any prospective buyer, commence, or conduct presently ongoing, negotiations or discussions with any other party or enter into any agreement with any other party concerning the sale of the Business or the Assets or any part thereof, and Seller shall immediately advise Purchaser of the receipt of any such acquisition proposal.

(f) Disclosure. Seller shall have a continuing obligation to promptly notify Purchaser in writing with respect to any matter hereafter arising or discovered which, if existing or known at the date of this Agreement, would have been required to be set forth or described in the disclosure schedules, but no such disclosure shall cure any breach of any representation or warranty which is inaccurate. In the event that Seller discovers a breach and notifies Purchaser pursuant to this Paragraph 13(f), Seller shall have three (3) days to cure such breach.

(g) Open Matters. The client files and matters described on a Schedule attached hereto shall be considered ongoing matters for which was providing services at the time of his death. Such matters and the clients (and

client records) for whom such matters were being performed shall be included in the terms of this Agreement. Subject to Purchaser's right to exclude any clients hereunder and the client's right to obtain other counsel, Purchaser agrees to cooperate with Seller and the professional staff of in bringing such matters to a conclusion. Seller and Purchaser shall cooperate in notifying such clients that Seller has transferred his Business to Purchaser and shall advise such clients in the same manner as the notice to be delivered pursuant to Paragraph 21 below. For services rendered for such Open Matters, Purchaser shall charge an hourly rate of _____ and 00/100 Dollars (\$_____.00) for attorney services and _____ and 00/100 Dollars (\$_____.00) for paralegal services. In the event that Seller has been previously paid by such clients, the amount of any services shall be offset against the Purchase Price set forth hereunder. In such an event Purchaser shall provide Seller with an itemization of the services provided, the time incurred on such matters and the cost of such time. In the event such matter shall include additional services outside the scope of the client's agreement with the Seller, the Purchaser shall negotiate a separate fee arrangement with the client.

(h) Seller's Independent Contractor. Except in the case of death or disability, for a period of not less than _____ (_____) months, _____, shall provide services to Purchaser in the same manner and to the same extent as provided to [name] prior to the date of sale [his death], in order to assist Purchaser in the acquisition of assets hereunder and the transition of [name]'s practice to Purchaser. Purchaser shall be responsible for the compensation of _____ during this _____ (____) month period with respect to such services.

14. Conditions Precedent to Purchaser's Obligations. The obligation of Purchaser to consummate the transactions contemplated hereunder is subject to the satisfaction at or prior to the Closing of the following (unless waived in writing by Seller):

(a) Representations, Warranties and Covenants. The representations, warranties and covenants of Seller contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date as though made at and as of the Closing Date, except for changes contemplated by this Agreement.

(b) Performance. Seller shall have complied with all agreements, obligations, covenants and conditions required by this Agreement to be met, performed or complied with by it prior to or at the Closing.

(c) Absence of Litigation. No litigation shall have been commenced or threatened, and no investigation by any government entity shall have been commenced against Purchaser or Seller or any of the affiliates, officers or directors of any of them, with respect to the transactions contemplated hereby.

(d) Satisfactory Due Diligence Review. Purchaser shall have completed by the Closing Date a due diligence review satisfactory to Purchaser with respect to, among other matters, the business, operations, assets, contracts,

legal compliance and future prospects of the Business, all of which shall be confidential and not disclosed to any third party by Purchaser.

15. Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated hereunder are subject to satisfaction at or prior to the Closing of the following (unless waived in writing by Purchaser):

(a) Representations, Warranties and Covenants. The representations, warranties and covenants of Purchaser contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date as though such representations, warranties and covenants were made at and as of such time.

(b) Performance. Purchaser shall in all material respects have complied with all agreements, obligations and conditions required by this Agreement to be met, performed or complied with by it prior to or at the Closing.

(c) Delivery of Purchase Price. Purchaser shall have delivered to Seller the Note.

(d) Litigation. No Litigation shall have been commenced or threatened, and no investigation by any Government Entity shall have been commenced, against Purchaser or Seller with respect to the transactions contemplated hereby; provided that the obligations of Seller shall not be affected unless there is a reasonable likelihood determined by Purchaser that as a result of such action, suit, proceeding or investigation, Seller will be unable to transfer the Assets in accordance with the terms set forth herein.

