

# *Planning Ahead*



*A Guide to Protect Your Client's and Your Survivor's Interests  
In the Event of Your Disability or Death*



APPROVED FOR DISTRIBUTION  
BY THE MISSOURI BAR BOARD OF GOVERNORS  
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## *Special Acknowledgement*

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# PLANNING AHEAD: A GUIDE TO PROTECT YOUR CLIENTS' AND YOUR SURVIVORS' INTERESTS IN THE EVENT OF YOUR DISABILITY OR DEATH

## THE DUTY TO PLAN AHEAD

It is very difficult to think about events that could render you unable to continue practicing law. Unfortunately, unforeseen accidents, unexpected illness, and untimely death do occur. If they happen to you, your clients' interests may be unprotected, and it may cause an undue hardship for your survivors, particularly if you are a sole practitioner. For this reason, a lawyer's duty of competent representation includes arranging to safeguard your clients' interests in the event of your death, disability, impairment or incapacity. This handbook has been made available by The Missouri Bar Law Practice Management Committee in conjunction with the Legal Ethics Counsel, the Office of Chief Disciplinary Counsel, and The Bar Plan Mutual Insurance Company to easily assist you with making these arrangements. The handbook is designed to assist you with fulfilling the lawyer's ethical responsibilities and to reduce future malpractice claims against you and your estate. This handbook is a guide; you should use your own legal judgment in conjunction with the Rules of Professional Conduct in the development of your plan.

Special acknowledgment and appreciation is extended to the Oregon Professional Liability Fund for permission to adapt their handbook for use in Missouri.

## TERMINOLOGY AND FORMS

The term Successor Lawyer as used in this handbook refers to the lawyer you have made arrangements with to close or take over your practice. The term Planning Lawyer refers to you, your estate, or personal representative. The sample *Agreement—Full Form*, provided in the attachments of this handbook, authorizes the Successor Lawyer to transfer client files, sign checks on your general and trust account, and close your practice. This form also provides for payment to the Successor Lawyer for services rendered, designates the procedure for termination of the Successor Lawyer, and provides the Successor Lawyer with the option to purchase the law practice. (See Missouri Supreme Court Rule 4-1.17) The *Agreement—Full Form*, provided in the attachments of this handbook, is a sample only. You may modify it as needed.

The sample *Agreement—Short Form*, provided in the attachments of this handbook, includes authorization to sign on your general and trust accounts and consent to close your office. It does not include many of the terms found in the sample *Agreement—Full Form* version, but it does include the authorizations most critical to protecting your clients' interests.

## HOW IT IS DONE

The first step in the planning process is for you to find a lawyer who is willing to close or take over your practice in the event of your death, permanent disability, impairment, or incapacity. You might consider a reciprocal arrangement with another lawyer. The arrangement you enter into with the Successor Lawyer includes a variety of features. First, it should include a signed consent form authorizing the Successor Lawyer to contact your clients for instructions on transferring their files, authorization to obtain extensions of time in litigation matters where needed, and authorization to provide all relevant people with notice of closure of your law practice. (See sample *Agreement—Full Form* and sample *Agreement—Short Form* provided in the attachments of this handbook.) (See Missouri Supreme Court Rule 5.26)

The agreement could also include provisions that give the Successor Lawyer authority to wind down your financial affairs, provide your clients with a final accounting and statement, collect fees on your behalf and liquidate or sell your practice. At the outset you will need to scrutinize your financial relationship with the Successor Lawyer dealing with matters as to payment for services, compensation for work on contingent fees and other aspects of a similar nature. Arrangements for payment by you or your estate to the Successor Lawyer for services rendered also can be included in the agreement. (See sample *Agreement—Full Form* provided in the attachments of this handbook.) [Note: the area of successorship and the contingent fee client highlights the value of timekeeping despite the fact a case is handled on a contingent fee basis if any type of fee sharing is contemplated.]

## **DEFINING THE RELATIONSHIP**

At the beginning of your relationship, it is crucial for you and the Successor Lawyer to establish the scope of the Successor Lawyer's duty to you and your clients. If the Successor Lawyer represents you as *your* lawyer, s/he may be prohibited from representing your clients on some, or possibly all, matters. Under this arrangement, the Successor Lawyer would owe his/her fiduciary obligations to you. For example, the Successor Lawyer would be prohibited from informing your clients of your legal malpractice or ethical violations. However, if the Successor Lawyer is not your lawyer, s/he may have an ethical obligation to inform your clients of your errors. (See *What If? Answers to Frequently Asked Questions* provided in the attachments of this handbook.)

Whether or not the Successor Lawyer is representing you, that person must be aware of conflict of interest issues and must do a conflict of interest check if s/he (1) is providing legal services to your clients or (2) must review confidential file information to assist with transferring clients' files.

## **ACCESS TO THE TRUST ACCOUNT**

When arranging to have someone take over or wind down your financial affairs, you should also consider whether you want the person to have access to your trust account. If you do not make arrangements to allow someone access to the trust account, your clients' money will remain in the trust account until a court orders access. For example, if you become physically, mentally, or emotionally unable to conduct your law practice, and no access arrangements were made, your clients' money will most likely remain in your trust account until the court takes jurisdiction over your practice and your accounts pursuant to Missouri Supreme Court Rule 5.26. In many instances the client needs the money s/he has on deposit in the lawyer's trust account in order to hire a new lawyer, and a delay puts the client in a difficult position. This is likely to prompt ethics complaints, Client Security Fund claims, malpractice complaints, or other civil suits. On the other hand, allowing access to your trust account is a serious matter. You must give careful consideration to whom you give access, and under what circumstances. If someone has access to your trust account, and that person misappropriates money, your clients will suffer damages. In addition, you or your estate may be held responsible if a finding is made that your choice was inappropriate.

There are no easy solutions to this problem and there is no way to absolutely know if you are making the right choice. There are many important decisions to make. Each person must look at the options available to him/her, weigh the relative risks, and make the best choices s/he can.

If you do want to allow access to your trust account, there are many alternatives. You must first decide (1) who you want to determine if you are disabled, incapacitated, impaired, or for some other reason unable to conduct your business affairs and (2) whether you want to give general access to the account, or access that is contingent upon the occurrence of an event. One approach is to give the Successor Lawyer access only during a specific time period or after a specific event, and to allow the Successor Lawyer to determine if the contingency has occurred. Another approach is to have someone else (such as a spouse, best friend, or family member) hold the power of attorney until s/he determines that the specific event has occurred. A third approach is to provide the Successor Lawyer with access all of the time.

If you want the Successor Lawyer to have access to your accounts contingent upon a specific event or during a particular time period, you have to decide how you are going to document the agreement. Depending on where you live and the bank you use, some approaches may work better than others. Some banks require only a letter signed by both parties granting authorization to sign on the account. The sample written agreement provided in the attachments of this handbook should be legally sufficient to grant the Successor Lawyer authority to sign on your trust account. However, you and the Successor Lawyer may also want to sign a limited power of attorney. Most banks prefer a power of attorney. Signing a separate limited power of attorney increases the likelihood that the bank will honor the agreement. It also provides you and the Successor Lawyer with a document that can be given to the bank, which is limited to bank business. (The bank does not need to know all the terms and conditions of the agreement between you and the Successor Lawyer.) If you choose this approach, consult the manager of your bank. When you do, be aware that power of attorney forms provided by the bank are generally an unconditional authorization to sign on your account and include an agreement to indemnify the bank. Get written confirmation that the bank will honor your limited power of attorney, or other written agreement. Otherwise, you may think you have taken all necessary steps to allow access to your trust account, yet when the time comes the bank may not allow the Successor Lawyer access.

If you are going to use the form provided by your bank, you may want to have someone (such as your spouse, family member, personal representative, or best friend) hold the power of attorney until the contingency occurs. This can be documented in a letter of understanding, signed by you and the trusted friend or family member (See *Letter of Understanding* provided in the attachments of this handbook.) When the event occurs, the trusted friend or family member provides the Successor Lawyer with the power of attorney.

Either way, if you are going to have the authorization for access to your trust account contingent upon an event or for a limited duration, the terms must be specific and the agreement should state how to determine if the event has taken place. For example, is the Successor Lawyer authorized to sign on your accounts only after obtaining a letter from a physician that you are disabled or incapacitated? Is it when the Successor Lawyer, based on reasonable belief of necessity, says so? Is it for a specific period of time, for example, a period during which you are on vacation? You and the Successor Lawyer must review the specific terms and be comfortable with them. These same issues apply if you choose to have a family member or friend hold a general power of attorney until the event or contingency occurs. Both parties need to know what to do, and when to do it. Likewise, in order to avoid problems with the bank, the terms should be specific, and it must be easy for the bank to determine if the terms are met.

