

**TURNING OUT THE LIGHTS
PLANNING FOR CLOSING YOUR LAW PRACTICE**

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INTRODUCTION

You are 52 years old, a solo practitioner in a medium size town in North Carolina, have a busy general practice in which you handle criminal trials and personal injury cases, some real property and estate work and an occasional condemnation action. You stay away from complex tax practice, bankruptcy and employment law, but organize and advise small businesses. You have a personal injury verdict on appeal to the Court of Appeals. You are making a good income, but with two children in college, living is tight. Your staff consists of a secretary/receptionist and a legal assistant who helps you in all of your real estate and trial work.

You are in the flower of your law practice, very busy, but enjoying being your own boss. And you suffer a heart attack and die.

Everything else aside, is your law office ready for your sudden departure?

With a few modifications to how many of you solo practitioners does this fact situation apply? Have you taken steps with your staff to “death qualify” your law practice?

Many lawyers, particularly those who are really busy, joke that they are too busy to die. But sometimes they do when they and their offices are not ready.

That happened to Richard F. Harris or Rich as his friends knew him. Rich was a successful solo practitioner in Charlotte. He was a general practitioner in spirit and in fact. Rich enjoyed the general practice of law. A member of the Executive Council of the General Practice, Solo and Small Firm Section of the Bar Association, Rich was one of the Council’s strongest proponents of the general practitioners’ struggle against specialization. In 1999 Rich was the chair-elect of the Section. He had a busy workers compensation and trial practice with cases on appeal. He had a good support staff who helped him handle many different kinds of cases.

On a Saturday in December, 1999, Rich came into his house from working in the yard and suffered a massive heart attack from which he did not recover.

Rich’s law office was not ready for his sudden death. His widow and office staff were fortunate in that Rich’s good friend, Al Welling, had agreed to serve as his Trustee on Rich’s LML policy as each policyholder is required to designate. Al was drawing down his practice at the time and went into Rich’s office to both turn over client files and close the office in an orderly manner. A number of the insights herein are drawn from Al’s experience shared with the Committee.

The Rich Harris Committee

The untimely and premature death of Richard F. Harris, II at his home in Charlotte in December 1999 spawned a new Bar Association Committee. Rich was a solo practitioner and long-time active member of the North Carolina Bar Association and most recently the General Practice, Solo and Small Firm Section of which he was chair-elect at the time of his death.

Discussions among Allan Head, Jane Weathers, Carolyn Winfrey and Mal King, who attended Rich's memorial service, produced the kernel of a GPSMOLO standing committee to address the problems which arise when a solo practitioner passes away with an active ongoing law practice. The GPSMOLO Executive Council approved the establishment of The Rich Harris Committee in the Spring of 2000 to study and address the problems encountered by the sole practitioner's staff and family.

The Committee held its organizational meeting on June 12, 2000 and thereafter met on a nearly quarterly basis to study the problems encountered by the staffs and estates of solo practitioners who passed away without proper planning. The Committee heard anecdotal stories from Trustees who had been appointed to close law practices of deceased attorneys; obtained information from other State Bars; and focused on the direction that the Committee should take. Planning for the unexpected practice closure; getting the staff involved in the planing as well as closing process; and finding ways to legally and effectively fund the orderly closing of the office were the primary topics of the Committee's meetings. Having the Assisting Attorney qualify as the State Bar Trustee to avoid duplication of tasks was embraced, then discarded as a possible conflict of interest.

In 2003 the Committee produced a brochure which was distributed to several thousand solo and small firm practitioners in the State and a manuscript of advice and forms to assist attorneys and staff in planning for the unexpected office closure. This manuscript is a revised edition hopefully improved in scope and organization. It is dedicated to the memory of Rich Harris and to the solo and small firm practitioners throughout North Carolina.

The Rich Harris Committee

GETTING READY FOR THE UNTHINKABLE

This manuscript was prepared by the Rich Harris Committee of the General Practice Solo and Small Firm Section of the North Carolina Bar Association. It is dedicated to the memory of Rich Harris and North Carolina solo practitioners of law and is offered as an aid to attorneys planning for the untimely event, death or disability or to simply close their practices; to their paralegal and secretarial staff; and to the attorneys designated as Assisting Attorneys by their friends.

In the pages that follow the Rich Harris Committee has assembled suggested forms designed to assist a solo or small firm practitioner to get his or her law office ready for an untimely death or sudden disability. Most of the forms are couched in terms relating to the death of the attorney, but would apply as well where the attorney becomes suddenly disabled or where the attorney wishes to close the practice himself or herself. The terms "law office" and "law practice" are used interchangeably as the same entity in these forms, except that the law office refers more to the physical location and all personnel in the office whereas the practice refers more to the clients. The book of forms also includes N.C. State Bar forms to assist the attorney designated as the Trustee in applying to the Court for authorization to serve as Trustee in order to turn over files and trust account funds to clients. At present N.C. state law and State Bar regulations only authorize the Trustee to deal with client files and trust funds. The planning forms are therefore voluntary. Many Trustees find themselves faced with not only returning files and trust account funds to clients, but also with collecting accounts receivable, paying bills and winding up the practice.

Significant portions of these materials were adapted to North Carolina circumstances from the Oregon State Bar Professional Liability Fund handbook *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death*, copyright 1999, with permission of the Oregon State Bar Professional Liability Fund. All rights are reserved except that members of the North Carolina Bar Association and other attorneys licensed in North Carolina may use this material for assistance with their own law practice or to help another attorney close his or her office.

RICH HARRIS COMMITTEE

Judge Gerald Arnold
Robert E. Campbell
Root Edmondson
Larissa J. Erkman
E. William Kratt
Robert H. Sapp
William R. Stroud, Jr.
Bobby D. White
Carolyn B. Winfrey
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Kaye H. Summers, LAD Liaison
Malvern F. King, Jr., Chair and Editor

**CHECKLIST FOR LAWYER'S PLANNING TO PROTECT CLIENTS'
INTERESTS AND CLOSE LAW OFFICE IN AN ORDERLY MANNER
IN THE EVENT OF THE LAWYER'S
DEATH, DISABILITY, IMPAIRMENT, OR INCAPACITY**

1. Use retainer agreements that state you have arranged for an Assisting Attorney to close your practice in the event of death, disability, impairment, or incapacity.
2. Have a thorough and up-to-date office procedure manual that includes information on:
 - a. How to check for a conflict 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; and
 - n. How to access your voice mail (or answering machine) and the access code numbers.
 - o. Where the post office or other mail service box is located and how to access it.
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. Avoid keeping original documents of clients, such as wills and other estate planning documents. If you do have original documents, maintain them in a central place, indexed, within the office.
7. Have a written agreement with an attorney who will close your practice (the "Assisting Attorney") that outlines the responsibilities involved in closing your practice. Determine whether the Assisting Attorney will also be your personal attorney. Choose an Assisting Attorney who is sensitive to conflict of interest issues.

8. If your written agreement authorizes the Assisting Attorney to sign trust or general account checks, follow the procedures required by your local bank. 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 have to sign bank forms authorizing the Assisting Attorney to have access to your trust or general account. Choose your Assisting Attorney wisely he or she may have access to your clients' funds.
9. Familiarize your Assisting Attorney with your office systems and keep him or her apprised of office changes.
10. Introduce your Assisting Attorney to your office staff. Make certain your staff knows where you keep the written agreement and how to contact the Assisting Attorney if an emergency occurs before or after office hours. If you practice without regular staff, make sure your Assisting Attorney knows whom to contact (the landlord, for example) to gain access to your office.
11. Inform your spouse or closest living relative and the personal representative of your estate of the existence of this agreement and how to contact the Assisting Attorney.
12. Forward the name, address, and phone number of your Assisting Attorney to Lawyers Mutual Liability Insurance Company or your professional liability insurance carrier each year. This will enable Lawyers Mutual Liability Insurance Company or your professional liability insurance carrier to locate the Assisting Attorney in the event of your death, disability, impairment, or incapacity.
13. Renew your written agreement with your Assisting Attorney each year. If you include the name of your Assisting Attorney in your retainer agreement, make sure it is current.

CHECKLIST FOR CLOSING YOUR OWN LAW OFFICE

1. Finalize as many active files as possible.
2. Write to clients with active files, advising them that you are unable to continue representing them and that they need to retain new counsel. Your letter should inform them about time limitations and time frames important to their cases. The letter should explain how and where they can pick up copies of their files and should give a time deadline for doing this. (See sample *Letter Advising That Lawyer is Closing His/Her Office* provided in Chapter 4 of this handbook.)
3. For cases that have pending court dates, depositions, or hearings, discuss with the clients how to proceed. Where appropriate, request extensions, continuances, and resetting of hearing dates. Send written confirmations of these extensions, continuances, and resets to opposing counsel and to your client.
4. For cases before administrative bodies and courts, obtain the clients' permission to submit a motion and order to withdraw as attorney of record. Review DR 2-110.
5. In cases where the client is obtaining a new attorney, be certain that a Substitution of Attorney is filed.
6. Pick an appropriate date and check to see if all cases either have a Motion and Order allowing your withdrawal as attorney of record or have a Substitution of Attorney filed with the court.
7. Make copies of files for clients. Retain your original files. All clients should either pick up their files (and sign a receipt acknowledging that they received them) or sign an authorization for you to release the files to their new attorneys. (See sample *Acknowledgment of Receipt of File and Authorization* provided in Chapter 4 of this handbook.) If a client is picking up the file, original documents should be returned to the client and copies should be kept in your file.
8. All clients should be told where their closed files will be stored and whom they should contact in order to retrieve them. Obtain all clients' permission to destroy the files after approximately 10 years. The Professional Liability Fund recommends that closed files be kept for 10 years or longer. (See *File Retention and Destruction* provided in Chapter 5 of this handbook.) If a closed file is to be stored by another attorney, get 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.
9. Send the name, address, and phone number of the person who will be retaining your closed files to the North Carolina State Bar, P.O. Box 25908, Raleigh, North Carolina 27611. Also send them your name, current address, and phone number.
10. If you are a sole practitioner, ask the telephone company for a new phone number to be given out when your old phone number is called. This eliminates the problem created when clients call your phone number, get a recording stating that the number is disconnected, and do not know where else to turn for information.