16. Endorsement Reporting Coverage. Seller agrees to maintain, at its expense, professional liability insurance coverage or reporting endorsement coverage of insurance for the term commencing on the date of Closing and continuing thereafter for a period of time not less than the applicable statute of limitations for any legal services provided by Seller pursuant to Section 214(6) of the Connecticut State Civil Practice Rules and Procedures, prior to or following closing.

17. Expenses. Whether or not the transaction contemplated herein is consummated, each party hereto shall bear all costs and expenses incurred by it in connection with this Agreement and the transactions contemplated hereby.

18. Notices. Any notice or other communication required or permitted hereunder shall be sufficiently given if labeled conspicuously in bold letters "PERSONAL AND CONFIDENTIAL", and mailed personally or sent by registered or certified mail, postage prepaid, or by facsimile transmission or telex immediately confirmed in writing sent by registered mail or certified mail, postage prepaid, addressed, to:

or to such other person or address as shall be furnished in writing by any party to the others prior to the giving of the applicable notice of communication, and such notice or communication shall be deemed to have been given as of the date so delivered or sent.

19. Employees. Purchaser shall not be required to employ any employees of Seller and Seller shall be responsible for the termination of any employees it does not desire to retain following Closing. To the extent Purchaser desires, it shall have the opportunity to interview any of Seller's employees or independent contractors, including _____ for possible employment by Purchaser upon such terms and conditions as Purchaser determines. Such interviews shall take place prior to Closing with the consent of Seller, which shall not be unreasonably withheld.

20. Right of Set-Off. In the event Purchaser suffers any loss for which Seller is obligated to indemnify Purchaser hereunder, and Seller for any reason fails or refuses to pay the same, Purchaser shall have as the means of recovery for any loss (in addition to any other remedies at law or in equity), the right to set-off against any sums due to Seller pursuant to this Agreement. Purchaser's right of set-off shall not be subject to any order of priority, and shall be exercisable in such amounts (not to exceed the amounts of any such loss) and in such manner as Purchaser in its reasonable discretion may determine.

21. Client Letter. Upon execution of this Agreement, Purchaser and Seller, in accordance with Rule 1.17 of the Rules of Professional Conduct shall provide written notice to Seller's clients, in form and substance of **Exhibit _____**, attached hereto and made a part hereof, at Purchaser's expense, of Purchaser's acquisition of Seller's practice of law. Such written notice shall include information regarding:

(a) The client's right to retain other counsel or to take possession of the file;

(b) The fact that the client's consent to the transfer of the client's file or matter to the Purchaser will be presumed if the client does not take any action or otherwise object within ninety (90) days of the sending of the notice, subject to any court rule or statute requiring express approval by the client or a court;

(c) The fact that agreements between the Seller and the Seller's clients as to fees will be honored by the Purchaser;

(d) Proposed fee increases, if any; and

(e) The identity and background of the Purchaser and

Purchaser's employees, including principal office address, bar admissions, number of years in practice in the state, whether Purchaser, or any employee of Purchaser, has ever been disciplined for professional misconduct or convicted of a crime, and whether Purchaser currently intends to re-sell the practice.

22. Entire Agreement. It is understood and agreed that all understandings and agreements heretofore made between the parties hereto are merged in this Agreement which alone fully and completely expresses the agreement between the parties hereto and that this Agreement has been entered after full investigation, neither party relying upon any statement or representation which is not herein contained. This Agreement may not be changed or terminated orally.

23. Governing Law. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Connecticut.

24. Binding Provisions. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, assigns and all other successors-in-interest.

25. Sales Tax. Purchaser shall pay any sales tax due and payable by reason of the consummation of the transaction herein contemplated. Payment for the taxes shall be made by Purchaser to Seller who shall remit such sales tax to the appropriate taxing authority. Purchaser shall indemnify Seller for any and all sales taxes paid by Seller by reason of consummating this transaction.

26. Headings. The paragraph and clause headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

27. Miscellaneous.

(a) Waiver of Conditions. Any party may, at his or its option, waive in writing any or all of the conditions herein contained to which his or its obligations hereunder are subject.