Another approach is to allow access to your trust account all of the time by authorizing the Successor Lawyer as a signer. This requires going to the bank, and having the Successor Lawyer sign the appropriate cards and paperwork. When the Successor Lawyer is authorized to sign on your trust account, s/he has complete access to the account. This is an easy approach that allows the Successor Lawyer to perform the functions of refunding client money or paying appropriate costs from client funds, even if you are just unexpectedly delayed in returning from a vacation. An authorized signer can write checks, withdraw money, or close the trust account at any time, even if you are not dead, disabled, impaired, or for some other reason unable to conduct your business affairs. Under this arrangement, you are unable to control the signer's access. These risks make this an extremely important decision. If you choose to have an authorized signer, your choice of signer is crucial to the protection of your clients' interests, as well as your own. Because of the level of risk involved, this is normally the least desirable approach.

## **CLIENT NOTIFICATION**

Once you have made arrangements with a Successor Lawyer, the next step is to provide your clients with information about your plan. The easiest way to do this is to include the information in your written fee agreements and engagement letters. This provides clients with information about your arrangement and gives them an opportunity to object. Your client's signature on a fee agreement provides written authorization for the Successor Lawyer to proceed on his/her behalf if necessary. (See *Sample Fee Agreements* and *Engagement Letters* provided in the attachments of this handbook.)

## **OTHER STEPS THAT PAY OFF**

There are a number of steps that you can take while you are still practicing to make the process of closing your office smooth and inexpensive. These steps include (1) making sure that your office procedures manual explains how to produce a list of client names, telephone numbers and addresses for open files, (2) keeping all deadlines and follow-up dates on your calendaring system, (3) thoroughly documenting client files, (4) keeping your time and billing records up-to-date, (5) familiarizing your Successor Lawyer with your office systems, (6) renewing your written agreement with the Successor Lawyer each year, and (7) making sure you do not keep clients' original documents, such as wills or other estate plans. (See *Checklist for Lawyers Planning to Protect Clients' Interests in the Event of the Lawyer's Death, Disability, Impairment, or Incapacity* provided in the attachments of this handbook.) These are the same steps a prudent lawyer should take in verifying his/her practice.

If your office is in good order, the Successor Lawyer will not have to charge more than a minimum of fees for closing the practice. Your law office will then be an asset that can be sold and the proceeds remitted to you or your estate. An organized law practice is a valuable asset. In contrast, a disorganized practice requires a large investment of time and money and is less marketable.

## **DEATH OF A SOLE PRACTITIONER: SPECIAL CONSIDERATIONS**

If you authorize another lawyer to administer your practice in the event of death, disability, impairment, or incapacity, that authority terminates when you die. The personal representative of your estate has the legal authority to administer your practice. S/he must be told about your arrangement with the Successor Lawyer and about your desire to have the Successor Lawyer carry out the duties of your agreement. The personal representative can authorize the Successor Lawyer to proceed.

It is imperative that you have an up-to-date Will nominating a personal representative (and alternates if the first nominee cannot or will not serve), so that probate proceedings can begin promptly and the personal representative can be appointed without delay. If you do not have a Will, there may be a dispute among family members and others as to who should be appointed as personal representative. A Will can provide that the personal representative shall serve without bond. Absent such a provision, a relatively expensive fiduciary bond will have to be obtained before the personal representative is authorized to act (see § 473.157-160 RSMo). The Planning Lawyer should maintain a sufficient balance in his/her firm operating account to cover this contingency.

As a sole practitioner, your law practice may be the only asset subject to probate. Other property may pass outside probate to a surviving joint tenant, usually the spouse. This means that unless you keep enough cash in your law practice bank account, there may not be adequate funds to retain the Successor Lawyer or to continue to pay your clerical staff, rent, and other expenses during the transition period. It will take some time to generate statements for your legal services and to collect the accounts receivable. Your accounts receivable may not be an adequate source of cash during the time it takes to close your practice. Your Successor Lawyer may be unable to advance expenses or may be unwilling to serve without pay. One solution to this problem is to maintain a small insurance policy with your estate as the beneficiary. Or, your surviving spouse or other family members can be named as beneficiary with instructions to lend the funds to the estate if needed.

Missouri law gives a Personal Representative broad powers to continue any proprietorship business in which the decedent was engaged at the time of his death in the same form if doing so is a reasonable means of preserving its value for a period of four months, or such longer period as a court may order. (See § 473.810(17) RSMo) A Personal Representative may also reorganize, merge, or liquidate an incorporated business, sell, mortgage or lease real or personal property, and hire other professionals to help administer the estate. (See § 473.812 (12)(16) RSMo) However, it is important to realize that these statutes do not permit a non-lawyer Personal Representative to actually practice law.

The Missouri Rules of Professional Conduct also provide for the sale of a law practice by the estate of a deceased lawyer, and provide specific guidance on a number of issues likely to arise in such an event. (See Missouri Supreme Court Rule 4-1.17) (Rules 4-1.5(e), and 4-5.4(a) regarding sharing of fees and payment of fees to an estate should also be consulted.)

For the personal representative's protection, the Planning Lawyer may want to include language in his/her Will that expressly authorizes the Successor Lawyer to arrange for the closure of the law practice. The appropriate language will depend on the nature of the practice and the arrangements made ahead of time. (See Will provisions provided in the attachments of this handbook.)

The issue of having sufficient funds to pay a Successor Lawyer and any others necessary to maintain or close your office also occurs in the event of disability, incapacity, or impairment. To prevent or minimize this problem, you may want to maintain disability insurance in an amount sufficient to allow for expenses incurred in closing your law practice.

## **START NOW**

You are encouraged to select a lawyer to assist you and follow the procedures outlined in this handbook. This is something you can do now, at little or no expense, to plan for your future and protect your assets. Don't put it off — start the process today.

## **WHAT IF? ANSWERS TO FREQUENTLY ASKED QUESTIONS**

If you are planning to close your office or if you are considering helping a friend or colleague close his/her practice, there are a number of issues that you should think through. How you structure your agreement will determine what the Successor Lawyer must do if the Successor Lawyer finds (1) errors in the files, such as missed time limitations, (2) errors in the Lawyer's Trust Account, or (3) defalcations of client funds.

Discussing these issues at the beginning of the relationship will help to avoid misunderstandings later when the Successor Lawyer interacts with the Planning Lawyer's former clients. If these issues are not documented and discussed, the Planning Lawyer and the Successor Lawyer may be surprised to find that the Successor Lawyer (1) has an obligation to inform the Planning Lawyer's clients about a potential malpractice claim or (2) that the Successor Lawyer may be required to report the Planning Lawyer to the Office of Chief Disciplinary Counsel. Issues such as the above should most probably be dealt with in the Planning Lawyer-Successor Lawyer Agreements.

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

This section reviews some of these issues and the various arrangements that the Planning Lawyer and the Successor Lawyer can make. All of these frequently asked questions, except #8, are presented as if the Successor Lawyer is posing the questions. The foregoing illustrates why, if you are the Successor Lawyer, you should have an engagement letter that spells out your duties, responsibilities, and scope of your representation. At the time you are engaged by the Planning Lawyer to serve as a Successor Lawyer you can inquire, before agreeing to serve, as to such practices as engagement letters, calendaring, timekeeping, filing, written office procedures, record storage and data management. The engagement letter between Planning Lawyer and Successor Lawyer can set forth some expectations or requirements in these areas.

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

The answer is largely determined by the agreement you have with the Planning Lawyer and the Planning Lawyer's former clients. If you do not have an attorney-client relationship with the Planning Lawyer, and you are the new lawyer for the Planning Lawyer's former clients, you must inform your client (the Planning Lawyer's former client) of the error, and advise him/her to submit a claim to the legal malpractice carrier, unless the scope of your representation of the client excludes actions against the Planning Lawyer. If you want to limit the scope of your representation with the Planning Lawyer's clients, do so in writing and advise your clients to get independent advice on the issues. Trying to represent the Planning Lawyer's clients with this type of exclusion is very risky. It may be difficult to establish that the client had sufficient information to validly agree to this exclusion.

If you are the Planning Lawyer's lawyer, and not the lawyer for his/her former clients, you should discuss the error with the Planning Lawyer and review the obligation to inform the client of the error. If you are the lawyer for the Planning Lawyer, you would not be obligated to inform the Planning Lawyer's client of the error. You would, however, want to be careful not to make any misrepresentations. For example, if the Planning Lawyer had previously told the client a complaint had been filed, and the complaint had not been filed, you should not say or do anything that would lead the client to believe the complaint had been filed.