**AGREEMENT BETWEEN PLANNING ATTORNEY
AND ASSISTING ATTORNEY**

(Sample - Modify as appropriate)

The sample Agreement—Full Form provided on the next page gives the Assisting Attorney the power to determine if you are disabled, impaired, or incapacitated and provides the Assisting Attorney with authority under the designated circumstances to sign on your bank accounts (including your trust account) and to close your law practice. The Agreement also enumerates powers such as termination, payment for services, and resolution of disputes.

If you do not want the Assisting Attorney to be the person who determines if you are disabled, incapacitated, or impaired, you will need to modify this agreement.

AGREEMENT TO CLOSE LAW PRACTICE

Between: _____, hereinafter referred to as "Planning Attorney,"

And: _____, hereinafter referred to as "Assisting Attorney."

1. Purpose.

The purpose of this agreement is to protect the legal interests of the clients of Planning Attorney in the event Planning Attorney is unable to continue Planning Attorney's law practice due to death, disability, impairment, or incapacity.

2. Parties.

The term Assisting Attorney refers to the attorney designated in the caption above or the Assisting Attorney's alternate. The term *Planning Attorney* refers to the attorney designated in the caption above and the Planning Attorney's representatives, heirs, or assigns.

3. Establishing Death, Disability, Impairment, or Incapacity.

In determining whether Planning Attorney is dead, disabled, impaired, or incapacitated, Assisting Attorney may act upon such evidence as Assisting Attorney shall deem reasonably reliable, including, but not limited to, communications with Planning Attorney's family members, representative, or a written opinion of one or more medical doctors duly licensed to practice medicine. Similar evidence or medical opinions may be relied upon to establish that Planning Attorney's disability, impairment, or incapacity has terminated. Assisting Attorney is relieved from any responsibility and liability for acting in good faith upon such evidence in carrying out the provisions of this Agreement.

4. Consent to Close Practice.

Planning Attorney hereby gives consent to Assisting Attorney to take all actions necessary to close Planning Attorney's legal practice in the event that Planning Attorney is unable to continue in the private practice of law and Planning Attorney is unable to close Planning Attorney's own practice due to death, disability, impairment, or incapacity. Planning Attorney hereby appoints Assisting Attorney as attorney-in-fact, with full power to do and accomplish all of the actions contemplated by this Agreement as fully and as completely as Planning Attorney could do personally if Planning Attorney were able. It is Planning Attorney's specific intent that this appointment of Assisting Attorney as attorney-in-fact shall become effective only upon Planning Attorney's death, disability, impairment, or incapacity. The appointment of Assisting Attorney shall not be invalidated because of Planning Attorney's death, disability, impairment, or incapacity, but instead the appointment shall fully survive such death, disability, impairment, or incapacity and shall be in full force and effect so long as it is necessary or convenient to carry out the terms of this Agreement. In the event of Planning Attorney's death, disability, impairment, or incapacity, Planning Attorney designates Assisting Attorney as signator, or in substitution of Planning Attorney's signature, on all of Planning Attorney's law office accounts with any bank or financial institution, including, but not limited to, checking accounts, savings accounts, and trust accounts. Planning Attorney's consent includes but is not limited to:

- Entering Planning Attorney's office and using the Planning Attorney's equipment and supplies as needed to close Planning Attorney's practice;

- Opening Planning Attorney's mail and processing it;
- Taking possession and control of all property comprising Planning Attorney's law office, including client files and records;
- Examining files and records of Planning Attorney's law practice and obtaining information as to any pending matters that may require attention;
- Notifying clients, potential clients, and others who appear to be clients, that Planning Attorney has given this authorization and that it is in their best interest to obtain other legal counsel;
- Copying Planning Attorney's 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 the clients;
- Filing notices, motions, and pleadings on behalf of clients where the clients' interests must be immediately protected and other legal counsel has not yet been retained;
- Contacting all appropriate persons and entities who may be affected, and informing them that Planning Attorney has given this authorization;
- Arranging for transfer and storage of closed files;
- Winding down the financial affairs of Planning Attorney's practice, including providing Planning Attorney's clients with a final accounting and statement for services rendered by Assisting Attorney, return of client funds, collection of fees on Planning Attorney's behalf or on behalf of Planning Attorney's estate, payment of business expenses, and closure of business accounts when appropriate;
- Advertising Planning Attorney's law practice or any of its assets to find a buyer for the practice; and
- Arranging for an appraisal of Planning Attorney's practice for the purpose of selling Planning Attorney's practice.

Planning Attorney's bank or financial institution may rely on the authorizations in the Agreement unless such bank or financial institution has actual knowledge that this Agreement has been terminated or is no longer in effect.

5. Payment For Services.

Planning Attorney agrees to pay Assisting Attorney a reasonable sum for services rendered by Assisting Attorney while closing the law practice of Planning Attorney. Assisting Attorney agrees to keep accurate time records for the purpose of determining amounts due for services rendered. Assisting Attorney agrees to provide the services specified herein as an independent contractor.

6. Preserving Attorney-Client Privilege.

Assisting Attorney agrees to preserve confidences and secrets of Planning Attorney's clients and their attorney-client privilege and shall only make disclosures of information reasonably necessary to carry out the purpose of this Agreement.

7. Assisting Attorney is Attorney for Planning Attorney (delete one of the following paragraphs as appropriate).

Assisting Attorney is the attorney for Planning Attorney. Assisting Attorney will protect the attorney-client relationship and follow the North Carolina State Bar Code of Professional Responsibility.

OR:

Assisting Attorney is Not Attorney for Planning Attorney

Assisting Attorney is not the attorney for Planning Attorney.

8. Providing Legal Services.

Planning Attorney authorizes Assisting Attorney to provide legal services to Planning Attorney's former clients providing Assisting Attorney has no conflict of interest and obtains the consent of Planning Attorney's former clients to do so. Assisting Attorney has the right to enter into an attorney-client relationship with Planning Attorney's former clients and to have clients pay Assisting Attorney for his or her legal services. Assisting Attorney agrees to check for conflicts of interest, and when necessary, to refer the clients to another attorney.

9. Informing North Carolina State Bar.

Assisting Attorney agrees to inform the North Carolina State Bar where Planning Attorney's closed files will be stored and the name, address, and phone number of the contact person for retrieving those files.

10. Contacting Lawyers Mutual Liability Insurance Company (or other Carrier).

Planning Attorney authorizes Assisting Attorney to contact Lawyers Mutual Liability Insurance Company or other professional liability insurance carrier concerning any legal malpractice claims or potential claims.

11. Providing Clients With Accounting.

Assisting Attorney agrees to provide Planning Attorney's former clients with a final accounting and statement for legal services of Planning Attorney based on the Planning Attorney's records. Assisting Attorney agrees to return client funds to Planning Attorney's former clients and to submit funds collected on behalf of Planning Attorney to Planning Attorney or Planning Attorney's estate representative.

12. Indemnification.

Planning Attorney agrees to indemnify 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 Assisting Attorney were made in good faith, were made in a manner reasonably believed to be in Planning Attorney's best interest, and occurred while Assisting Attorney was assisting Planning Attorney with the closure of Planning Attorney's office. This indemnification agreement does not extend to any acts, errors, or omissions of Assisting Attorney while rendering or failing to render professional services in Assisting Attorney's capacity as attorney for the former clients of Planning Attorney. Assisting Attorney shall be responsible for all acts and omissions of gross negligence and willful misconduct.

13. Option to Purchase Practice.

Assisting Attorney shall have the first option to purchase the practice of Planning Attorney under the terms and conditions specified by Planning Attorney or Planning Attorney's representative in accordance with the North Carolina State Bar Code of Professional Responsibility and other applicable law.

14. Arranging to Sell Practice.

If Assisting Attorney opts not to purchase Planning Attorney’s practice, Assisting Attorney will make all reasonable efforts to sell Planning Attorney’s practice and will pay Planning Attorney or Planning Attorney’s estate all monies received.

15. Fee Disputes to be Arbitrated.

Planning Attorney and Assisting Attorney agree that all fee disputes between them will be decided by the North Carolina State Bar Fee Arbitration Program.

16. Termination.

This Agreement shall terminate upon: (1) delivery of written notice of termination by Planning Attorney to Assisting Attorney during any time that Planning Attorney is not under disability, impairment, or incapacity as established under Section 3 of this Agreement; (2) delivery of written notice of termination by Planning Attorney’s representative upon a showing of good cause; or (3) delivery of a written notice of termination given by Assisting Attorney to Planning Attorney, subject to any ethical obligation to continue or complete any matter undertaken by Assisting Attorney pursuant to this Agreement.

If Assisting Attorney or Assisting Attorney’s Alternate for any reason terminates this agreement or is terminated, Assisting Attorney or Assisting Attorney's Alternate acting on his or her behalf shall (1) provide a full and accurate accounting of financial activities undertaken on Planning Attorney’s behalf within 30 days of termination or resignation and (2) provide Planning Attorney with Planning Attorney’s files, records, and funds.

[Planning Attorney] [Date]

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the County and State aforesaid mentioned, certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this ____ day of _____, 20__.

Notary Public

My commission expires: _____

[Assisting Attorney] [Date]

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the County and State aforesaid mentioned, certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this _____ day of _____, 20__.

Notary Public

My commission expires: _____

**NOTICE TO LAWYERS MUTUAL LIABILITY INSURANCE COMPANY
OF DESIGNATED ASSISTING ATTORNEY**

I, _____, have authorized the following attorney(s) to assist with the closure of my practice:

Name of Authorized Assisting Attorney: _____

Address: _____

Phone Number: _____

Name of Assisting Attorney's Alternate: _____

Address: _____

Phone Number: _____

[Planning Attorney]

[Date]

Mail this form to:

Lawyers Mutual Liability Insurance Company of NC
P.O. Box 1929
Cary, North Carolina 27512-1929

North Carolina State Bar
P. O. Box 25908
Raleigh, NC 27611-5908

NORTH CAROLINA

_____ COUNTY

**CONDITIONAL DURABLE
POWER OF ATTORNEY
(Law Office Closing)**

I, _____, do hereby appoint
, as my agent and attorney-in-fact for the limited purpose of conducting all transactions and taking any actions that I might do with respect to my law office bank account(s) and safe deposit box(es). I do further authorize my banking institutions to transact my law office account(s) as directed by my attorney-in-fact and to afford the attorney-in-fact all rights and privileges that I would otherwise have with respect to my law office account(s) and safe deposit box(es). Specifically, I am authorizing my attorney-in-fact to sign my name on checks, notes, drafts, orders, or instruments for deposit, withdraw, or transfer money to or from my law office account(s), make electronic funds transactions, receive statements and notices on the account(s), and do anything with respect to the law office account that I would be able to do. I am also authorizing my named attorney-in-fact to enter and open my safe deposit box(es), place property in the box(es), remove property from the box(es), and otherwise do anything with the box(es) that I would be able to do, even if my attorney-in-fact has no legal interest in the property in the box.