(b) Variation and Amendment. This Agreement may be varied or amended at any time by joint action of the Seller and Purchaser.

(c) Assignment. This Agreement may not be assigned by Seller or Purchaser without the prior written consent of the other party, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have subscribed their names and seals the date and year first above written.

PURCHASER:

SELLER:

JAMES S. BOLAN
BRECHER, WYNER, SIMONS, FOX & BOLAN, LLP
100 Wells Avenue
Newton, Massachusetts
(617) 614-1500 (tel)
(617) 614-1515 (fax)
jbolan@legalpro.com (email)
www.legalpro.com (web site)

Office and Practice Changes Checklist

In General

Review the following documents and items in order to have an “inventory” of matters pending, being handled, assets, liabilities, income and expenses of and within the law firm.

1. Agreement – partnership or other entity – or memorialization of terms of agreement if not formalized previously.
2. List of clients
3. List of A/R’s
4. List of A/P’s
5. Assets
6. Liabilities, including lease obligations
7. Tax returns
8. Checkbooks/Accounts
9. L/C, guarantees
10. Risk of lockout and computer, e-mail access, file access.

Client Matters

Files/ Open matters/Calendar/Coverage

1. Identify all client matters so that open matters can be concluded if possible, assigned to other counsel within the firm or shifted to acceptable new counsel outside of the firm (with any fee sharing arrangements to be determined)

before such referral is made, which arrangements must be in writing and consented to by the client prior to the referral so that confidentiality is preserved and Rule 1.5 relating to sharing of fees is followed).

2. One must take whatever steps are necessary to protect the client's interests until the client has obtained successor counsel if being referred out.
3. If the matter is in suit or pending before a tribunal, the lawyer must seek leave to withdraw per Rule 1.16(c).
4. The lawyer must give written notice to all clients of the lawyer's intentions to withdraw from representing the client. The notice should clearly communicate that the client is entitled to select new counsel and that the client's file will be delivered to successor counsel as the client directs or be made available to the client.
5. Delivery of files. Typically, a notice will inform the client that the files will be available at the lawyer's office or another location where they will be readily available for delivery to clients until they go to offsite storage for a reasonable period of time.
6. Unearned retainers or advances that the client may have paid must be accounted for.
7. Funds held in a clients funds account/conveyancing account/trust account must be delivered to the client or third persons.
8. Funds to which clients are entitled must be paid to them or as they direct.
9. Funds held in escrow or held back at a closing per condition need to be accounted for and a successor escrow agent needs to be agreed upon and the escrow accepted. Escrow participants should be notified. If there is no formal escrow agreement, then a review of all hold-backs and escrow funds should be undertaken so that successor in house or outside counsel and/or escrow agent can track the matter.
10. Missing clients: If clients cannot be located, it may be necessary to pay the money into court on their behalf or to the Commonwealth under the laws of escheat.
11. Records of all of these transactions are required to be maintained for six years after the final distribution and termination of the representation. Rule 1.15(a)
12. Confidentiality must be maintained throughout the process and the clients must bless the communication to a third person. A lawyer whom the departing lawyer engages to assist falls within the privilege. Accordingly,

files may not be delivered to anyone but the client without the client's consent. Thus, without the client's consent to disclose information to prospective new counsel, the departing lawyer cannot provide another lawyer or law firm selected by the departing lawyer with information about the matter or permit access to the file.

13. Contingent work: A revised fee agreement needs to be agreed upon or the departing lawyer and successor counsel need to agree on a division of fees.
14. Notify the Board of Bar Overseers of the lawyer's new address and to request inactive status if the lawyer is leaving the practice of law. See S.J.C. Rule 4:02.

Contracts

1. Fee agreements
2. Leases
3. Revisit Partnership or other entity agreement

Notices

1. Notices that might need to be given:
 - a. Client
 - b. Address change – Post office
 - c. Vendor address changes
 - d. Malpractice Insurance agent and carrier
 - e. BBO
 - f. Mass. Lawyers Weekly “Tombstone”
 - g. Any form of advertisement – seminars, magazines, web, TV, radio, brochures, emails, books, newspapers, Yellow pages, etc.
 - h. Brochure
 - i. Notices to clients, friends family
 - j. Martindale Hubbell
 - k. Lawyers Diary
 - l. MCLE, MBA, MCA, Real Estate Boards and other associations
 - m. SJC notice
 - n. Title Insurance Companies

- o. Court, etc. notices
- p. Opposing counsel notices, if needed
- q. Notices on the door at the end to inform where to contact successor counsel.
- r. Notify Post Office, Fedex, etc.
- s. Email notices.