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



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

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

**3. Since the Planning Lawyer is now out of practice, does the Planning Lawyer have malpractice coverage?**

The issues pertaining to insurance coverage diverge depending upon whether the Planning Lawyer is temporarily incapacitated or permanently incapacitated or deceased. In Missouri, coverage is generally on a "Claims Made" basis. If the Planning Lawyer is temporarily incapacitated, it is best his/her malpractice coverage remains in place. If the Planning Lawyer is permanently incapacitated or deceased, "tail coverage" to protect the Planning Lawyer or his estate should be investigated until the appropriate time to protect the Planning Lawyer or the Planning Lawyer's estate. Consultation with both lawyers' malpractice providers is strongly recommended.

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

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

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

Even if a conflict check reveals that you are permitted to represent the client, you may prefer to refer the case. A referral is advisable if the matter is outside your area of expertise, or if you do not have adequate time or staff to handle the case. In addition, if the Planning Lawyer is a friend, bringing a legal malpractice claim or fee claim against him/her may make you vulnerable to the allegation that you didn't zealously advocate on behalf of your new client. To avoid this potential exposure, you should provide the client with names of other lawyers, or refer the client to The Missouri Bar Lawyer Referral Service or local bar lawyer referral service registered under Missouri Supreme Court Rule 4-10.1.

**5. What procedures should I follow for distributing the funds that are in the trust account?**

If your review of the Lawyer Trust Account indicates that there may be conflicting claims to the funds in the trust account, appropriate procedures for distributing the existing funds, such as a court directed interpleader may be sought.

**6. If there is an ethical violation, must I tell the Planning Lawyer's former clients?**

The answer depends on the relationships. The answer is (1) no, if you are the Planning Lawyer's lawyer, (2) maybe, if you are not representing the Planning Lawyer or the Planning Lawyer's former clients, and (3) yes, if you are the lawyer for the Planning Lawyer's former clients.

If the Planning Lawyer violated a disciplinary rule and you are his/her lawyer, you are not obligated to inform the Planning Lawyer's former clients of any violations of the Rules of Professional Conduct or report any of the Planning Lawyer's ethical violations to the OCDC if your knowledge of the misconduct is a confidence or secret of your client, the Planning Lawyer. Although you may have no duty to report, you may have other responsibilities. For example, if you discover that some of the client funds are not in the Lawyer Trust Account as they should be, you, as the lawyer for the Planning Lawyer, you should

discuss this matter with the Planning Lawyer, and encourage the Planning Lawyer to correct the shortfall. If the Planning Lawyer does not correct the shortfall, and you believe the Planning Lawyer's conduct violates the disciplinary rules, you should resign. If you are the lawyer for the Planning Lawyer, and the Planning Lawyer is deceased, you should contact the personal representative of the estate. If the Planning Lawyer is alive but unable to function, the specific circumstances will dictate the action you should take regarding the funds.

If you are the Planning Lawyer's lawyer, you should make certain that former clients of the Planning Lawyer do not perceive you as their lawyer. This should include informing them in writing that you do not represent them or, at a minimum, documenting for your own files that you have orally advised the former clients that you do not represent them.

If you are not the lawyer for the Planning Lawyer, and you are not representing any of the former clients of the Planning Lawyer, you may still have a fiduciary obligation (as an authorized signer on the trust account) to notify the clients of the shortfall, and you have an obligation to report the Planning Lawyer to the OCDC.

If you are the lawyer for a former client of the Planning Lawyer, you have an obligation to inform the client about the shortfall and advise the client of available remedies such as pursuing the Planning Lawyer for the shortfall, and filing an ethics complaint with the OCDC. You should also inform the client that reimbursement for some or all of the missing funds may be available from the Client Security Fund, if the Planning Lawyer is deceased, adjudged mentally incapacitated, suspended or disbarred. You also have an obligation under Missouri Supreme Court Rule 4-8.3 to report the Planning Lawyer to the OCDC, if your client consents. If you are a friend of the Planning Lawyer, this is a particularly important issue. You should determine ahead of time whether you are prepared to assume (1) the obligation to inform the Planning Lawyer's former clients of the Planning Lawyer's ethical errors and (2) the duty to report the Planning Lawyer to the OCDC if you find a violation. If you do not want to inform your clients about possible ethics violations, you must explain to your clients (the former clients of Planning Lawyer) that you will not provide the clients with any advice or information on any possible ethics violations of the Planning Lawyer. You should advise the client, in writing, to seek independent representation on these issues. Limiting the scope of your representation, however, does not eliminate your duty to report pursuant to Rule 4-8.3. Trying to represent the Planning Lawyer's clients with this type of limitation is very risky. It may be difficult to establish that the client had sufficient information to validly agree to this limitation.

## **7. If the Planning Lawyer stole client funds, do I have exposure to an ethics complaint against me?**

An ethics complaint, like a lawsuit, can be filed fairly easily. If the complaint makes it clear that you took over handling the trust account and that the theft occurred prior to that, you would probably not be the subject of an investigation. However, it is possible that you and the Planning Lawyer would be investigated. As long as the facts gathered through investigation indicate that you were not involved in the theft, in any way, and you have promptly taken appropriate steps to try to rectify the situation, if possible, no disciplinary action would be taken against you for the theft. If you discover such a situation, it is important for you to very carefully document everything. Depending on your relationship with the Planning Lawyer, you will probably have a duty to report the Planning Attorney to OCDC for this theft. Prompt reporting is one of the best ways to protect yourself from disciplinary action. If you have a duty to report and fail to report, it is possible that you could be disciplined for failing to report.

Whether you have an obligation to inform the Planning Lawyer's former clients of the defalcation depends on your relationship with the Planning Lawyer and with the Planning Lawyer's former clients. (See #6 above.)

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

**8. What are the pros and cons of allowing someone to have access to my trust account?  
How do I make arrangements to give my Successor Lawyer access?**

The most important “pro” of authorizing someone to sign on your trust account is the convenience it provides for your clients. If you suddenly become unable to continue your practice, a Successor Lawyer is able to transfer money from your trust account to pay appropriate fees, to provide your clients with settlement checks, and to refund unearned fees. If these arrangements are not made, the clients’ money must remain in the trust account until a court allows access. This court order may be through a conservatorship or an order pursuant to Missouri Supreme Court Rule 5.26. This delay may leave the clients at a disadvantage since settlement funds or unearned fees held in trust are often needed in order to hire a new lawyer.

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

If you decide to allow your Successor Lawyer to be an authorized signer, you must decide if you want to give the Successor Lawyer (1) access only during a specific time period or when a specific event occurs or (2) access all the time. (See the sections in this handbook *The Duty to Plan Ahead* and *Access To The Trust Account*.)

**9. The Planning Lawyer wants to authorize me as a trust account signer. Am I permitted to also be the lawyer for the Planning Lawyer?**

No, if there is a conflict of interest. As an authorized signer on the Planning Lawyer’s trust account, you would have a duty to properly account for the funds belonging to the former clients of the Planning Lawyer. This duty could be in conflict with your duty to the Planning Lawyer if (1) you were hired to represent him/her on issues related to the closure of his/her law practice and (2) there were errors or defalcations in the trust account. Because of this potential conflict, it is probably best to choose to be an authorized signer or to represent the Planning Lawyer on issues related to the closure of his/her practice, not both. (See #4 above.)

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

1. Use retainer agreements that state you have arranged for a Successor Lawyer to close your practice in the event of death, disability, impairment, or incapacity. (See *Sample Fee Agreements* provided in the attachments of this handbook.)
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.
7. Have a written agreement with a lawyer who will close your practice (the Successor Lawyer) that outlines the responsibilities involved in closing your practice. Determine whether the Successor Lawyer will also be your personal lawyer. Choose a Successor Lawyer who is sensitive to conflict of interest issues.
8. If your written agreement authorizes the Successor Lawyer 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 Successor Lawyer will have to sign bank forms authorizing the Successor Lawyer to have access to your trust or general account. (See the sections in this handbook *The Duty to Plan Ahead* and *Access To The Trust Account*.) Choose your Successor Lawyer wisely—s/he may have access to your clients' funds.
9. Familiarize your Successor Lawyer with your office systems and keep him/her apprised of office changes.
10. Introduce your Successor Lawyer to your office staff. Make certain your staff knows where you keep the written agreement and how to contact the Successor Lawyer if an emergency occurs before or after office hours. If you practice without regular staff, make sure your Successor Lawyer knows who 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 Successor Lawyer.
12. Renew your written agreement with your Successor Lawyer each year. If you include the name of your Successor Lawyer in your fee agreements, make sure it is current.
13. Make written arrangements that are necessary to facilitate the Successor Lawyer's need to contact all prior insurance carriers that insured the Planning Lawyer's practice.
14. Make written arrangements that are necessary to facilitate the Successor Lawyer's need to contact the landlord for the Planning Lawyer's premises for continued occupation of the law office so as to facilitate a smooth transition from Planning Lawyer to Successor Lawyer.
15. Inform Successor Lawyer of the manner of accounting the firm engaged in and names of professionals assisting the Planning Lawyer. Letters of waiver of privilege should be prepared for the Successor Lawyer if appropriate.