This power of attorney shall be effective upon execution; however, my attorney-in-fact shall not be empowered to act on my behalf until I become incapacitated or mentally incompetent. My attorney-in-fact will NOT (except at my written request) exercise any authority granted by this instrument unless and until he/she receives a written certificate by two (2) licensed medical doctors stating that physically or mentally I am incapable of handling my own business affairs. My said attorney-in-fact shall have no duty to inquire regarding my physical or mental condition, and shall have no duty (except at my written request) to exercise his/her powers under this instrument until he/she has received certification from two medical doctors as described above.

This Power of Attorney will continue until the banking institution receives my written revocation of this Power of Attorney or written instructions from my attorney-in-fact to stop honoring the signature of my attorney-in-fact.

This Power of Attorney shall not be affected by my subsequent disability or incapacity.

[Account-holder]

[Date]

NORTH CAROLINA

_____COUNTY

I, _____, a Notary Public of the County and State aforesaid mentioned, certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this _____ day of _____, 20__.

Notary Public

My commission expires: _____

SPECIMEN SIGNATURE OF ATTORNEY-IN-FACT

The attorney-in-fact acknowledges that the foregoing is his/her signature.

[Attorney-in-Fact]

[Date]

NORTH CAROLINA

_____ COUNTY

I, _____, a Notary Public of the County and State aforesaid mentioned, certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this _____ day of _____, 20__.

Notary Public

My commission expires: _____

**LETTER OF UNDERSTANDING FOR
DELIVERY OF POWER OF ATTORNEY**

TO: _____

I am enclosing a Power of Attorney in which I have named _____ as my attorney-in-fact. You and I have agreed that you will do the following:

1. Upon my written request, you will deliver the Power of Attorney to me or to any person that I designate.
2. You will deliver the Power of Attorney to the person named as my attorney-in-fact (if more than one person is named, you may deliver it to either of them) if you determine, using your best judgment, that I am unable to conduct my business affairs due to disability, impairment, incapacity, illness, or absence. In determining whether to deliver the Power of Attorney, you may use any reasonable means you deem adequate, including consultation with my physician(s) and family members. If you act in good faith, you will not be liable for any acts or omissions on your part in reliance upon your belief.
3. If you incur expenses in assessing whether you should deliver this Power of Attorney, I will compensate you for the expenses incurred.
4. You do not have any duty to check with me from time to time to determine if I am able to conduct my business affairs. I expect that if this occurs, you will be notified by a family member, friend, or colleague of mine.

[Trusted Family Member or Friend/Attorney-in-Fact]

[Date]

[Planning Attorney]

[Date]

CLIENT ENGAGEMENT LETTER
(Sample — Modify as appropriate)

Re: [Subject]

Dear [Name]:

The purpose of this letter is to confirm, based on our conversation of [date], that [firm name] will represent you in [describe matter]. We will provide the following services: [list services to be provided].

Attached for your use is information on our billing and reporting procedures. Our fee is [dollars per hour] for services performed by lawyers of this firm and [dollars per hour] for services performed by our non-lawyer staff. You will also be billed for expenses and costs incurred on your behalf.

Our expectations of you are: [list any expectations concerning payment of bills, responses to requests for information, etc.].

This firm has not been engaged to provide the following services: [list services that are outside the scope of the representation].

I estimate that fees and expenses in this case will be [provide a realistic, worst-case estimate of fees and expenses]. Please keep in mind that this is only an estimate and that, depending on the time required and the complexity of the action, actual fees and expenses may exceed this estimate. You will be billed for actual fees and expenses.

It is very difficult to accurately predict how long it will take to conclude your case. Generally these cases take [provide a realistic, worst-case estimate of time to be spent on the case]. This is only an estimate, and the actual time required to conclude this matter may be greater than expected.

I have enclosed a copy of the initial interview form. If any of the information on this form is incorrect, please notify [primary contact] immediately. If you have any questions about this information, please call [primary contact].

My objectives are to provide you with excellent legal services and to protect your interests in the event of my unexpected death, disability, impairment, or incapacity. To accomplish this, I have arranged with another attorney to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the assisting attorney will contact you and provide you with information about how to proceed.

I will send you pleadings, documents, correspondence, and other information throughout the case. These copies will be your file copies. I will also keep the information in a file in my office. The file in my office will be my file. Please bring your file to all of our meetings so that we both have all of the necessary information available to us. When I have completed all the legal work necessary for your case, I will close my file and return original documents to you. I will then store the file for approximately 10 years. I will destroy the file after that period of time unless you instruct me in writing now to keep it longer.

If any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing this agreement. Otherwise, please sign the agreement and return it to me.

On behalf of the firm, we appreciate the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]
[Firm]

I have read this letter and consent to it.

[Client]

[Date]

Enclosures

[NOTE: This is a sample form only. Use of this letter will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.]

**ENGAGEMENT LETTER AND FEE AGREEMENT
FOLLOW-UP LETTER TO INITIAL INTERVIEW
(Sample — Modify as appropriate)**

Re: [Subject]

Dear [Name]:

We met to discuss your case on [date], and I have agreed to represent you in connection with [type of matter] and we agreed to [insert appropriate details].

Thank you for selecting our law firm to represent you in this matter. At this time I also wish to set forth our agreement regarding payment of our fees. Our fees for legal services are [amount per hour], plus any expenses such as filing fees, deposition charges, copying costs, postage, and related expenses. We will bill you approximately monthly, depending on the amount of work that was done on your file during that period of time. At this point, it is difficult to estimate the amount of time and expense that will be necessary to adequately represent you in this case. However, as we discussed, we estimate the fee will be approximately [*dollar amount*]. We will also advise you before we do any work that will substantially increase the amount of fees.

You have deposited [*dollar amount*] with us for fees and costs. We will hold your funds in our Law Firm Trust Account. We will provide you with a monthly statement of fees, costs, and expenses. After we mail you the monthly statement, we will apply the funds to fees earned, costs, and expenses incurred. You are also responsible for paying fees, costs, and expenses in excess of the funds that we hold.

My goal is to provide you with excellent legal services. I also want to protect your interests in the event of my unexpected death, disability, impairment, or incapacity. In order to accomplish this, I have arranged with another attorney to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the assisting attorney will contact you and provide you with information about how to proceed.

I will send you pleadings, documents, correspondence, and other information throughout the case. These copies will be your file copies. I will also keep the information in a file in my office. The file in my office will be my file. Please bring your file to all of our meetings so that we both have all of the necessary information available to us. When I have completed all the legal work necessary for your case, I will close my file and return the original documents to you. I will then store the file for approximately 10 years. I will destroy the file after that period of time unless you instruct me in writing now to keep it longer.

I have included a copy of this letter for you to review, sign, and return to me. If any of the information in this letter is not consistent with your understanding of our agreement, please contact me before signing the letter. Otherwise, please sign the enclosed copy and return it to me.

On behalf of the firm, we appreciate the opportunity to represent you in this matter. If you have any questions, please feel free to call.

Very truly yours,

[Attorney]

[Firm]

I have read this letter and consent to it.

[Client]

[Date]

Enclosure

[NOTE: This is a sample form only. Use of this letter will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.]

CONTINGENT FEE AGREEMENT
(Sample — Modify as appropriate)

I, [client], hereby retain [attorney], Attorney at Law, to represent me for the purpose of recovery of damages arising out of an accident or incident occurring on [date], at [location].

I agree to pay the actual expenses reasonably incurred by my attorney on my behalf. These expenses may include filing fees, service fees, witness fees, doctors' reports, medical records, court reporter fees, court trial fees, photocopying costs, long distance telephone calls, postage, witness fees, mileage fees, and other necessary court and office costs. My attorney will not incur costs of more than [dollar amount] without first notifying me.

With my consent, my attorney may employ investigators and experts as may be required to prepare, pursue, and litigate my case. All fees and expenses charged by the investigators and experts will be paid by me. My attorney is authorized to pay the investigator or experts' fees or expenses from the funds I deposit with the attorney or from the proceeds of any settlement or judgment in my case.

I agree to pay my attorney from the proceeds of any recovery, according to the following schedule:

25% of all sums recovered if settlement is negotiated before filing of the complaint.

33¹/₃% of all sums recovered if settlement is negotiated before commencement of trial or arbitration hearing.

40% of all sums recovered during or after trial or arbitration has commenced.

Sums recovered" means [insert appropriate language].

If no recovery on my behalf is made, I am not liable for attorney fees to my attorney, but will be responsible only for the actual expenses incurred by my attorney. I have deposited [dollar amount] with my attorney which is to be used toward costs and other expenses.

No fee will be charged for assistance to me in obtaining recovery of benefits under my insurance policy for Medical Payments Coverage (MedPay) , unless MedPay benefits are denied by my insurance company. My attorney may charge the percentage fee based on the above schedule on any MedPay benefits collected after a denial by my insurance company. Also, if my insurance company agrees, my attorney may collect a percentage of the subrogated proceeds paid by the party at fault to my insurance company.

My attorney may assign all or any portion of the work to be performed to an associate or to other attorneys in the firm, and may use paralegals or others working under my attorney's supervision.

In

the event of my attorney's death, disability, impairment, or incapacity, I agree that another attorney appointed by my attorney can protect my rights and help close my attorney's practice.

My attorney agrees to send me copies of all documents filed in my case, all correspondence, and any and all other printed materials for my personal file. My attorney will also keep a copy of all information for [his/her] file. When my attorney has completed all the legal work necessary for my case, my attorney will close [his/her] file and return all my original documents to me. My attorney will then store [his/her] file for 10 years after my case is closed. After that time, my attorney will destroy [his/her] file.