Office Management; Employment Issues

1. Documents on which there is a name:
 - a. Signs on building, directories
 - b. Letterhead and envelopes
 - c. Business cards
2. Telephone and cell phone numbers and voice mail, including change of message, answering service, ways to reach new counsel, assisting counsel and/or departing counsel during the transition, phone system changes, receptionist, voice mail, call forwarding and other communications issues.
3. Handling mail as a result of the change
4. Alarm System
5. Keys
6. Email changes
7. Web site changes
8. Written instructions to staff
9. Employment/ wage and hour law issues/ termination issues
10. Collect and remove fax cover sheets, letterhead, envelopes and the like
11. Preserve and download computer system and computer files
12. Review Timeslips or other billing system
13. Files and file cabinets

14. Fire proof file cabinet – original documents in safekeeping
15. Safe deposit boxes
16. Wills, Trusts, Other Estate Planning Documents Inventory
17. Storage files; Storage of old paper files; files in storage – transfers
18. Library, internet access
19. Notary stamp
20. Materiale – office supplies
21. Office procedures, for new, other and successor attorneys and staff, as to how to handle the changes
22. Office space, including utilities, vendors, and the like – responsible person for billing and contact.
23. “Control” issues w/in the firm – integration into how are management decisions made, day to day, longer term, authority to act, authority on taking in new matters, hiring and firing issues, work, etc.

Insurance

24. Malpractice insurance and any tails (not needed if predecessor firm maintains its policy and a letter should be sent to them to notify you if they do NOT intend to continue to carry existing coverage.)
 - a. Actual or Potential malpractice claims – list
 - b. BBO claims
 - c. Past claims concluded and insurance experience
25. Title Insurance Policies – check to see if there are any outstanding to be concluded and submitted to carrier.
26. Benefits that need to be added, adjusted, changed
25. Health Insurance
26. Disability insurance

27. Life insurance

Money Issues

1. All bank accounts – authorized signatures, name changes, transfer all CTF, escrow, individual client accounts– reconcile and close after all checks clear. Accounting to clients of all funds.
2. Retainers
3. Invoices A/R
4. Collections on old bills and accounting, notify A/P vendors and arrange for payment of bills post closing.
5. Profit sharing plan- details; transferability of present 401K plan; rollovers, merger
6. Handling of income in the future after the change

Files

1. Liens, court orders etc.
2. Copy files for malpractice purposes.

Licensure

1. Other licensure – RE licenses, Insurance brokerage licenses, etc.
2. Remove Bar Admissions/Licenses from walls, signage and all indicia of active practice of law
3. If you are withdrawing from the practice of law, but remaining within the space occupied by your former law firm, you must treat the change of circumstance as though you were moving to an entirely new location and office that has nothing to do with the prior firm or the practice of law and all indicia (as set forth above) must be reviewed and changed so as to be able to objectively demonstrate that you are not engaged in the practice of law and no inference can be drawn to that effect.

Sale of the Practice of Interest in the Practice

1. Does any operating Agreement establish a method for valuing the business and the sale or disposition of interest in the firm and divide assets and liabilities?
 - a. Is there a method set forth to value the firm and divide assets and liabilities in the event of disagreement?
2. If not, then a method for such value needs to be established and agreed upon.
3. If you have an accountant that you each agree will be able to assist the firm in valuation, then consider engaging that person for that purpose. Each individual attorney should also consider engaging an independent accountant.
4. Please see attached separate checklist as to Law Firm Dissolutions.