## CHECKLIST FOR CLOSING ANOTHER LAWYER'S OFFICE

The term "Planning Lawyer" refers to the lawyer whose office is being closed.

1. Check the calendar and active files to determine which items are urgent and/or scheduled for hearings, trials, depositions, court appearances, etc.
2. Contact clients for matters that are urgent or immediately scheduled for hearing, court appearances, or discovery. Obtain permission for reset. (If making these arrangements constitutes a conflict of interest for you and your clients, retain another lawyer to take responsibility for obtaining extensions of time and other immediate needs.)
3. Contact courts and opposing counsel for files that require discovery or court appearances immediately. Obtain resets of hearings or extensions where necessary. Confirm extensions and resets in writing.
4. Open and review all unopened mail. Review all mail that is not filed and match it to the appropriate files.
5. Look for an office procedures manual. Determine if there is a way to get a list of clients with active files.
6. Send clients who have active files a letter explaining that the law office is being closed and instructing them to retain a new lawyer and/or to pick up the open file. Provide clients with a date by which they should pick up copies of their files. Inform clients that new counsel should be chosen immediately. (See sample *Letter Advising That Lawyer is Unable to Continue in Practice* provided in the attachments of this handbook.)
7. For cases before administrative bodies and courts, obtain permission from the clients to submit a Motion and Order to withdraw the Planning Lawyer as lawyer of record.
8. In cases where the client is obtaining a new lawyer, be certain that an appropriate Substitution of Lawyer is filed where all litigation matters are pending.
9. Pick an appropriate date and check to see if all cases have either a motion and order allowing withdrawal of the Planning Lawyer or a Substitution of Lawyer filed with the court.
10. Make copies of files and return original file to the client. All clients should either pick up a copy of their files (and sign a receipt acknowledging that they received it) or sign an authorization for you to release a copy to a new lawyer. If the client is picking up a copy of the file and there are original documents in it that the client needs (such as a title to property), return the original documents to the client and keep copies for the Planning Lawyer's file.
11. All clients should be advised on where their closed files will be stored, and who they should contact in order to retrieve a closed file. (Missouri Supreme Court Rule 4-1.15(h) provides for the storage of client files for at least 10 years absent other arrangements with clients.)
12. If the Planning Lawyer whose practice is being closed was a sole practitioner, try to arrange for his/her phone number to have a forwarding number. This eliminates the problem created when clients call the Affected Lawyer's phone number, get a recording stating that the number is disconnected, and do not know where else to turn for information.
13. Contact the Planning Lawyer's professional liability insurer, if applicable, about extended reporting or "tail coverage".
14. (*optional*) If you have authorization to handle the Planning Lawyer's financial matters, look around the office for checks or funds that have not been deposited. Determine if funds should be deposited or returned to clients. (Some of the funds may be for services already rendered.) Get instructions from clients concerning any funds in their trust accounts. These funds should either be returned to the clients or forwarded to their new lawyers. Prepare a final billing statement showing any outstanding fees due, and/or any money in trust. (To withdraw money from the Planning Lawyer's accounts, you will probably need to be an authorized signer on the accounts, you will need a written agreement such as the sample provided in the attachments of this handbook, or you will need a limited power of attorney. If this has not been done and is not obtainable from the Planning Lawyer due to death, disability, impairment, or incapacity, you may have to petition the presiding judge in the judicial circuit in which the lawyer

maintained a practice to appoint you or another lawyer to serve as trustee. Money from clients for services rendered by the Planning Lawyer should go to his or her estate.

15. *(optional)* If you are authorized to do so, handle financial matters, pay business expenses, and liquidate or sell the practice.
16. *(optional)* If your responsibilities include sale of the practice, you may want to advertise in the local bar newsletters, the *Journal of The Missouri Bar*, and other appropriate places. Review Missouri Supreme Court Rule 4-1.17.
17. *(optional)* If your arrangement with the Planning Lawyer or estate is that you are to be paid for closing the practice, submit your bill.
18. *(optional)* If your arrangement is to represent the Planning Lawyer's clients on their pending cases, obtain each client's consent to represent the client and check for conflicts of interest.

## CHECKLIST FOR CLOSING YOUR OWN OFFICE

1. Finalize as many active files as possible.
2. Write to clients with active files, advising them that you are unable to continue representing them and that they need to retain new counsel. Your letter should inform them about time limitations and time frames important to their cases. The letter should explain how and where they can pick up copies of their files and should give a time deadline for doing this. (See sample *Letter Advising That Lawyer is Closing His/Her Office* provided in the attachments 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 lawyer of record.
5. In cases where the client is obtaining a new lawyer, be certain that a Motion for Substitution of Lawyer is filed.
6. Make copies of files and return original files to clients. 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 lawyers. (See sample *Acknowledgment of Receipt of File* and *Authorization for Transfer of Client File* provided in the attachments 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.
7. If you will not store the closed files yourself, all clients who have files remaining at your office 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 if they will not be stored for 10 years. Review Missouri Supreme Court Rule 4-1.15(h). If a closed file is to be stored by another lawyer, get the client's permission to allow the lawyer to store the file for you and provide the client with the lawyer's name, address, and phone number.
8. If you are a sole practitioner, ask the telephone company for a new phone number to be given out when your old phone number is called. This eliminates the problem created when clients call your phone number, get a recording stating that the number is disconnected, and do not know where else to turn for information.

**AGREEMENT — FULL FORM**  
*(Sample — Modify as appropriate)*

The sample *Agreement--Full Form* provided on the next page gives the Successor Lawyer the power to determine if you are disabled, impaired, or incapacitated and provides the Successor Lawyer 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 Successor Lawyer to be the person who determines if you are disabled, incapacitated, or impaired, you will need to modify this agreement. For a discussion of alternatives, see the sections in this handbook *The Duty to Plan Ahead* and *Access To The Trust Account*.



## **AGREEMENT TO CLOSE LAW PRACTICE**

Between: \_\_\_\_\_, hereinafter referred to as "Planning Lawyer,"

And: \_\_\_\_\_, hereinafter referred to as "Successor Lawyer."

### **1. Purpose.**

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

### **2. Parties.**

The term *Successor Lawyer* refers to the lawyer designated in the caption above or the Successor Lawyer's alternate. The term *Planning Lawyer* refers to the lawyer designated in the caption above and the Planning Lawyer's representatives, heirs, or assigns.

Upon the request of Planning Lawyer or a member of Planning Lawyer's immediate family, or upon receipt of information from other sources who do reasonably lead Successor Lawyer to believe invocation of this provision of the Agreement may be appropriate, Successor Lawyer shall undertake an investigation of all relevant facts and circumstances and shall determine whether Planning Lawyer is dead, disabled, impaired or otherwise unable to carry on the practice of law. In the event Successor Lawyer determines to invoke the provisions of the Agreement, he shall so indicate by written notice to Planning Lawyer or Planning Lawyer's immediate family as appropriate. Successor Lawyer's determination shall include a determination as to whether any disability is temporary or permanent.