My attorney agrees to provide conscientious, competent, and diligent services, and I agree to cooperate with my attorney and others working on my case by keeping appointments, appearing for depositions, producing documents, attending special court appearances, and making payments as agreed.

This agreement does not cover attorney's fees in the event of an appeal or retrial.

I AM ENTITLED TO RESCIND THIS AGREEMENT WITHIN 24 HOURS AFTER SIGNING, UPON WRITTEN NOTICE TO MY ATTORNEY. (Please read the explanation on the following page before signing.)

SIGNED by me on _____, _____.

APPROVED:

[Attorney]

[Client]

Enclosure

[NOTE: This is a sample form only. Use of this letter will help to establish clear expectations and avoid misunderstandings between you and your client. It will not, however, provide absolute protection against a malpractice action.]

EXPLANATION OF CONTINGENT FEE AGREEMENT

This is an explanation of your Contingent Fee Agreement with us. Please read it and sign it before you sign the Agreement.

The Contingent Fee Agreement says:

1. We agree to handle your case.
2. If we handle your case to completion and do not recover any money for you, you do not have to pay us for our services.
3. If we handle your case to completion and recover some money for you, you must pay us for our services. Our fee will be a percentage of what we recover for you. The percentage is set forth in the Contingent Fee Agreement.
4. If we advance money for filing fees, witness fees, doctors' reports, medical records, court reporters' services, or other expenses on your behalf, you must repay us whether the case is won or lost.
5. You may cancel the Contingent Fee Agreement by notifying us in writing within 24 hours after you sign it.
6. If you cancel the Agreement within the 24-hour period, you will have no obligation to us.

I have read the foregoing explanation before I signed a Contingent Fee Agreement with [*name of attorney*].

[*Client*]

[*Date*]

**LETTER ADVISING CLIENTS THAT LAWYER IS
CLOSING HIS/HER OFFICE
(Sample -- Modify as appropriate)**

Re: *[Name of Case]*

Dear *[Name]*:

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

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

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

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

I *[or: insert name of the attorney who will store files]* will continue to store my copy of your closed file for 10 years. After that time, I *[or, insert name of other attorney if relevant]* will destroy my copy of the file unless you notify me in writing immediately that you do not want me to follow this procedure. *[If relevant, add: If you object to (insert name of attorney who will be storing files) storing my copy of your closed file, let me know immediately and I will make alternative arrangements.]*

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

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

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

[Name]

[Address]

[Phone]

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

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

Sincerely,

[Attorney]

[Firm]

LAW OFFICE LIST OF CONTACTS

ATTORNEY NAME: _____ Social S

OR State Bar #: _____ Federal Employer ID #: _____ State T

Date of Birth: _____

Office Address: _____

Office Phone: _____

Home Address: _____

Home Phone: _____

SPOUSE:

Name: _____

Work Phone: _____

Employer: _____

OFFICE MANAGER:

Name: _____

Home Address: _____

Home Phone: _____

COMPUTER AND TELEPHONE PASSWORDS:

(Name of person who knows passwords or location where passwords are stored, such as a safe deposit box)

Name: _____

Home Address: _____

Home Phone: _____

POST OFFICE OR OTHER MAIL SERVICE:

Location: _____

Box No.: _____

Obtain Key From: _____

Address: _____

Phone: _____

Other Signatory: _____

Address: _____

Phone: _____

SECRETARY:

Name: _____

Home Address: _____

Home Phone: _____

BOOKKEEPER:

Name: _____

Home Address: _____

Home Phone: _____

LANDLORD:

Name: _____

Address: _____

Phone: _____

PERSONAL REPRESENTATIVE:

Name: _____

Address: _____

Phone: _____

ATTORNEY:

Name: _____

Address: _____

Phone: _____

ACCOUNTANT:

Name: _____

Address: _____

Phone: _____

ATTORNEYS TO HELP WITH PRACTICE CLOSURE:

First Choice: _____

Address: _____

Phone: _____

Second Choice: _____

Address: _____

Phone: _____

Third Choice: _____

Address: _____

Phone: _____

LOCATION OF WILL AND/OR TRUST:

Access Will and/or Trust

by Contacting: _____

Address: _____

Phone: _____

PROFESSIONAL CORPORATIONS:

Corporate Name: _____

Date Incorporated: _____

Location of Corporate _____

Minute Book: _____

Location of Corporate _____

Seal: _____

Location of Corporate _____

Stock Certificate: _____

Location of Corporate _____

Tax Returns: _____

Fiscal Year-End _____

Date: _____

Corporate Attorney: _____

Address: _____

Phone: _____

PROCESS SERVICE COMPANY:

Name: _____

Address: _____

Phone: _____

Contact: _____

OFFICE-SHARER OR "OF COUNSEL:"

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

OFFICE PROPERTY/LIABILITY COVERAGE:

Insurer: _____
Address: _____
Phone: _____
Policy No.: _____
Contact Person: _____

OTHER IMPORTANT CONTACTS:

Name: _____
Address: _____
Phone: _____
Reason for Contact: _____

Name: _____
Address: _____
Phone: _____
Reason for Contact: _____

OTHER IMPORTANT CONTACTS:

Name: _____
Address: _____
Phone: _____
Reason for Contact: _____

GENERAL LIABILITY COVERAGE:

Insurer: _____
Address: _____
Phone: _____
Policy No.: _____
Contact Person: _____

LEGAL MALPRACTICE—PRIMARY COVERAGE:

Provider: Lawyers Mutual Liability Insurance Company

Address: P.O. Box 1929
Cary, NC 27512-1929

Phone: _____

LEGAL MALPRACTICE EXCESS COVERAGE:

Insurer: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

VALUABLE PAPERS COVERAGE:

Insurer: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

OFFICE OVERHEAD/DISABILITY INSURANCE:

Insurer: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

HEALTH INSURANCE:

Insurer Name: _____

Address: _____

Phone: _____

Policy No.: _____

Persons Covered: _____

Contact Person: _____

DISABILITY INSURANCE:

Insurer Name: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

LIFE INSURANCE:

Insurer Name: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

WORKERS' COMPENSATION INSURANCE:

Insurer Name: _____

Address: _____

Phone: _____

Policy No.: _____

Contact Person: _____

STORAGE LOCKER LOCATION:

Storage Company: _____ Locker

Address: _____

Phone: _____

Obtain Key From: _____

Address: _____

Phone: _____

Items Stored: _____

Storage Company: _____ Locker

Address: _____

Phone: _____

Obtain Key From: _____

Address: _____

Phone: _____

Items Stored: _____

STORAGE LOCKER LOCATION:

Storage Company: _____ Locker

Address: _____

Phone: _____

Obtain Key From: _____
Address: _____
Phone: _____
Items Stored: _____

SAFE DEPOSIT BOX:

Institution: _____
Box No.: _____
Address: _____
Phone: _____
Obtain Key From: _____
Address: _____
Phone: _____
Other Signatory: _____
Address: _____
Phone: _____
Items Stored: _____

LEASES:

Item Leased: _____
Lessor: _____
Address: _____
Phone: _____
Expiration Date: _____
Item Leased: _____
Lessor: _____
Address: _____
Phone: _____
Expiration Date: _____
Item Leased: _____
Lessor: _____
Address: _____
Phone: _____
Expiration Date: _____

Item Leased: _____
Lessor: _____
Address: _____
Phone: _____
Expiration Date: _____

LAWYER TRUST ACCOUNT:

IOLTA: _____
Institution: _____
Address: _____
Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____
Phone: _____

INDIVIDUAL TRUST ACCOUNT:

Name of Client: _____
Institution: _____
Address: _____
Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____
Phone: _____

GENERAL OPERATING ACCOUNT:

Institution: _____
Address: _____
Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____
Phone: _____

GENERAL OPERATING ACCOUNT:

Institution: _____
Address: _____

Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____

Phone: _____

Institution: _____
Address: _____

Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____

Phone: _____

BUSINESS CREDIT CARD:

Institution: _____
Address: _____

Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____

Phone: _____

BUSINESS CREDIT CARD:

Institution: _____
Address: _____

Phone: _____
Account Number: _____
Other Signatory: _____
Address: _____

Phone: _____

MAINTENANCE CONTRACTS:

Item Covered: _____
Vendor Name: _____
Address: _____

Phone: _____
Expiration: _____

Item Covered: _____

Vendor Name: _____
Address: _____

Phone: _____
Expiration: _____

Item Covered: _____
Vendor Name: _____
Address: _____

Phone: _____
Expiration: _____

ALSO ADMITTED TO PRACTICE IN THE FOLLOWING STATES:

State of: _____
Bar Address: _____

Phone: _____
Bar ID #: _____

State of: _____
Bar Address: _____

Phone: _____
Bar ID #: _____

State of: _____
Bar Address: _____

Phone: _____
Bar ID #: _____

**LETTER TO CLIENTS ADVISING THAT LAWYER IS UNABLE
TO CONTINUE IN PRACTICE**
(Sample -- Modify as appropriate)

Re: [Name of Case]
Dear [Name]:

Due to ill health, [Affected Attorney] is no longer able to continue practice. You will need to retain the services of another attorney to represent you in your legal matters. I will be assisting [Affected Attorney] in closing [his/her] practice. We recommend that you retain the services of another attorney immediately so that all of your legal rights can be preserved.

You will need a copy of your legal file for use by you and your new attorney. I am enclosing a written authorization for your file to be released directly to your new attorney. You or your new attorney can forward this authorization to us and we will release the file as instructed. If you prefer, you can come to [address of office or location for file pick-up] and pick up a copy of your file so that you can deliver it to your new attorney yourself.

Please make arrangements to pick up your file, or have your file transferred to your new attorney, by [date]. It is imperative that you act promptly so that all of your legal rights will be preserved.

Your closed files will be stored in [location]. If you need a closed file, you can contact me at the following address and phone number until [date]:

[Name]

[Address]

[Phone]

After that time, you can contact [Affected Attorney] for your closed files at the following address and phone number:

[Name]

[Address]

[Phone]

You will receive a final accounting from [Affected Attorney] in a few weeks. This will include any outstanding balances that you owe to [Affected Attorney], and an accounting of any funds in your client trust account.