To Do List Checklist
Office and Practice Changes
Joining or Leaving Firms/Consolidations/Other Arrangements

James S. Bolan
Brecher, Wyner, Simons, Fox & Bolan, LLP

General

1. Partnership or Other operating agreement
 - a. Who are the signators?
 - b. Is there a lease and what are the obligations? (See *Krasne v. Tedeschi* case)
 - c. Are there any guarantees on loans, lines of credit, leases?
 - d. Is there any security for L/C or loans?
2. Position that each principal has in the firm
 - a. Shareholder
 - b. Member
 - c. Equity partner
 - d. Non equity partner
 - e. Senior partner
 - f. Junior partner
 - g. Senior associate
 - h. Junior associate
 - i. Independent contractor
 - j. Of counsel
3. At will status and lock out risks
4. What are the economic opportunities at issue
5. Is there a method for winding up that is agreed upon and known
6. What is the default position in the absence of a written agreement – UPL
7. Division of the client list – are there issues
8. Are there issues of fee division
9. Are there the agreements in place that govern and the status of retainers
 - a. Contingent
 - b. Hourly

- c. Fixed
 - d. Accounts receivable
 - e. WIP
10. Asset and liability valuations, including goodwill, and divisions
 11. Withdrawing partner must give sufficient notice of intent to withdraw
 12. Clients right to choose
 - a. No restrictions
 - b. Joint letter
 - c. Sole letter
 13. Is their duty to disclose other than “on demand”
 14. Procedure for notice to clients and removal of cases – separation notices must be
 - a. Mailed, email, fax or hand delivered
 - b. Only to persons with whom the lawyer has had an active lawyer client relationship immediately prior to departure
 - c. In relation to open and pending matters for which the lawyer had direct professional responsibility
 - d. Is sent promptly after the change
 - e. Does not urge the client sever the relationship and indicates the willingness to continue responsibility for working but does not recommend self-employment
 - f. Makes clear that there is a right to choose, and
 - g. Is brief dignified and not disparaging?
 15. Fee divisions – see “fair charge”, “quantum meruit” and “no compensation” cases
 16. There is a right to plan for departure in advance of notice that does not conflict or violate fiduciary duty, including
 - a. Executing a new lease for space
 - b. Buying or renting furniture and supplies
 - c. Hiring employees
 - d. Appearing client lists expected to depart with counsel
 - e. Obtaining financing.
 17. Risk involved in breach of fiduciary duty if causally linked to the specific and breach of duty

- a. Contact with a client before notice of departure in the nature of the secret attempt to lure, and or lying to clients or partners
 - b. Damages for active competition
 - c. Seeking unfair advantage over former partners
- 18. Insurance coverage and tail coverage
- 19. Don't remove files; copying is ok on active matters
 - a. 1.16(e)(7)
- 20. Agreement – partnership or other entity – or memorialization of the agreement terms if not formal.
- 21. List of clients
- 22. List of A/R's
- 23. List of A/P's
- 24. Assets
- 25. Liabilities, including lease obligations
- 26. Tax returns
- 27. Checkbooks/Accounts
- 28. L/C, guarantees
- 29. Risk of lockout and computer, e-mail access, file access.

Client Matters

Files/ Open matters/Calendar/Coverage

- 1. Identify all client matters so that open matters can be concluded if possible or shifted to acceptable new counsel.
- 2. One must take whatever steps are necessary to protect the client's interests until the client has obtained successor counsel.
- 3. If the matter is in suit or pending before a tribunal, the lawyer must seek leave to withdraw per Rule 1.16(c)

4. The lawyer must give written notice to all clients of the lawyer's intentions to withdraw from representing the client. The notice should clearly communicate that the client is entitled to select new counsel and that the client's file will be delivered to successor counsel as the client directs or be made available to the client.
5. Delivery of files. Typically, a notice will inform the client that the files will be available at the lawyer's office or another location where they will be readily available for delivery to clients until they go to offsite storage for a reasonable period of time.
6. Unearned retainers or advances that the client may have paid must be accounted for.
7. Funds held in a clients funds account/conveyancing account/trust account must be delivered to the client or third persons.
8. Funds to which clients are entitled must be paid to them or as they direct.
9. Funds held in escrow or held back at a closing per condition, need to be accounted for and a successor escrow agent needs to be agreed upon and the escrow accepted. Escrow participants should be notified.
10. Missing clients: If clients cannot be located, it may be necessary to pay the money into court on their behalf or to the Commonwealth under the laws of escheat.
11. Records of all of these transactions are required to be maintained for six years after the final distribution and termination of the representation. Rule 1.15(a)
12. Confidentiality must be maintained throughout the process and the clients must bless the communication to a third person. A lawyer whom the departing lawyer engages to assist falls within the privilege. Accordingly, files may not be delivered to anyone but the client without the client's consent. Thus, without the client's consent to disclose information to prospective new counsel, the departing lawyer cannot provide another lawyer or law firm selected by the departing lawyer with information about the matter or permit access to the file.
13. Contingent work: A revised fee agreement needs to be agreed upon or the departing lawyer and successor counsel need to agree on a division of fees.
14. Notify the Board of Bar Overseers of the lawyer's new address and to request inactive status if the lawyer is leaving the practice of law. See S.J.C. Rule 4:02.