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

In determining whether Planning Lawyer is unable to practice due to death, disability, impairment, or incapacity, Successor Lawyer may act upon such evidence as Successor Lawyer shall deem reasonably reliable, including, but not limited to, communications with Planning Lawyer's family members, representative, or a written opinion of one or more physicians duly licensed to practice medicine. Similar evidence or medical opinions may be relied upon to establish that Planning Lawyer's disability, impairment, or incapacity has terminated. Successor Lawyer 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 Lawyer hereby gives consent to Successor Lawyer to take all actions necessary to close Planning Lawyer's legal practice in the event that Planning Lawyer is unable to continue in the private practice of law and Planning Lawyer is unable to close Planning Lawyer's own practice due to permanent disability, impairment, or incapacity. Planning Lawyer hereby appoints Successor Lawyer 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 Lawyer could do personally if Planning Lawyer were able. It is Planning Lawyer's specific intent that this appointment of Successor Lawyer as attorney-in-fact shall become effective only upon Planning Lawyer's disability, impairment, or incapacity. The appointment of Successor Lawyer shall not be invalidated because of Planning Lawyer's disability, impairment, or incapacity, but instead the appointment shall fully survive such 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. Planning Lawyer hereby expresses the intent and request that, in the event of Planning Lawyer's death, the person responsible for Planning Lawyer's estate arrange for Successor Lawyer to take the actions contemplated under this agreement. In the event of Planning Lawyer's disability, impairment, or incapacity, Planning Lawyer designates Successor Lawyer as signatory, or in substitution of Planning Lawyer's signature, on all of Planning Lawyer's law office accounts with any bank or financial institution, including, but not limited to, checking accounts, savings accounts, and trust accounts. Planning Lawyer's consent includes but is not limited to:

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

- Opening Planning Lawyer's mail and processing it;
- Taking possession and control of all property comprising Planning Lawyer's law office, including client files and records;
- Examining files and records of Planning Lawyer'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 Lawyer has given this authorization and that it is in their best interest to obtain other legal counsel;
- Copying Planning Lawyer's files;
- Obtaining client consent to transfer files and client property to new lawyers;
- Transferring client files and property to clients or their new lawyers;
- 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 Lawyer has given this authorization;
- Arranging for transfer and storage of closed files;
- Winding down the financial affairs of Planning Lawyer's practice, including providing Planning Lawyer's clients with a final accounting and statement for services rendered by Successor Lawyer, return of client funds, collection of fees on Planning Lawyer's behalf or on behalf of Planning Lawyer's estate, payment of business expenses, and closure of business accounts when appropriate;
- Advertising Planning Lawyer's law practice or any of its assets to find a buyer for the practice; and
- Arranging for an appraisal or valuation of Planning Lawyer's practice for the purpose of selling Planning Lawyer's practice.

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

## **6. Preserving Lawyer-Client Privilege.**

Successor Lawyer agrees to preserve confidences and secrets of Planning Lawyer'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. Successor Lawyer is Lawyer for Planning Lawyer**

(Delete one of the following paragraphs as appropriate).

Successor Lawyer is the lawyer for Planning Lawyer. Successor Lawyer will protect the lawyer-client relationship and follow the Rules of Professional Conduct. (**Optional:** Successor Lawyer has permission to inform the Planning Lawyer's professional liability carrier of errors or potential errors, and may inform the Planning Lawyer's former clients of any errors or potential errors, and instruct them to obtain independent legal advice. Successor Lawyer also has permission to inform Planning Lawyer's former clients of any ethics violations committed by Planning Lawyer.)

OR:

**Successor Lawyer is Not Lawyer for Planning Lawyer**

Successor Lawyer is not the lawyer for Planning Lawyer. (**Optional:** Successor Lawyer has permission to inform the professional liability insurer of errors or potential errors of Planning Lawyer, and may inform Planning Lawyer's former clients of any errors or potential errors, and instruct them to obtain independent legal advice. Successor Lawyer also has permission to inform Planning Lawyer's former clients of any ethics violations committed by Planning Lawyer.)

**8. Providing Legal Services.**

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

**9. Contacting Professional Liability Insurance And Other Insurance Providers.**

Planning Lawyer authorizes Successor Lawyer to contact the Planning Lawyer's workers compensation, liability and casualty and professional liability insurance companies concerning any legal malpractice claims or potential claims. (Note to Planning Lawyer: Successor Lawyer's role in contacting the professional liability insurer will be determined by Successor Lawyer's arrangement with Planning Lawyer.) (See Section 7 of this Agreement.)

**10. Providing Clients With Accounting.**

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

**11. Successor Lawyer Alternate** (delete one of the following paragraphs as appropriate).

If Successor Lawyer is unable or unwilling to act on behalf of Planning Lawyer, Planning Lawyer appoints \_\_\_\_\_ as Successor Lawyer's Alternate, hereinafter known as Successor Lawyer's Alternate. Successor Lawyer's Alternate is authorized to act on behalf of Planning Lawyer pursuant to this Agreement. Successor Lawyer's Alternate shall comply with the terms of this Agreement. Successor Lawyer's Alternate consents to this appointment, as shown by the signature of the Successor Lawyer's Alternate on this Agreement.

OR:

If Successor Lawyer is unable or unwilling to act on behalf of Planning Lawyer, Successor Lawyer may appoint an alternate. Successor Lawyer shall enter into an agreement with any such Successor Lawyer's Alternate under which Successor Lawyer's Alternate consents to the terms and provisions of this Agreement.

**12. Indemnification.**

Planning Lawyer agrees to indemnify Successor Lawyer against any claims, loss, or damage arising out of any act or omission by Successor Lawyer under this agreement, provided the actions or omissions of Successor Lawyer were made in good faith, were made in a manner reasonably believed to be in Planning Lawyer's best interest, and occurred while Successor Lawyer was assisting Planning Lawyer with the closure of Planning Lawyer's office. This indemnification agreement does not extend to any acts, errors, or omissions of Successor Lawyer while rendering or failing to render professional services in Successor Lawyer's capacity as the lawyer for the former clients of Planning Lawyer. Successor Lawyer shall be responsible for all acts and omissions of gross negligence and willful misconduct.

**13. Option to Purchase Practice.**

Successor Lawyer shall have the first option to purchase the practice of Planning Lawyer under the terms and conditions specified by Planning Lawyer or Planning Lawyer's representative in accordance with Missouri Supreme Court Rule 4-1.17.

**14. Arranging to Sell Practice.**

If Successor Lawyer opts not to purchase Planning Lawyer's practice, Successor Lawyer will make all reasonable efforts to sell Planning Lawyer's practice and will pay Planning Lawyer or Planning Lawyer's estate all monies received.

**15. Fee Disputes Arbitrated. (optional)**

Planning Lawyer and Successor Lawyer agree that all fee disputes between them will be resolved by arbitration. THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE ENFORCED BY THE PARTIES.

**16. Termination.**

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

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

\_\_\_\_\_  
[Planning Lawyer]

\_\_\_\_\_  
[Date]

STATE OF MISSOURI            )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_(date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
*[Successor Lawyer]*

\_\_\_\_\_  
*[Date]*

STATE OF MISSOURI     )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
*[Successor Lawyer's Alternate]*

\_\_\_\_\_  
*[Date]*

STATE OF MISSOURI     )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

**AGREEMENT — SHORT FORM**  
*(Sample — Modify as appropriate)*

The sample *Agreement--Short Form* provided on the next page includes authorization to sign on your bank accounts (trust and general) and to close your law practice. It does not include a provision for payment to the Successor Lawyer, a description of termination powers, consent to represent the Planning Lawyer's clients, or other provisions included in the sample *Agreement--Full Form*.

## CONSENT TO CLOSE OFFICE

This consent is entered into between \_\_\_\_\_, hereinafter referred to as "Planning Lawyer," and \_\_\_\_\_, hereinafter referred to as "Successor Lawyer."

I, \_\_\_\_\_, authorize, \_\_\_\_\_, Successor Lawyer, and any lawyer or agent acting on my behalf, to take all actions necessary to close my legal practice upon my death, disability, impairment, or incapacity. These actions include but are not limited to:

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

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

For the purpose of this consent, death, disability, impairment, or incapacity shall be determined by evidence the Successor Lawyer deems reasonably reliable, including but not limited to communications with my representative or a written opinion of one or more medical doctors duly licensed to practice medicine. Upon such evidence, the Successor Lawyer is relieved from any responsibility or liability for acting in good faith in carrying out the provisions of this consent.

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

***(Delete one of the following paragraphs as appropriate):***

The Successor Lawyer represents me and acts as my lawyer in closing my law practice. **(Optional:** The Successor Lawyer has permission to inform the professional liability insurer of errors or potential errors of the Planning Lawyer, and may inform the Planning Lawyer's former clients of any errors or potential errors, and instruct them to obtain independent legal advice. The Successor Lawyer also has permission to inform the Planning Lawyer's former clients of any ethics violations committed by the Planning Lawyer.)

**OR:**

The Successor Lawyer does not represent me and is not acting as my lawyer in closing my law practice. **(Optional:** The Successor Lawyer has permission to inform the professional liability insurer of errors or potential errors of the Planning Lawyer, and may inform Planning Lawyer's former clients of any errors or potential errors, and instruct them to obtain independent legal advice. The Successor Lawyer also has permission to inform the Planning Lawyer's former clients of any ethics violations committed by the Planning Lawyer.)