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

Sincerely,

[Assisting Attorney]

[Firm]

Enclosure

**LETTER FROM FIRM TO CLIENTS OFFERING
TO CONTINUE REPRESENTATION
(Retiring Lawyer's Firm)**

Re: *[Name of Case]*
Dear *[Name]*:

Due to ill health, *[Affected Attorney]* is no longer able to continue representing you on your case(s). A member of this firm, *[name]*, is available to continue handling your case if you wish *[him/her]* to do so. You have the right to select the attorney of your choice to represent you in this matter.

If you wish our firm to continue handling your case, please sign the authorization at the end of this letter and return it to this office.

If you wish to retain another attorney, please give us written authority to release your file directly to your new attorney. If you prefer, you may come to our office and pick up a copy of your file and deliver it to your new attorney yourself. 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 authorization for us to represent you or written authority to transfer your file by *[date]*.

I want to make this transition as simple and easy as possible. Please feel free to contact me with your questions.

Sincerely,

[Assisting Attorney]

Enclosures

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

[Client]

[Date]

CLIENT'S REQUEST FOR FILE

I hereby request that [Firm/Attorney Name] provide me with a copy of my file.
Please send the file to the following address:

Client

Date

CLIENT'S AUTHORIZATION FOR TRANSFER OF CLIENT FILE

I hereby authorize the law office of [Firm/Attorney Name] to deliver a copy of my file to my new attorney at the following address:

Client

Date

CLIENT'S ACKNOWLEDGMENT OF RECEIPT OF FILE

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

Client

Date

FINANCIAL PLANNING FOR THE CLOSING OR “SHOW ME THE MONEY”

Attorneys who have assisted in closing law practices for attorneys who died or became suddenly incapacitated regularly complain that the funds available to pay for the orderly closing of the law practice are often insufficient. The Planning Attorney should also plan to make funds available as working capital to pay staff, rent, utilities and the Assisting Attorney to insure the orderly closing of the practice. Assisting Attorneys often find themselves in a position of having to go to the Court for their fees from the general estate which may cause some conflicts. Assisting Attorneys and Staff members should not have to worry about their compensation while being asked to assist the Deceased Attorney's estate and family by closing the decedent's practice in an orderly manner and thereby likely increasing the practice's value to the estate.

Suggested Methods of Funding Office Closing:

(1) Establish an Office Closing Fund of \$10,000 - \$20,000 and designate the Fund's purpose. Authorize the use of the Fund in your Will and direct your Personal Representative to use or allow its use for the purpose of funding the orderly closing of the office.

(2) Take out a small life insurance policy of \$10,000 - \$25,000 on your life and direct your personal representative to use the proceeds for the orderly closing of your office as an expense of the estate.

(3) Organize your practice as a professional association or professional limited liability company and leave a legacy to the corporation or company with directions that the funds be made immediately available to the Assisting Attorney to pay the bills of closing the office.

(4) Have your P.A. or P.L.L.C. purchase a life insurance policy on your life naming the P.A. or P.L.L.C. as beneficiary of the policy. Direct in your Will or Trust that the life insurance funds be used for that purpose.

The closing of your law practice should take only a few weeks if it is properly planned and funded so that your staff can begin work immediately under the direction of the Assisting Attorney to pull files together, notify clients and opposing attorneys, collect accounts receivable, prepare motions and notices to the Courts and other measures that will ease the transfer of files to clients and enhance the value of the practice.

WILL PROVISIONS
(Sample — Modify as appropriate)

With respect to my law practice, my personal representative is expressly authorized and directed to carry out the terms of the *Agreement to Close Law Practice* I have made with Assisting Attorney on _____, ____; if that Agreement is not in effect, my personal representative is authorized to enter into a similar agreement or agreements with other attorneys as my personal representative, in his or her sole discretion, may determine to be necessary or desirable to protect the interests of my clients and dispose of my practice, including but not limited to: sale of the practice, collection of accounts receivable, payment of expenses relating to the practice, and employing an attorney or attorneys to review my files, complete unfinished work, notify my clients of my death and assist them in finding other attorneys, and provide long-term storage of and access to my closed files.

OR

My personal representative is expressly authorized and directed to take such steps as he or she deems necessary or desirable, in my personal representative's sole discretion, to protect the interests of the clients of my law practice and to wind down or dispose of that practice, including but not limited to: sale of the practice, collection of accounts receivable, payment of expenses relating to the practice, and employing an attorney or attorneys to review my files, complete unfinished work, notify my clients of my death and assist them in finding other attorneys, and provide long-term storage of and access to my closed files.

**ATTACHMENT II - N.C. GEN. STAT. §84-28(j)
27 N.C. ADMIN. CODE, 1B §.0122**

§ 84-28. Discipline and disbarment.

(a) Any attorney admitted to practice law in this State is subject to the disciplinary jurisdiction of the Council under such rules and procedures as the Council shall adopt as provided in G.S. 84-23.

(b) The following acts or omissions by a member of the North Carolina State Bar or any attorney admitted for limited practice under G.S. 84-4.1, individually or in concert with any other person or persons, shall constitute misconduct and shall be grounds for discipline whether the act or omission occurred in the course of an attorney-client relationship or otherwise:

- (1) Conviction of, or a tender and acceptance of a plea of guilty or no contest to, a criminal offense showing professional unfitness;
- (2) The violation of the Rules of Professional Conduct adopted and promulgated by the Council in effect at the time of the act;
- (3) Knowing misrepresentation of any facts or circumstances surrounding any complaint, allegation or charge of misconduct; failure to answer any formal inquiry or complaint issued by or in the name of the North Carolina State Bar in any disciplinary matter; or contempt of the Council or any committee of the North Carolina State Bar.

(c) Misconduct by any attorney shall be grounds for:

- (1) Disbarment;
- (2) Suspension for a period up to but not exceeding five years, any portion of which may be stayed upon reasonable conditions to which the offending attorney consents;
- (3) Censure – A censure is a written form of discipline more serious than a reprimand issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or members of the public, but the protection of the public does not require suspension of the attorney's license;
- (4) Reprimand – A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct, but the protection of the public does not require a censure. A reprimand is generally reserved for cases in which the attorney's conduct has caused harm or potential harm to a client, the administration of

justice, the profession, or members of the public;
or

- (5) Admonition – An admonition is a written form of discipline imposed in cases in which an attorney has committed a minor violation of the Rules of Professional Conduct.

Any order disbaring or suspending an attorney may impose reasonable conditions precedent to reinstatement. No attorney who has been disbarred by the Disciplinary Hearing Commission, the Council, or by order of any court of this State may seek reinstatement to the practice of law prior to five years from the effective date of the order of disbarment. Any order of the Disciplinary Hearing Commission or the Grievance Committee imposing an admonition, reprimand, censure, or stayed suspension may also require the attorney to complete a reasonable amount of continuing legal education in addition to the minimum amount required by the North Carolina Supreme Court.

(d) Any attorney admitted to practice law in this State, who is convicted of or has tendered and has had accepted, a plea of guilty or no contest to, a criminal offense showing professional unfitness, may be disciplined based upon the conviction, without awaiting the outcome of any appeals of the conviction. An order of discipline based solely upon a conviction of a criminal offense showing professional unfitness shall be vacated immediately upon receipt by the Secretary of the North Carolina State Bar of a certified copy of a judgment or order reversing the conviction. The fact that the attorney's criminal conviction has been overturned on appeal shall not prevent the North Carolina State Bar from conducting a disciplinary proceeding against the attorney based upon the same underlying facts or events that were the subject of the criminal proceeding.

(d1) An attorney who is disciplined as provided in subsection (d) of this section may petition the court in the trial division in the judicial district where the conviction occurred for an order staying the disciplinary action pending the outcome of any appeals of the conviction. The court may grant or deny the stay in its discretion upon such terms as it deems proper. A stay of the disciplinary action by the court shall not prevent the North Carolina State Bar from going forward with a disciplinary proceeding against the attorney based upon the same underlying facts or events that were the subject of the criminal proceeding.

(e) Any attorney admitted to practice law in this State who is disciplined in another jurisdiction shall be subject to the same discipline in this State: Provided, that the discipline imposed in the other jurisdiction does not exceed that provided for in subsection (c) above and that the attorney was not deprived of due process in the other jurisdiction.

- (f) Upon application by the North Carolina State Bar,

misconduct by an attorney admitted to practice in this State may be restrained or enjoined where the necessity for prompt action exists regardless of whether a disciplinary proceeding in the matter of the conduct is pending. The application shall be filed in the Superior Court of Wake County and shall be governed by the procedure set forth in G.S. 1A-1, Rule 65.

(g) Any member of the North Carolina State Bar may be transferred to disability inactive status for mental incompetence, physical disability, or substance abuse interfering with the attorney's ability to competently engage in the practice of law under the rules and procedures the Council adopts pursuant to G.S. 84-23.

(h) There shall be an appeal of right from any final order imposing admonition, reprimand, censure, suspension, stayed suspension, or disbarment upon an attorney, or involuntarily transferring a member of the North Carolina State Bar to disability inactive status to the North Carolina Court of Appeals. Review by the appellate division shall be upon matters of law or legal inference. The procedures governing any appeal shall be as provided by statute or court rule for appeals in civil cases. A final order which imposes disbarment or suspension for 18 months or more shall not be stayed except upon application, under the rules of the Court of Appeals, for a writ of supersedeas. A final order imposing suspension for less than 18 months or any other discipline except disbarment shall be stayed pending determination of any appeal of right.

(i) The North Carolina State Bar may invoke the process of the General Court of Justice to enforce the powers of the Council or any committee to which the Council delegates its authority.

(j) The North Carolina State Bar may apply to appropriate courts for orders necessary to protect the interests of clients of missing, suspended, disbarred, disabled, or deceased attorneys.

The senior regular resident judge of the superior court of any district wherein a member of the North Carolina State Bar resides or maintains an office shall have the authority and power to enter orders necessary to protect the interests of the clients, including the authority to order the payment of compensation by the member or the estate of a deceased or disabled member to any attorney appointed to administer or conserve the law practice of the member. Compensation awarded to a member serving under this section awarded from the estate of a deceased member shall be considered an administrative expense of the estate for purposes of determining priority of payment. (1933, c. 210, s. 11; 1937, c. 51, s. 3; 1959, c. 1282, ss. 1, 2; 1961, c. 1075; 1969, c. 44, s. 61; 1975, c. 582, s. 5; 1979, c. 570, ss. 6, 7; 1983, c. 390, ss. 2, 3; 1985, c. 167; 1987, c. 316, s. 4; 1989, c. 172, s. 2; 1991, c. 210, s. 5; 1995, c. 431, s. 18.)