Contracts

1. Fee agreements
2. Leases
3. Revisit Partnership or other entity agreement

Notices

1. Notices that might need to be given:
 - a. Client
 - b. Address change – Post office
 - c. Vendor address changes
 - d. Malpractice Insurance agent and carrier
 - e. BBO
 - f. Mass. Lawyers Weekly “Tombstone”
 - g. Any form of advertisement – seminars, magazines, web, TV, radio, brochures, emails, books, newspapers, Yellow pages, etc.
 - h. Brochure
 - i. Notices to clients, friends family
 - j. Notices to clients, friends family
 - k. Martindale Hubbell
 - l. Lawyers Diary
 - m. MCLE, MBA, MCA, Real Estate Boards and other associations
 - n. SJC notice
 - o. Title Insurance Companies
 - p. Court etc notices
 - q. Opposing counsel notices if needed
 - r. Notices on the door at the end to inform where to contact successor counsel.
 - s. Notify Post Office, Fedex, etc.

Office Management; Employment Issues

1. Documents on which there is a name:
 - a. Signs on building, directories
 - b. Letterhead and envelopes
 - c. Business cards
2. Telephone and cell phone numbers and voice mail, including change of message, answering service, ways to reach new counsel, assisting counsel and/or departing counsel during the transition, phone system changes, receptionist, voice mail
3. Handling mail as a result of the change
4. Alarm System
5. Keys
6. Email changes
7. Web site changes
8. Written instructions to staff
9. Employment/ wage and hour law issues/ termination issues
10. Collect and remove fax cover sheets, letterhead, envelopes and the like
11. Preserve and download computer system and computer files
12. Review Timeslips
13. Files and file cabinets
14. Fire proof file cabinet – original documents in safekeeping
15. Storage files; Storage of old paper files; files in storage – transfers
16. Library, internet access
17. Notary stamp
18. Materiale – office supplies

19. Office procedures, for new, other and successor attorneys and staff, as to how to handle the changes
20. Office space, including utilities, vendors, and the like – responsible person for billing and contact.
21. “Control” issues w/in the firm – integration into how are management decisions made, day to day, longer term, authority to act, authority on taking in new matters, hiring and firing issues, work, etc.

Insurance

22. Title Insurance Policies – check to see if there are any outstanding to be concluded and submitted to carrier.
23. Malpractice insurance and any tails (not needed if predecessor firm maintains its policy and a letter should be sent to them to notify you if they do NOT intend to continue to carry existing coverage.)
 - a. Actual or Potential malpractice claims – list
 - b. BBO claims
 - c. Past claims concluded and insurance experience
24. Benefits that need to be added, adjusted, changed
25. Health Insurance
26. Disability insurance
27. Life insurance

Money Issues

1. All bank accounts – authorized signatures, name changes, transfer all CTF, escrow, individual client accounts– reconcile and close after all checks clear. Accounting to clients of all funds.
2. Retainers
3. Invoices A/R

4. Collections on old bills and accounting, notify A/P vendors and arrange for payment of bills post closing.
5. Profit sharing plan- details; transferability of present 401K plan; rollovers, merger
6. Handling of income in the future after the change

Files

1. Liens, court orders etc.
2. Copy files for malpractice purposes.

Licensure

1. Other licensure – RE licenses, Insurance brokerage licenses, etc.
2. Remove Bar Admissions/Licenses from walls, signage and all indicia of active practice of law
3. If you are withdrawing from the practice of law, but remaining within the space occupied by your former law firm, you must treat the change of circumstance as though you were moving to an entirely new location and office that has nothing to do with the prior firm or the practice of law and all indicia (as set forth above) must be reviewed and changed so as to be able to objectively demonstrate that you are not engaged in the practice of law and no inference can be drawn to that effect.