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

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

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

The Successor Lawyer may revoke this acceptance at any time and has the power to appoint a new Successor Lawyer in the Successor Lawyer's place. My authorization and consent to allow the Successor Lawyer to perform these and other services necessary for the closure of my law office does not require Successor Lawyer to perform these services. If the Successor Lawyer revokes this acceptance, the Successor Lawyer must promptly notify me.

\_\_\_\_\_

\_\_\_\_\_

[Planning Lawyer]

[Date]

STATE OF MISSOURI        )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_(date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Successor Lawyer]

[Date]

STATE OF MISSOURI        )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_(date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_



**POWER OF ATTORNEY — LIMITED**

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 bank account(s) and safe deposit box(es). I do further authorize my banking institutions to transact my 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 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 account(s), make electronic funds transactions, receive statements and notices on the account(s), and do anything with respect to the 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 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.

\_\_\_\_\_  
[Accountholder]

\_\_\_\_\_  
[Date]

STATE OF MISSOURI                    )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_ (name(s) of person(s)).

\_\_\_\_\_  
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]*

STATE OF MISSOURI                    )  
  ) ss.  
County of \_\_\_\_\_)

*[Insert name of Attorney-in-Fact]* personally appeared before me who, being duly sworn, did say and acknowledge that the foregoing was his/her signature.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

## LETTER OF UNDERSTANDING

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 Lawyer]*

\_\_\_\_\_  
*[Date]*

**NOTICE OF DESIGNATED SUCCESSOR LAWYER**

I, \_\_\_\_\_, have authorized the following lawyer(s) to assist with the closure of my practice:

Name of Authorized Successor Lawyer: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Name of Successor Lawyer's Alternate: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\_\_\_\_\_  
*[Planning Lawyer]*

\_\_\_\_\_  
*[Date]*

*MAIL THIS FORM TO PLANNING LAWYER'S PROFESSIONAL LIABILITY INSURER.*

**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 Successor Lawyer on \_\_\_\_\_; if that Agreement is not in effect, my personal representative is authorized to enter into a similar agreement or agreements with other lawyers as my personal representative, in his/her sole discretion, may determine to be necessary or desirable to protect the interests of my clients and dispose of my practice.

**OR**

My personal representative is expressly authorized and directed to take such steps as s/he 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 a lawyer or lawyers to review my files, complete unfinished work, notify my clients of my death and assist them in finding other lawyers, and provide long-term storage of and access to my closed files.

**FIRM NAME**  
**STREET**  
**CITY, STATE, ZIP**  
**PHONE**  
**DATE**

**LAWYER-CLIENT FEE AGREEMENT**

\_\_\_\_\_ ("Lawyer"), will provide legal services to \_\_\_\_\_ ("Client"), on the terms set forth below.

**1. CONDITIONS.** This Agreement will not take effect, and Lawyer will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the initial deposit (advanced fee) called for under Paragraph 5.

**2. SCOPE OF SERVICES.** Client hires Lawyer to provide legal services in the following matter: [describe matter]. Lawyer will provide those legal services reasonably required to represent Client. Lawyer will take reasonable steps to keep Client informed of progress and to respond to Client's inquiries. If a court action is filed, Lawyer will represent Client through trial and post-trial motions. This Agreement does not cover representation on appeal or in execution proceedings after judgment. Separate arrangements must be agreed to for those services. Services in any matter not described above will require a separate Agreement.

**3. CLIENT.** The lawyer is representing the Client \_\_\_\_\_ (name) \_\_\_\_\_ only in this matter. It is understood by Client and any third party who may be assisting Client financially, emotionally or otherwise, in this matter, that lawyer's duty is to act in the best interest of the Client and lawyer cannot share information about Client's case with anyone other than Client without express permission.

**4. RESPONSIBILITIES OF THE PARTIES.** Client agrees to be truthful with Lawyer, to cooperate, to keep Lawyer informed of any information or developments which may come to Client's attention, to abide by this agreement, and to pay Lawyer's bills on time. Further, while it is impossible to predict the course of a representation, it may be important for Lawyer to contact Client immediately, or upon short notice, to confer with Client regarding the status of Client's case. An inability to do so may result in Client's case being prejudiced and detrimentally affect the outcome of the case. Accordingly, Client agrees to keep Lawyer informed of Client's current address, telephone number and whereabouts. If Client leaves town, for example, to travel on business or vacation, Client agrees to notify Lawyer before leaving of the expected duration of the trip and how Client may be contacted in the meantime.

**5. DEPOSIT (ADVANCED FEE).** Client agrees to pay Lawyer an initial deposit (advanced fee) of \$ \_\_\_\_\_ by \_\_\_\_\_. The hourly charges will be credited against the deposit (advanced fee). The initial deposit (advanced fee), as well as any future deposit (advanced fee), will be held in a trust account. Client authorizes Lawyer to use that fund to pay the fees and other charges as they are incurred. Billing statements detailing the charges credited against the deposit (advanced fee) will be sent periodically to the client. Withdrawal from the trust account will be made \_\_\_\_ days after the date of this billing statement. Client acknowledges that the deposit (advanced fee) is not an estimate of total fees and costs, but merely an advance for security.

Whenever the deposit (advanced fee) is exhausted, Lawyer reserves the right to demand further reasonable deposits (advanced fees). Once a trial or arbitration date is set, Client shall pay all sums then owing and pay the lawyers' fees estimated to be incurred in preparing for and completing the trial or arbitration, as well as the jury fees and court costs or arbitration fees, expert witness fees and other costs likely to be assessed.

Client agrees to pay all deposits (advanced fees) after the initial deposit (advanced fee) within \_\_\_\_\_ days of Lawyer's demand. Any unused deposit (advanced fee) at the conclusion of Lawyer's services will be refunded. Client understands that failure to deposit (advanced fee) within \_\_\_\_\_ days may result in lawyer asking for leave to withdraw.

**6. LEGAL FEES AND BILLING PRACTICES.** Client agrees to pay by the hour at Lawyer's prevailing rates for all time spent on Client's matter by Lawyer's legal personnel. Current hourly rates for legal personnel are as follows:

Senior partners	_____ /hour	Time is charged in units _____ of an hour.
Partners	_____ /hour	Telephone calls:
Associates	_____ /hour	Letters:
Paralegals	_____ /hour	Other:
Law clerks	_____ /hour	Interest charges:

The time charged will/may include the time Lawyer spends on telephone calls relating to Client's matter, including calls with Client, witnesses, opposing counsel or court personnel. The legal personnel assigned to Client's matter will/may confer among themselves about the matter, as required and appropriate. When they do confer, each person will/may charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, court hearing or other proceeding, each will/may charge for the time spent. Lawyer will/may charge for waiting time in court and elsewhere and for travel time, both local and out of town.

## **7. COSTS AND EXPENSES**

**(a) In General.** Lawyer will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include, service of process charges, filing fees, court and deposition reporters' fees, jury fees, notary fees, deposition costs, long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultants' fees, expert witness, professional, mediator, arbitrator and/or special master fees and other similar items. Except for the items listed below, all costs and expenses will be charged at Lawyer's cost.

In-office photocopying	_____ /page
Facsimile charges	_____ /page
Mileage	_____ /mile
Other:	

**(b) Out of Town Travel.** Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Lawyer's personnel. Client will also be charged the hourly rates for the time legal personnel spend traveling.

### **ALTERNATE ONE**

**(c) Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Client agrees to pay such fees and charges. Lawyer will consult with client on the selection of any expert witnesses, consultants, etc., to be hired and their charges.

Additionally, Client understands that if the matter proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such payment will be entirely the responsibility of Client.

### **ALTERNATE TWO**

**(c) Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Lawyer will select, in consultation with client, any expert witnesses, consultants or investigators to be hired and Client will be informed of persons chosen and their charges.

Client authorizes Lawyer to incur all reasonable costs and to hire any investigators, consultants, or expert witnesses reasonably necessary in Lawyer's judgment unless one or both of the clauses below are initialed by Lawyer.

Lawyer shall obtain Client's consent before incurring any costs in excess or \$\_\_\_\_\_.

Lawyer shall obtain Client's consent before retaining outside investigators, consultants, or expert witnesses.

**8. BILLING STATEMENTS.** Lawyer will send Client periodic statements for fees and costs incurred, upon request by client. If Client so requests, Lawyer will provide one within 10 days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount. If the Client objects to any charges to be credited against the deposit (advanced fee), Client may notify Lawyer within \_\_\_\_\_ days. (Correlate with paragraph 5-Deposit – Advanced Fee) If any statement carries a balance due, it shall be paid in full within \_\_\_\_\_ days after the date of such statement.