.0122 Appointment of Counsel to Protect Clients' Interests When Attorney Disappears, Dies, or is Transferred to Disability Inactive Status.

- (a) Whenever a member of the North Carolina State Bar has been transferred to disability inactive status, disappears, or dies and no partner or other member of the North Carolina State Bar capable of protecting the interests of the attorney's clients is known to exist, the senior resident judge of the superior court in the district of the member's most recent address on file with the North Carolina State Bar, if it is in this state, will be requested by the secretary to appoint an attorney or attorneys to inventory the files of the member and to take action to protect the interest of the member and his or her clients.
- (b) Any member so appointed will not be permitted to disclose any information contained in any files inventoried without the consent of the client to whom such files relate except as necessary to carry out the order of the court which appointed the attorney to make such inventory.

History Note: Statutory Authority G.S. 84-23; G.S. 84 - 28(j)

Readopted Effective December 8, 1994.

ATTACHMENT III -

Form Pleadings for Appointment of Trustees (Death)

- 1. Verified Petition for Order Appointing Trustee**
- 2. Order Appointing Trustee**
- 3. Petition for Order Discharging Trustee**
- 4. Notice of Hearing**

Cover Letter to Trustee

enclosing form pleadings (above) and RPC 16, RPC 209

The North Carolina State Bar

Larissa J. Erkman
Deputy Counsel

January 3, 2001

Office of Counsel
Carolyn D. Bakewell, Counsel
Fern Gunn Simeon, Deputy Counsel
A. Root Edmonson, Deputy Counsel
Clayton W. Davidson III, Deputy Counsel
Douglas J. Brocker, Deputy Counsel

VIA US Mail

Trustee Name
Address

Re: Trustee of Atty Name Law Practice

Dear Mr. Trustee Last Name:

Please find enclosed for your review three copies of a draft petition and proposed orders seeking your appointment as trustee for the law practice of Atty Name. Also enclosed are a draft petition seeking your discharge as trustee, a proposed order discharging you as trustee, and a handbook prepared by the State Bar for use by law practice trustees.

When you are satisfied with the content of the petition and order seeking your appointment, please file the petition in the County Name County Superior Court and present the proposed order to the Senior Resident Superior Court Judge for entry. Return a file stamped copy of the petition and order to me in the enclosed, self-addressed envelope, for the State Bar's records.

As we have discussed in our recent telephone conversations, the first task of the trustee is to determine what active client matters need immediate attention and to contact those clients to inform them of the need to retain new counsel. As trustee, you are not expected to serve as counsel for Atty Name's clients, although you may do so if you wish and the clients consent. Depending upon the urgency of the pending legal matters, you may need to contact some clients by telephone and/or seek a continuance of scheduled court hearings, and the like. You may consider notifying the clerks of court where lawsuits are pending to seek additional assistance in seeing that special attention is given to scheduling matters in Mr. Atty Last Name's ongoing cases, to the extent that Mr. Atty Last Name was scheduled to make court appearances for clients and to the extent that he was required to make filings for any estates. For non-emergency cases, we recommend contacting clients to notify them of Mr. Atty Last Name's death and their need to retain new counsel by mailing a form letter. There are some sample letters in the handbook.

In the event that you decide to not keep Mr. Atty Last Name's office staffed and open full-time, you may consider scheduling blocks of time for Mr. Atty Last Name's clients to pick up their files. Regardless, you should make an inventory of all files and should keep track of which clients pick up their files. Before turning over client files, you may wish to obtain and photocopy appropriate forms of picture identification. We suggest that you have clients sign an acknowledgment of receipt of their file. Samples of such acknowledgments are in the trustee handbook. In order to be discharged as trustee when your duties are completed, you will have to submit to the court a list of all client files, a list of those files picked up by clients and a list of all client files not picked up. Please keep this in mind when organizing the inventory of files and

client receipts. It may be useful at this point for you to review the enclosed draft petition seeking your discharge as trustee and the proposed order so that you will be familiar with what is required to complete your duties as trustee.

To the extent that Mr. Atty Last Name maintained inactive client files at his office, a reasonable effort should be made to inventory those files and to contact clients to offer them a chance to pick up their files before the files are destroyed by order of the Court. See RPC 16 and RPC 209 for some guidance on your responsibilities with respect to inactive (or closed) client files. Copies of these ethics opinions are enclosed for your convenience. Some trustees choose to limit their inventory of closed files to those files in which the representation was concluded within the last 6 years, because 6 years is the required minimum for retaining closed files pursuant RPC 209. Some attorneys chose a longer period, such as 10 years, because the statute of limitations may require that a particular file be retained for longer than 6 years. Regardless, you should seek direction and approval of the court which appoints you in formulating a plan for disposal of Mr. Atty Last Name's files. What actions constitute reasonable attempts to contact the clients before destroying closed files will depend on the number of closed files as well as other circumstances. You should seek the court's instructions if you are uncertain as to exactly what steps ought to be taken in order to contact the clients before disposing of files. You should not dispose of client files without an order of the court authorizing you to so do.

In addition to immediately contacting clients with pending matters, you should promptly secure Mr. Atty Last Name's trust and/or fiduciary accounts by notifying the financial institutions where such accounts are maintained that Mr. Atty Last Name has died. It may be necessary for you to execute new directives concerning signatory authority for the accounts. You should also promptly obtain the account records in order to identify the ownership of any funds in such accounts, so that the clients/beneficiaries may be reimbursed, or their funds forwarded as they may direct. The enclosed order authorizes you to secure the accounts and obtain records from the bank(s), to the extent that trust account records are not on file in Mr. Atty Last Name's office. If you need help in obtaining the records and funds or preparing an accounting, please let me know.

Although the order appointing you as trustee gives you the general authority to disburse funds from the trust and/or fiduciary accounts, it is probably wise to get another order specifically authorizing disbursement once you have determined what funds are to be disbursed and to whom. You will, of course, be required to account to the court for all funds and disbursements.

When you complete your duties, the last step in the process is to apply to the Court for discharge. I have enclosed a draft petition seeking your discharge as trustee. Please contact me for assistance in finalizing this pleading when the time comes. Again, it would be helpful for you to review the draft order at this time so that you are more familiar with what the Court may require in order to discharge you upon completion of your duties.

You should keep track of your time and expenses incurred in winding down Mr. Atty Last Name's practice. You should also keep track of the time spent by your clerical staff. The court can award payment of counsel fees to a trustee. [in the event of death: , which fees may be paid as administrative expenses of the estate. N.C. Gen. Stat. 84-280). It is probably a good idea to seek interim orders of the court providing for payment of your fees and expenses as incurred if

you desire to be promptly compensated by the Estate. Let me know if you need assistance in drafting a notice of hearing and petition seeking payment of your interim fees and expenses. You should present summaries of your services and expenses, along with any such interim or final orders authorizing payment of your fees, to the personal representative of the Estate and to the clerk of court in order to put the estate on notice of your claim.]. [In the event of disability/disbannent/abandonment: In the event that Mr. Atty Last Name is unable to pay your fees, the State Bar would be in a position to pay you a modest fee in compensation for your time. As you proceed with the trusteeship of Mr. Atty Last Name's practice, please send me periodic statements reporting your time and expenses incurred so that I advise the State Bar's Executive Director, Tom Lunsford.] In any order discharging you as trustee, it is important that the Court set the fee to be paid to you for your services as trustee.

[In the event of death:

I am certain that you will have a number of questions about how to handle the wind down of Mr. Atty Last Name's law practice. Call me or any of the other staff attorneys here at the N.C. State Bar if you need help or advice. Again, thank you for undertaking this very important service to the profession, the public, and Mr. Atty Last Name's family.

With kind regards, I am

Very truly yours,

Larissa J. Erkman
Deputy Counsel

Enclosures

RPC 16

October 24, 1986

Files of a Deceased Lawyer

Opinion rules that a lawyer appointed conservator of a deceased lawyer's files should comply with the instructions of the court and seek to preserve valuable documents and confidential information.

Inquiry:

Attorney A represents Client W, the widow of Attorney Y. Attorney Y practiced law in the area for approximately twenty-five years, during which time he accumulated numerous files. Attorney A has been appointed conservator of Attorney Y's files by the senior resident Superior Court Judge. As conservator, and counsel for Client W, Attorney A contacted each of Attorney Y's clients who had active files in his office at the time of Attorney Y's death. Most of those clients have picked up their files.

Attorney Y was associated with one other lawyer at the time of his death. Shortly after Y's death, that other lawyer opened up his own practice in a separate building.

Client W is planning to sell the office building where Y's practice was located and needs to do something with the numerous files that were accumulated over the years. Specifically, is the estate authorized to file these files in another attorney's office or in the Clerk's Office if such accommodations can be arranged? If those accommodations cannot be arranged, must the estate store these files indefinitely? Can the estate attempt to notify the clients involved by legal advertisement in the paper and then physically destroy all files not picked up in a reasonable period of time? Attorney A is concerned about problems of client confidentiality if files are turned over to another law firm. Attorney A is also concerned about the loss of valuable documents if files are shredded and destroyed.

What may Attorney A ethically do to handle the problem of Y's files?

Opinion:

The Bar cannot speak as to what the estate may or may not do as the estate is not an attorney bound by the Rules of Professional Conduct. Nor is Attorney Y's widow subject to the Rules. Nor can the Bar speak to any legal questions of the client's rights to their files.