List of Items (May already be set forth above)

1. Conflicts checks forms
2. Documents on which there is a name:
3. Signs on building, directories
4. Letterhead and envelopes
5. Business cards
6. Title Insurance Policies: changes
7. Alarm System
8. Keys

9. Leases
10. Malpractice insurance and any tails (not needed if predecessor firm maintains its policy and a letter should be sent to them to notify you if they do NOT intend to continue to carry existing coverage.)
11. Actual or Potential malpractice claims – list
12. BBO claims
13. Past claims concluded and insurance experience
14. Email changes
15. Web site changes
16. Written instructions to staff
17. Change fax cover sheets
18. Changes in computer system and computer files
19. Changes in fee agreements and forms
20. Timeslips
21. Cell phone numbers and voice mail
22. Phone system changes, receptionist, voice mail
23. Files and file cabinets
24. Fire proof file cabinet – original documents in safekeeping
25. Storage files; Storage of old paper files; files in storage – transfers
26. All bank accounts – authorized signatures, name changes, transfer all CTF, escrow, individual client accounts
27. Library, internet access
28. Collections on old bills and accounting
29. Transfer of mail and telephone call; telephone and voice mail
30. Tel messaging, call forwarding; email forwarding

31. Voice mail transfer and set up
32. Notary stamp
33. Materiale – office supplies
34. Office procedures, for new, other and successor attorneys and staff, as to how to handle the changes
35. Handling mail as a result of the change
36. Letters to all clients
37. Benefits that need to be added, adjusted, changed
38. Health Insurance
39. Disability insurance
40. Life insurance
41. Profit sharing plan- details; transferability of present 401K plan; rollovers, merger
42. Handling of income in the future after the change
43. Office space, including utilities, vendors, and the like – responsible person for billing and contact.
44. “Control” issues w/in the firm – integration into how are management decisions made, day to day, longer term, authority to act, authority on taking in new matters, hiring and firing issues, work, etc.
45. Partnership agreement
46. Other licensure
47. Health Insurance Coverage
48. Copying of existing computer data and file access, including dead storage.
49. Integrate transferring data into new computer system and computer files transfer
50. Set up computer etc
51. Fee agreements and forms

52. Desks, computers, phone system, etc
53. Old bills – payment of A/R due to old firm and retainers for new firm
54. Storage files; Storage of old paper files; files in storage – transfers
55. Actual or Potential malpractice claims – list
56. BBO prior and pending claims.
57. Past claims concluded and insurance experience
58. Transfer of mail and telephone call; telephone and voice mail
59. Tel messaging, call forwarding; email forwarding
60. New agreement – Pship / shareholder / member / of counsel / contract ...

Individuals who have maintained sharp minds and continue to work in their professional roles want more than traditional retirement, but with the graying of the bar comes a new host of concerns. Among these concerns Alzheimer's and dementia figure prominently, both of which can impact colleagues, families and our judicial system.

If you or someone you know is experiencing or appears to be experiencing age-related issues, LCL can help.

Decode the Signs

Typically, individuals facing age-related difficulties encounter time and place disorientation, problems with abstract thinking, short-term memory loss, difficulty with language and problems performing familiar tasks, all of which jeopardize maintaining one's professional effectiveness and integrity.

Engage Support

LCL-CT can sensitively and discreetly help navigate the difficulties that aging individuals face. We can educate and provide support to colleagues and family members of elderly persons, assist an elderly lawyer in transitioning to a less active practice role or more permanent retirement, helping to ensure that a proud and blemish-free legal career is concluded with dignity.

Don't hesitate to make a confidential call if you are seeking support – help is here.

860-563-4900 or 800-497-1422

What is Lawyers Concerned for Lawyers?