**9. DISCHARGE AND WITHDRAWAL.** Client may discharge Lawyer at any time. Lawyer may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this agreement, refusal to cooperate or to follow Lawyer's advice on a material matter or any fact or circumstance that would render Lawyer's continuing representation unlawful or unethical. When Lawyer's services conclude, all unpaid charges will immediately become due and payable. After services conclude, Lawyer will, upon Client's request, deliver Client's file, and property in Lawyer's possession whether or not Client has paid for all services. Client understands that to the limited extent lawyer has paid out of pocket expenses for items, which have not yet been reimbursed by client, but has not been reimbursed by client, lawyer may be reimbursed for that particular expense before releasing the item.

Lawyer will maintain Client's file for \_\_\_ years after this matter is concluded. Client may request the file at any time during, upon conclusion of, or after conclusion of, this matter. \_\_\_ years after the conclusion of this matter, the file may be destroyed without further notice to Client.

**10. DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this agreement and nothing in Lawyer's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Lawyer makes no such promises or guarantees. Lawyer's comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Lawyer shall not be a guarantee. Actual fees may vary from estimates given.

**11. ENTIRE AGREEMENT.** This Agreement contains the entire Agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**12. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**13. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent Agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

**14. EFFECTIVE DATE.** This Agreement will govern all legal services performed by Lawyer on behalf of Client commencing with the date Lawyer first performed services. The date at the beginning of this Agreement is for reference only. Even if this agreement does not take effect, Client will be obligated to pay Lawyer the reasonable value of any services Lawyer may have performed for Client.

**15. Lawyer may appoint another lawyer to assist with the closure of Lawyer's office in the event of Lawyer's death, disability, impairment, or incapacity. In such event, Client agrees that the Successor Lawyer can review Client's file to protect Client's rights and can assist with the closure of Lawyer's law practice.**



**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LAWYER FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

Client Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone: \_\_\_\_\_

DATED: \_\_\_\_\_

LAW FIRM

By: \_\_\_\_\_

(NAME), Partner

*For more detailed information please refer to The Missouri Bar Sample Fee Agreement Forms & Comments*

**FIRM NAME  
STREET  
CITY, STATE ZIP  
PHONE  
DATE**

**LAWYER-CLIENT FEE AGREEMENT**

\_\_\_\_\_ ("Lawyer"), will provide legal services to \_\_\_\_\_ ("Client"), on the terms set forth below.

**1. CONDITIONS.** This Agreement will not take effect, and Lawyer will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the initial deposit (advanced fee) called for under Paragraph 5.

**2. SCOPE OF SERVICES.** Client hires Lawyer to provide legal services in the following matter: [describe matter]. Lawyer will provide those legal services reasonably required to represent Client. Lawyer will take reasonable steps to keep Client informed of progress and to respond to Client's inquiries. This Agreement does not cover litigation services of any kind, whether in court, arbitration, administrative hearings, or government agency hearings. Separate arrangements must be agreed to for those services. Services in any matter not described above will require a separate Agreement.

**3. CLIENT.** The lawyer is representing the Client \_\_\_\_\_ (name) \_\_\_\_\_ only in this matter. It is understood by Client and any third party who may be assisting Client financially, emotionally or otherwise, in this matter, that lawyer's duty is to act in the best interest of the Client and lawyer cannot share information about Client's case with anyone other than Client without express permission.

**4. CLIENT'S DUTIES.** Client agrees to be truthful with Lawyer, to cooperate, to keep Lawyer informed of any information or developments which may come to Client's attention, to abide by this agreement, to pay Lawyer's bills on time and to keep Lawyer advised of Client's address, telephone number and whereabouts. Client will assist Lawyer in providing information and documents necessary for the representation in the described matter.

**5. DEPOSIT (ADVANCED FEE).** Client agrees to pay Lawyer an initial deposit (advanced fee) of \$ \_\_\_\_\_ by \_\_\_\_\_. The hourly charges will be credited against the deposit (advanced fee). The initial deposit (advanced fee), as well as any future deposit (advanced fee), will be held in a trust account. Client authorizes Lawyer to use that fund to pay the fees and other charges as they are incurred. Payments from the fund will be made upon remittance to client of a billing statement. Client acknowledges that the deposit (advanced fee) is not an estimate of total fees and costs, but merely an advance for security.

Whenever the deposit (advanced fee) is exhausted, Lawyer reserves the right to demand further deposits (advanced fees), each up to a maximum of \$ \_\_\_\_\_. Client agrees to pay all deposits (advanced fees) after the initial deposit (advanced fee) within \_\_\_\_\_ days of Lawyer's demand. Unless otherwise agreed in writing, any unused deposit (advanced fee) at the conclusion of Lawyer's services will be refunded.

**6. LEGAL FEES AND BILLING PRACTICES.** Client agrees to pay by the hour at Lawyer's prevailing rates for all time spent on Client's matter by Lawyer's legal personnel. Current hourly rates for legal personnel are as follows:

Senior partners	/hour
Partners	/hour
Associates	/hour
Paralegals	/hour
Law clerks	/hour

The rates on this schedule are subject to change on 30 day written notice to client. If Client declines to pay any increased rates, Lawyer will have the right to withdraw as Lawyer for Client.

The time charged will include the time Lawyer spends on telephone calls relating to Client's matter, including calls with Client and other parties and lawyers. The legal personnel assigned to Client's matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will

charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting or other proceeding, each will charge for the time spent. Lawyer will charge for waiting time and for travel time, both local and out of town.

Time is charged in minimum units of one tenth (. 1) of an hour. The following have higher minimum charges:

Telephone calls:

Letters:

Other:

## **7. COSTS AND EXPENSES.**

**(a) In General.** Lawyer will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include fees fixed by law or assessed by public agencies, long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses and consultants' fees and other similar items. Except for the items listed below, all costs and expenses will be charged at Lawyer's cost.

In-Office photocopying \_\_\_\_\_/page

Facsimile charges \_\_\_\_\_/page

Mileage \_\_\_\_\_/ mile

Other:

**(b) Out of Town Travel.** Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Lawyer's personnel. Client will also be charged the hourly rates for the time legal personnel spend traveling.

### **ALTERNATE ONE**

**(c) Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Client agrees to pay such fees and charges. Lawyer will consult with client on the selection of any expert witnesses, consultants, etc., to be hired and their charges.

Additionally, Client understands that if the matter proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such payment will be entirely the responsibility of Client.

### **ALTERNATE TWO**

**(c) Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Lawyer will select, in consultation with client, any expert witnesses, consultants or investigators to be hired and Client will be informed of persons chosen and their charges.

Client authorizes Lawyer to incur all reasonable costs and to hire any investigators, consultants, or expert witnesses reasonably necessary in Lawyer's judgment unless one or both of the clauses below are initialed by Lawyer.

Lawyer shall obtain Client's consent before incurring any costs in excess of \$\_\_\_\_\_.

Lawyer shall obtain Client's consent before retaining outside investigators, consultants, or expert witnesses.

**8. BILLING STATEMENTS.** Lawyer will send Client periodic statements for fees and costs incurred. Each statement will be payable within \_\_\_\_\_ days of its mailing date. Client may request a statement at intervals of no less than 30 days. If Client so requests, Lawyer will provide one within 10 days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.

**9. DISCHARGE AND WITHDRAWAL.** Client may discharge Lawyer at any time. Lawyer may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this agreement, refusal to cooperate or to follow Lawyer's advice on a material matter or any fact or circumstance that would render Lawyer's continuing representation unlawful or unethical. When Lawyer's services conclude, all unpaid charges will immediately become due and payable. After services conclude, Lawyer will, upon Client's request,

deliver Client's file, and property in Lawyer's possession, whether or not Client has paid for all services. Client understands that to the limited extent Lawyer has paid out of pocket expenses for items, which have not yet been reimbursed by client, Lawyer may be reimbursed for that particular expense before releasing the item.

Lawyer will maintain Client's file for \_\_\_ years after this matter is concluded. Client may request the file at any time during, upon conclusion of, or after conclusion of, this matter. \_\_\_ years after the conclusion of this matter, the file may be destroyed without further notice to Client.

**10. DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this agreement and nothing in Lawyer's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Lawyer makes no such promises or guarantees. Lawyer's comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Lawyer shall not be a guarantee. Actual fees may vary from estimates given.

**11. ENTIRE AGREEMENT.** This Agreement contains the entire Agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**12. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**13. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent Agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

**14. EFFECTIVE DATE.** This Agreement will govern all legal services performed by Lawyer on behalf of Client commencing with the date Lawyer first performed services. The date at the beginning of this Agreement is for reference only. Even if this agreement does not take effect, Client will be obligated to pay Lawyer the reasonable value of any services Lawyer may have performed for Client.