Attorney A, as counsel for W and as conservator of Y's files, should seek to advise W reasonably according to any potential obligations she may have and should seek direction and approval from the court which appointed him conservator. There appear to be few ethics opinions dealing with ultimate disposition of the files of a deceased lawyer, particularly inactive files. On the other hand, many jurisdictions have dealt with the question of what an attorney or firm may do with their own files which become inactive and have recognized that even an attorney in active practice is not required to retain entire files indefinitely. Generally, opinions have suggested that an attorney concerned with his own files may notify clients that inactive files

may be destroyed within a reasonable period of time if the client does not pick up the file or direct that it be transferred to another attorney. In destroying files, opinions have generally suggested that attorneys should not destroy items which actually belong to the client, information useful in the assertion or defense of a client's position in a matter for which the statute of limitations is not expired, or information which the client may need, does not already have, and which is not readily fillable otherwise. Generally, attorneys should also retain accounts or records of their receipts or disbursements and an index or identification of destroyed files. In determining what should be destroyed, the files should be screened and determinations made according to the nature and contents of those files. See ABA Informal Opinion 1384 (March 14, 1977); Kentucky Bar Association Opinion E-300 (January 11, 1985); New York City Bar Association Opinion 82-15 (February 6, 1985); Maryland Opinion 85-77, 801 ABA/BNA Lawyer's Manual on Professional Conduct at 4359.

As an attorney, Attorney A is not in the same position as he would be with regard to the disposition of his own files, but should have due regard to the considerations involved in disposition of files of an attorney. Thus, Attorney A should take note of confidential information as governed by Rule 4 of the Rules of Professional Conduct and should avoid simply transferring a case to another attorney, without the client's instruction or consent, for handling by that other attorney. Storage in a reasonable location, whether in another attorney's office or elsewhere, would certainly be appropriate. Otherwise, Attorney A should comply with the direction of the court which appointed him conservator and follow his personal conscience and sense of professional responsibility in making every effort to see that files are dealt with appropriately.

STATE OF NORTH CAROLINA
COUNTY NAME

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE RESIDENT
SUPERIOR COURT JUDGE OF THE
JD# JUDICIAL DISTRICT
FILE # _____

IN RE: ATTY NAME,
ATTORNEY AT LAW.

VERIFIED PETITION FOR ORDER
APPOINTING TRUSTEE OF
DECEASED ATTORNEY'S
LAW PRACTICE

—

Pursuant to N.C. Gen. Stat. § 84-280) and 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0122 of the Discipline & Disability Rules of the North Carolina State Bar, the North Carolina State Bar, by and through its Director, petitions and requests the Resident Superior Court Judge of the JD# Judicial District to enter an order appointing a member of the Judicial District Bar to serve as trustee of the law practice of Atty Name due to his/her death. In support of this petition, the North Carolina State Bar shows the Court as follows:

1. According to the records of the North Carolina State Bar, Mr. Atty Last Name was licensed to practice law on August 15, 1969. At the time of his/her death, Mr. Atty Last Name practiced law in County Name County, North Carolina.

2. According to the records of the North Carolina State Bar, the last address of record for Mr. Atty Last Name is 137 Taylor Street, P.O. Box 877, Rutherfordton, North Carolina 28139-0877.

3. Mr. Atty Last Name died on or around

4. At the time of his/her death, Mr. Atty Last Name had no partners or associates capable of winding down his/her law practice and ensuring that the interests of his/her clients and/or former clients are protected.

5. On information and belief, there remain funds belonging to clients or third parties on deposit in trust or fiduciary accounts held solely in the name of Mr. Atty Last Name. At the time of his/her death, Mr. Atty Last Name had no partners or associates capable of carrying out his/her obligations under Rules 1- 15. 1 and 1- 15.2 under the Revised Rules of Professional Conduct.

6. Trustee Name, an attorney licensed to practice in North Carolina and a member in good standing of JD# Judicial District Bar, has indicated that he/she is willing to serve as trustee of the North Carolina law practice of Mr. Atty Last Name, pursuant to Section .0122 of the Discipline

& Disability Rules of the North Carolina State Bar, for purposes of protecting the interests of Mr. Atty Last Name's clients.

7. Trustee Name's mailing address is:

WHEREFORE, the Petitioner prays for:

1. An order appointing Trustee Name, an attorney licensed to practice in North Carolina and a member in good standing of JD# Judicial District Bar, to serve as trustee of the law practice of Atty Name, and authorizing Trustee Name (hereafter "the Trustee") to gain possession of Mr. Atty Last Name's client files, to secure Mr. Atty Last Name's trust and/or fiduciary accounts, to gain possession of Mr. Atty Last Name's and attorney trust and/or fiduciary account records (including all bank statements, all canceled checks (front and back), all deposit slips, all check stubs and all client ledger cards) and to take such actions as are necessary to protect the interests of the clients and/or former clients of Mr. Atty Last Name; and

2. For such other and further relief as the Court deems appropriate.

Respectfully submitted, this the day of 20__.

L. Thomas Lunsford, Director

The N.C. State Bar
P.O. Box 25908
Raleigh, N.C. 27611
(919) 828-4620

VERIFICATION

I, L. Thomas Lunsford, after being first duly sworn, depose and say as follows:

1. I am the Director of the North Carolina State Bar.

2. As Director of the North Carolina State Bar, I am an official custodian of the records of the North Carolina State Bar.

3. As an official custodian of the records, I hereby certify that the records of the North Carolina State Bar reflect the facts attributed to those records set forth in the foregoing Petition.

4. I hereby certify that the facts set forth upon information and belief are believed to be true by the Petitioner.

5. I hereby indicate my request for the appointment of an attorney licensed to practice law in North Carolina as trustee for the law practice of deceased attorney, Atty Name, to gain possession of Mr. Atty Last Name's client files, to secure Mr. Atty Last Name's trust and/or fiduciary accounts, to gain possession of Mr. Atty Last Name's attorney trust and/or fiduciary account records and funds, and to protect the interests of his/her clients and/or former clients.

This the ____ day of _____, 20__.

L. Thomas Lunsford, Director
The North Carolina State Bar

Subscribed and sworn before me

this the ____ day of _____, 20__.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA
COUNTY NAME

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE RESIDENT
SUPERIOR COURT JUDGE OF THE
JD# JUDICIAL DISTRICT
FILE #

IN RE: ATTY NAME,
ATTORNEY AT LAW

ORDER APPOINTING TRUSTEE
OF DECEASED ATTORNEY'S
LAW PRACTICE

—

THIS CAUSE coming before the Resident Superior Court Judge of the JD# Judicial District, pursuant to N.C. Gen. Stat. § 84-280) and 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0122 of the Discipline & Disability Rules of the North Carolina State Bar, upon the verified petition of the North Carolina State Bar for an order appointing a trustee of the law practice of Atty Name, owing to his/her death, and based upon the petition before the Court, the undersigned makes the following:

FINDINGS OF FACT

1. According to the records of the North Carolina State Bar, Mr. Atty Last Name was licensed to practice law on August 15, 1969. At the time of his/her death, Mr. Atty Last Name practiced law in County Name County, North Carolina.
2. According to the records of the North Carolina State Bar, the last address of record for Mr. Atty Last Name is 137 Taylor Street, P.O. Box 877, Name town, North Carolina 281390877.
3. Mr. Atty Last Name died on or around
4. At the time of his/her death, Mr. Atty Last Name had no partners or associates capable of winding down his/her law practice and ensuring that the interests of his/her clients and/or former clients are protected.
5. On information and belief, there remain funds belonging to clients or third parties on deposit in trust or fiduciary accounts held solely in the name of Mr. Atty Last Name. At the time of his/her death, Mr. Atty Last Name had no partners or associates capable of carrying out his/her obligations under Rules 1-15.1 and 1-15.2 under the Revised Rules of Professional Conduct.
6. Trustee Name, an attorney licensed to practice in North Carolina and a member in good standing of JD# Judicial District Bar, has indicated that he/she is willing to serve as trustee of the North Carolina law practice of Mr. Atty Last Name, pursuant to Section .0122 of the Discipline

& Disability Rules of the North Carolina State Bar, for purposes of protecting the interests of Mr. Atty Last Name' clients.

7. Trustee Name's mailing address is:

BASED UPON THE FOREGOING FINDINGS OF FACT, the undersigned makes the following:

CONCLUSIONS OF LAW

1. The Court has jurisdiction of this cause pursuant to N.C. Gen. Stat. § 84-280).

2. Atty Name, has died and has no partners or associates, necessitating the appointment of a member of the JD# Judicial District Bar as trustee of Mr. Atty Last Name's law practice, to gain possession of Mr. Atty Last Name's client files, to secure Mr. Atty Last Name's trust and/or fiduciary accounts, to gain possession of Mr. Atty Last Name's trust and/or fiduciary account records (including all bank statements, all canceled checks (front and back), all deposit slips, all check stubs and all client ledger cards), and to take such actions as are necessary to protect the interests of the clients and/or former clients of Mr. Atty Last Name.

THE COURT THEREFORE ORDERS THAT:

1. Trustee Name, an attorney licensed to practice law in North Carolina and a member in good standing of the JD# Judicial District Bar, is hereby appointed trustee of the law practice of Atty Name.

2. As Trustee, Trustee Name is authorized to take such actions as are necessary to obtain possession of any known client files of Atty Name and shall notify Mr. Atty Last Name's clients of his/her death and their need to obtain new counsel. His/Her duties as trustee shall include receiving calendar notices and moving for appropriate continuances in the various courts; returning files to Mr. Atty Last Name's clients and/or former clients; obtaining all records related to Mr. Atty Last Name's trust and/or fiduciary account(s); supervising the disbursement of funds from any trust and/or fiduciary accounts to the appropriate persons; and any other act necessary to wind down Mr. Atty Last Name's practice and protect the interests of Mr. Atty Last Name's clients until all known clients have secured other legal counsel, have chosen to pick up their files and have received all money held in trust for their benefit. As Trustee Name is authorized to take such actions as are necessary to identify Mr. Atty Last Name's trust and fiduciary accounts, as such accounts are defined in Rules 1. 15-1 and 1. 15-2 of the Revised Rules of Professional Conduct, and to obtain possession of Mr. Atty Last Name's trust account and fiduciary account records. As Trustee, Trustee Name shall take such actions as are necessary to identify the ownership of any funds in such accounts so that the clients/beneficiaries may be reimbursed, or their funds forwarded as they may direct. As Trustee, Trustee Name shall maintain adequate accounts of the funds held in Mr. Atty Last Name's attorney trust or fiduciary accounts and shall account to the Court for approval annually or at the completion of the disbursement of the funds. He/She shall be discharged as Trustee upon the completion of his/her duties.