Lawyers Concerned for Lawyers – Connecticut, Inc. ("LCL-CT") is a Connecticut non-profit corporation created to

- Provide assistance to Connecticut lawyers and judges who experience depression, anxiety, compulsive disorders, stress, age-related issues, substance use disorders, or other distress that impairs that individual's ability to function;
- Educate the legal community about professional and personal well-being including mental health and age-related issues, substance abuse, and other distress that impacts the individual's ability to function professionally; and
- Educate the legal community and the families of Connecticut lawyers and judges about the scope of services offered by the Connecticut lawyer assistance program.

LCL services are voluntary and available to all attorneys and judges in the State of Connecticut, whether or not the attorney or judge is a member of the Connecticut Bar Association.

All LCL services are strictly confidential and protected under C.G.S. §51-81d(a), as amended.

**Contact LCL today for FREE,
CONFIDENTIAL support.**

HOTLINE: 1-800-497-1422

Transition . . .

Change . . .



Revitalize



www.lclct.org

A Non-Profit Corporation
Pursuant to IRC §501(c)(3)

CONTEMPLATING PROFESSIONAL CHANGE OR TRANSITION?

Change Is Healthy/Not Healthy

Contrary to general perception, positive feelings motivate most change.

Change is always stressful. Stress and frustration may be the first signs that you are changing.

Change always triggers loss and the emotional reactions that accompany it; shock, denial or resistance, bargaining, grief and acceptance.

Planning for change provides a measure of security, but it is impossible to plan for the range of emotions that accompany it.

- Deborah Arron J.D. [2004]

Obstacles to Change

Hating to give up the prestige, automatic respect and ego boost that come from one's current status;

Wanting to keep the credibility and recognition you've earned;

Appreciating the power, control or autonomy you now have;

Not wanting to give up the intellectual validation and challenge of your work;

Fears of loneliness and isolation.

-Deborah Arron J.D. [2004]

...Now old friends they're acting strange; they shake their heads, they say I've changed...

- Joni Mitchell

Through the miracles of modern medicine and increased health consciousness, we are living longer and working longer than ever before.

Many lawyers desire to continue working longer than the traditional retirement age. Perhaps this is to preserve one's identity, or simply continue to maintain a standard of living to which one has become accustomed.

Whatever the reason, as part of the normal aging process, the brain goes through changes, and cognitive processing may erode over time. Some individuals may experience changes in memory, or notice this in colleagues and friends. Individuals who were once "sharp as a tack" and never missed a step may stumble through simple thoughts, be unable to find the right words or mentally wander. There may be missed deadlines, personality changes, litigant/public complaints, or disciplinary actions.

Recognizing the signs of memory loss and other symptoms of cognitive impairment, and knowing what steps to take, are crucial in protecting the Bar and the public, as well as preserving the dignity of the affected individual.

There is always the possibility that the cause of what appears to be the symptoms of mental impairment is reversible, e.g. problems such as hypothyroidism, vitamin deficiencies, tumors, psychiatric illness, substance abuse/dependence, etc. As with any illness, early intervention is crucial, whatever the cause. The goal is to preserve the person's dignity and reputation while protecting the public.

Initiate an informal and confidential conversation with LCL-CT in a non-clinical setting

If you have ever thought what a relief it would be to talk frankly and confidentially with another professional who is sensitive to your situation and concerns, LCL can provide you that opportunity.

LCL is connected to a national network of judge and lawyer assistance programs to further expand its resources and insure and protect individuals' concerns with confidentiality and privacy.

All LCL resources are available at no cost.

WHAT WILL THE NEXT SEASON OF YOUR PROFESSIONAL LIFE LOOK AND FEEL LIKE?



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The Path Out – Insurance Issues Associated with Shutting Down, Transferring, and or Selling a Law Practice

1. The "Tail" - What is it and how much does it cost?
2. Can I get a tail and be Of Counsel to another firm?
3. Can I refer new work to other lawyers? Will that void my tail?
4. If I am a member of a multi-attorney firm, will I still be covered on my old policy if the old firm continues?
5. If my old firm winds up later, how will my past legal acts be covered?
6. Grievances have a 6 year SOL. Will a tail cover that?
7. What records should I retain for liability issues?