3. As Trustee, Trustee Name is hereby authorized to take such actions as are necessary to secure Mr. Atty Last Name's trust and fiduciary accounts, including, but not limited to, executing

new directives regarding signatory authority over such accounts. As Trustee, Trustee Name is also authorized to obtain records relevant to Mr. Atty Last Name's attorney trust and/or fiduciary accounts from all financial institutions where accounts in which funds of client or fiduciary funds have been or are deposited by or in the name of Atty Name, and to execute authorizations directing such financial institutions to release copies of all relevant records relating to such accounts to representatives of the North Carolina State Bar.

4. This cause is retained for further orders of this Court.

This the _____ day of _____ 20__.

Resident Superior Court Judge
JD# Judicial District

STATE OF NORTH CAROLINA

COUNTY NAME

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE SENIOR RESIDENT
SUPERIOR COURT JUDGE OF
#JD JUDICIAL DISTRICT
FILE #

IN RE: ATTY NAME,
ATTORNEY AT LAW.

PETITION FOR ORDER
DISCHARGING TRUSTEE
OF DECEASED ATTORNEY'S
LAW PRACTICE

NOW COMES, Trustee Name, trustee of the law practice of Atty Name ("Trustee"), and petitions the Court for an order discharging him as trustee of the law practice of Mr. Atty Last Name. In support of the petition, the Trustee respectfully shows:

1. On _____, upon motion of the N.C. State Bar, the Court appointed Trustee Name, as trustee-conservator of the law practice of Atty Name for the purpose of obtaining possession of files belonging to Mr. Atty Last Name's clients, securing funds held in Mr. Atty Last Name's trust and/or fiduciary accounts, obtaining Mr. Atty Last Name's trust and/or fiduciary account records, and protecting the interests of the clients and/or former clients of Mr. Atty Last Name.

2. The undersigned Trustee has now taken all reasonable steps within his power to fulfill his obligations as trustee-conservator of the law practice of Atty Name. He has returned or attempted to return all client files to their rightful owners. He has secured funds held in Mr. Atty Last Name's trust or fiduciary accounts and has identified or attempted to identify the persons to whom those funds belong.

3. The undersigned Trustee has reviewed Mr. Atty Last Name's clients' files. An inventory of the client files is attached as Exhibit A.

4. The undersigned Trustee has distributed files to a number of clients and/or former clients of Mr. Atty Last Name. A list of the files which have been returned to Mr. Atty Last Name's clients is attached hereto as Exhibit B.

5. A number of Mr. Atty Last Name's clients, have not picked up their files, despite receiving notice from the Trustee to do so. [Add description of files remaining to be claimed or distributed to clients and description of steps taken to notify clients, for example: The Trustee now has in his possession <number of files> closed client files wherein he has written the respective clients and has received no instructions regarding the storage or return of the files]. A list of the files which have not been claimed by the clients is attached hereto as Exhibit C.

6. Some disposition needs to be made of the remaining files of Mr. Atty Last Name's former clients. [Add any proposal for storage or disposition of files, for example: The Trustee has indicated that he is willing to store the remaining closed files at his law offices located at _

and make the files available to the respective clients or their legal representatives should they wish to retrieve them for a period of one year from the date of any order discharging him as trustee, at which time he would destroy any unclaimed files.]

7. The undersigned Trustee has disbursed all funds from any trust and/or fiduciary accounts held by Mr. Atty Last Name to the appropriate persons. An order approving said disbursements is attached hereto as Exhibit D and an accounting of said disbursements is attached thereto.

8 [Is there any unclaimed money?],

9. The undersigned Trustee has submitted a summary of his time and expenses incurred in serving as trustee of the law practice of Atty Name. The summary of his time and expenses is attached hereto as Exhibit E. In carrying out his duties as trustee-conservator, the undersigned Trustee has provided services and incurred expenses in the total amount of \$_____

WHEREFORE, the undersigned Trustee respectfully requests the court to enter an order as follows:

1. Discharging him as trustee of the law practice of Atty Name;
2. Allowing him to retain the unclaimed files of clients of Atty Name for one year of the date of this order, after which time he should be authorized to destroy any files of clients of Mr. Atty Last Name that remain unclaimed [or alternative proposal]; and
3. Finding that he is entitled to reasonable compensation for his services as trustee of the law practice of Atty Name and reimbursement of expenses incurred while serving as trustee of the law practice of Mr. Atty Last Name in the amount of \$_____.

This the _____ day of _____, 20__.

Trustee of the Law Practice of Atty Name

STATE OF NORTH CAROLINA
COUNTY NAME

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE RESIDENT
SUPERIOR COURT JUDGE OF THE
JD# JUDICIAL DISTRICT
FILE #

IN RE: ATTY NAME,
 ATTORNEY AT LAW

ORDER DISCHARGING TRUSTEE

THIS MATTER coming on to be heard and being heard by the undersigned Senior Resident Superior Court Judge of the JD# Judicial District upon the motion of the trustee herein for an order discharging him as trustee of the law practice of Atty Name, the Court makes the following:

FINDINGS OF FACT

1. On _____ upon motion of the N.C. State Bar, the Court appointed Trustee Name, Esq., as trustee-conservator of the law practice of Atty Name for the purpose of obtaining possession of files belonging to Mr. Atty Last Name's clients, securing funds held in Mr. Atty Last Name's trust and/or fiduciary accounts, obtaining Mr. Atty Last Name's trust and/or fiduciary account records, and protecting the interests of the clients and/or former clients of Mr. Atty Last Name.

2. Trustee Name, trustee of the law practice of Atty Name, has now taken all reasonable steps within his power to fulfill his obligations as trustee-conservator of the law practice of Atty Name. He has returned or attempted to return all client files to their rightful owners. He has secured and held in Mr. Atty Last Name's trust or fiduciary accounts and has identified or attempted to identify the persons to whom those funds belong.

3. Trustee Name has reviewed Mr. Atty Last Name's clients' files. An inventory of the client files is attached as Exhibit A.

4. Trustee Name has distributed files to a number of clients and/or former clients of Mr. Atty Last Name. Trustee Name has returned all active client files to the respective clients. A list of the files which have been returned to Mr. Atty Last Name's clients is attached hereto as Exhibit B.

5. A number of Mr. Atty Last Name's clients, have not picked up their files, despite receiving notice from Trustee Name to do so. [Description of files remaining to be claimed or distributed to clients and description of steps taken to notify clients, for example: Trustee Name now has in his possession <# of files> closed client files wherein he has written the respective clients and has received no instructions regarding the storage or return of the files]. A list of the files which have not been claimed by the clients is attached hereto as Exhibit C.

6. Some disposition needs to be made of the remaining files of Mr. Atty Last Name's former clients. [Any proposal for storage or destruction needs to be included here, as stated in the petition seeking discharge and approved by the court]

7. Trustee Name has disbursed all funds from any trust and/or fiduciary accounts held by Mr. Atty Last Name to the appropriate persons. An order approving said disbursements is attached hereto as Exhibit D and an accounting of said disbursements is attached thereto.

8 [Is there any unclaimed money?]

9. Trustee Name has submitted a summary of his time and expenses incurred in serving as trustee of the law practice of Mr. Atty Last Name. The summary of his time and expenses is attached hereto as Exhibit E. In carrying out his duties as trustee-conservator, Trustee Name has provided services and incurred expenses in the total amount of \$_____.

Based upon the foregoing FINDINGS OF FACT, the Court enters the following:

CONCLUSIONS OF LAW

1. Trustee Name, trustee of the law practice of Atty Name, has taken all reasonable steps in his power to fulfill his obligations as trustee-conservator of the law practice of Atty Name, to obtain the return of all client files, and to disburse all funds in Mr. Atty Last Name's trust or fiduciary accounts.

2. Trustee Name is entitled to an order discharging him as trustee-conservator of the law practice of Atty Name.

3. Trustee Name is entitled to reasonable compensation for his services rendered and reimbursement of expenses incurred while serving as trustee-conservator of Mr. Atty Last Name's law practice in the amount of \$_____.

4. Trustee Name should be authorized to [add provision regarding disposal of any remaining client files, as proposed by trustee in petition seeking discharge and approved by the Court].

WHEREFORE it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. Trustee Name is hereby discharged as trustee-conservator of the law practice of Atty Name

2. [Provision regarding disposal of files, as stated above, for example: Trustee Name is hereby authorized to maintain in storage at his law office for a period of one year from the date of this order those closed client files that have not yet been retrieved by the clients of Mr. Atty Last Name, after which he is authorized to destroy any files of clients of Atty Name that remain unclaimed, after making a reasonable attempt to remove from said files any original documents that may have independent legal significance, such as original wills and stock certificates and the

like. Trustee Name shall retain any such original documents at his law office for a period of ____ years, at which time he is authorized to destroy all unclaimed documents.]

3. Trustee Name is entitled to reasonable compensation for his services as trustee for the law practice of Atty Name and reimbursement for expenses incurred by him while serving as trustee in the amount of \$_____. Said compensation and expenses are to be paid by the Estate of Atty Name, pursuant to N.C. Gen. Stat. § 84-280), as an administrative expenses of the Estate upon presentation of this Order.

This the ____ day of _____, 20__.

Resident Superior Court Judge
JD# Judicial District

STATE OF NORTH CAROLINA
COUNTY NAME

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
JD# JUDICIAL DISTRICT
FILE #

IN RE: ATTY NAME

NOTICE OF HEARING

To: [Give notice to State Bar and Estate of Atty Name]

Take notice that the undersigned Trustee Name, trustee for law practice of Atty Name, will appear before the Superior Court, County Name County on _____, at _____ a.m./p.m. in Courtroom _____ of the County Name County Courthouse for a determination of his motion seeking discharge as trustee for the law practice of Atty Name, a [deceased/disabled/disbarred] attorney [or: an attorney who abandoned his law practice], and for the determination of reasonable compensation for his services rendered and reimbursement of expenses incurred while serving as trustee of Mr. Atty Last Name's law practice.

[In the event of death use: Said compensation and expenses are deemed administrative expenses of the Estate of Atty Name, pursuant to N.C. Gen. Stat. § 84-280).]

This ____ day of _____, 2001.

Trustee Name
Trustee for the Law Practice of Atty Name