**15. Lawyer may appoint another lawyer to assist with the closure of Lawyer's office in the event of Lawyer's death, disability, impairment, or incapacity. In such event, Client agrees that the Successor Lawyer can review Client's file to protect Client's rights and can assist with the closure of Lawyer's law practice.**

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LAWYER FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

Client Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone: \_\_\_\_\_

DATED: \_\_\_\_\_

LAW FIRM

By: \_\_\_\_\_

(NAME), Partner

*For more detailed information please refer to The Missouri Bar Sample Fee Agreement Forms & Comments*

FIRM NAME  
STREET  
CITY, STATE ZIP  
PHONE  
DATE

**LAWYER-CLIENT CONTINGENCY FEE AGREEMENT**

\_\_\_\_\_ ("Lawyer"), will provide legal services to \_\_\_\_\_ ("Client"), on the terms set forth below. This agreement is required by Missouri Supreme Court Rule 4-1.5(c).

**1. CONDITIONS.** This Agreement will not take effect, and Lawyer will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the initial deposit (advanced fee), if any, called for under Paragraph 5.

**2. SCOPE OF SERVICES.** Client is hiring Lawyer to represent Client in the matter of Client's claims against \_\_\_\_\_ and possibly others as future investigation may indicate, arising out of \_\_\_\_\_ which occurred on or about \_\_\_\_\_.

Lawyer will represent Client until a settlement or judgment is obtained by way of negotiations or arbitration or trial. Lawyer will oppose any motion for a new trial or any other post-trial motions filed by an opposing party, or will make any appropriate post-trial motions on Client's behalf. After judgment Lawyer will not represent Client on any appeal, or in any proceedings designed to execute on the judgment, without such additional compensation as may be agreed upon in a separate Agreement.

**3. CLIENT.** Lawyer is representing the Client \_\_\_\_\_ (name) \_\_\_\_\_ only in this matter. It is understood by Client and any third party who may be assisting Client financially, emotionally or otherwise, in this matter, that lawyer's duty is to act in the best interest of the Client and Lawyer cannot share information about Client's case with anyone other than Client without express permission.

**4. RESPONSIBILITIES OF THE PARTIES.** Lawyer will provide those legal services reasonably required to represent Client in prosecuting the claims described in paragraph 2. Client agrees to appear, at all legal proceedings (including depositions, hearings including but not limited to trial) when Lawyer deems it necessary. Client further agrees to generally cooperate fully with Lawyer in all matters related to the preparation and presentation of Client's claims (including but not limited to interrogation, written discovery, trial preparation, client interviews). Further, while it is impossible to predict the course of a representation, it may be important for Lawyer to contact Client immediately, or upon short notice, to confer with Client regarding the status of Client's case. An inability to do so may result in Client's case being prejudiced and detrimentally affect the outcome of the case. Accordingly, Client agrees to keep Lawyer informed of Client's current address, telephone number and whereabouts. If Client leaves town, for example, to travel on business or vacation, Client agrees notify Lawyer before leaving of the expected duration of the trip and how Client may be contacted in the meantime.

**5. DEPOSIT (ADVANCED FEE).** Client agrees to pay Lawyer an initial deposit (advanced fee) for costs of \$\_\_\_\_\_, to be returned with this signed Agreement. Lawyer will hold this initial deposit (advanced fee) in a trust account. Client hereby authorizes Lawyer to use that deposit (advanced fee) to pay the costs and other expenses incurred under this Agreement.

When Client's deposit (advanced fee) is exhausted, Lawyer reserves the right to demand further deposits (advanced fees). Once a trial or arbitration date is set, Lawyer will require Client to pay all sums then owing, and to deposit (advanced fee) the costs Lawyer estimates will be incurred in preparing for and completing the trial or arbitration, as well as the jury fees court costs or arbitration fees likely to be assessed. Those sums may exceed the deposit (advanced fee).

Client agrees to pay all deposits (advanced fees) required under this Agreement within \_\_\_\_\_ days of Lawyer's demand. Any deposit (advanced fee) that is unused at the conclusion of Lawyer's services will be refunded.

**6. LEGAL FEES AND BILLING PRACTICES.** Lawyer will only be compensated for legal services rendered if a recovery is obtained for Client. If no recovery is obtained, Client will be obligated to pay only for costs and expenses, as described in Paragraph 7.

**ALTERNATE ONE**

The fee to be paid will be a percentage of the “gross recovery,” depending on the stages at which settlement or judgment is reached. The term “gross recovery” means the total of all amounts received by settlement, arbitration award or judgment, including any award of lawyer’s fees. The fee will be calculated before the deduction of any costs and expenses as set forth in Paragraph 7, and the costs and expenses will remain the responsibility of Client to be paid from the portion of any amounts received by Client after deduction of the fee.

Upon conclusion of the matter, Lawyer will provide Client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to Client and the method by which the remittance was calculated.

**ALTERNATE TWO**

The fee to be paid will be a percentage of the “net recovery,” depending on the stage at which settlement or judgment is reached. The term “net recovery” means: 1) the total of all amounts received by settlement, arbitration award or judgment, including any award of lawyer’s fees, 2) minus all costs and expenses as set forth in Paragraph 7.

Upon conclusion of the matter, Lawyer will provide Client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to Client and the method by which the remittance was calculated.

Lawyer's fee shall be calculated as follows:

- (i) If the matter is resolved before filing a lawsuit or formal initiation of proceedings, then Lawyer's fee will be \_\_\_\_\_ percent of the net recovery;
- (ii) If the matter is resolved prior to \_\_\_\_\_ days before the date initially set for the trial or arbitration of the matter then Lawyer's fee will be \_\_\_\_\_ percent (\_\_\_\_%) of the net recovery; and
- (iii) If the matter is resolved after the times set forth in (i) and (ii), above, then Lawyer's fee will be \_\_\_\_\_ percent (\_\_\_\_%) of the net recovery.

In the event of Lawyer's discharge or withdrawal for cause as provided in Paragraph 12, Client agrees that, upon payment of the settlement, arbitration award or judgment in Client's favor in this matter, Lawyer shall be entitled to be paid by Client a reasonable fee for the legal services provided the extent to which Lawyer's services have contributed to result obtained. Such fee shall be determined by considering the following factors:

**7. COSTS AND EXPENSES.** Lawyer will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs and expenses paid or owed by Client in connection with this matter, or which have been advanced by Lawyer on Client's behalf and which have not been previously paid or reimbursed to Lawyer. Costs and expenses commonly include court fees, jury fees, service of process charges, court and deposition reporters' fees, photocopying and reproduction costs, notary fees, long distance telephone charges, messenger and other delivery fees, postage, deposition costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultant, expert witness, professional mediator, arbitrator and/or special master fees and other similar items. Except for the items listed below, costs and expenses will be charged at our cost.

- In-Office photocopying \_\_\_\_\_/page
- Facsimile charges \_\_\_\_\_/page
- Mileage \_\_\_\_\_/ mile
- Other:

Client understands that, as set forth in Paragraph 5, a deposit (advanced fee) for costs may be required before the expenditure is made by Lawyer.

### **ALTERNATE ONE**

**Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Client agrees to pay such fees and charges. Lawyer will consult with client on the selection of any expert witnesses, consultants, etc., to be hired and their charges.

Additionally, Client understands that if the matter proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such payment will be entirely the responsibility of Client.

### **ALTERNATE TWO**

**Experts, Consultants, and Investigators.** To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants, or investigators. Lawyer will select, in consultation with client, any expert witnesses, consultants or investigators to be hired and Client will be informed of persons chosen and their charges.

Client authorizes Lawyer to incur all reasonable costs and to hire any investigators, consultants, or expert witnesses reasonably necessary in Lawyer's judgment unless one or both of the clauses below are initialed by Lawyer.

Lawyer shall obtain Client's consent before incurring any costs in excess of \$\_\_\_\_\_.

Lawyer shall obtain Client's consent before retaining outside investigators, consultants, or expert witnesses.

If an award of fees and/or costs is sought on Client's behalf in this action, Client understands that the amount which the court may order as fees and/or costs is the amount the court believes the party is entitled to recover, and does not determine what fees and/or costs Lawyer is entitled to charge its clients or that only the fees and/or costs which were allowed were reasonable. Client agrees that, whether or not lawyer's fees or costs are awarded by the court in Client's case, Client will remain responsible for the payment, in full, of all lawyer's fees and costs in accordance with this Agreement.

Additionally, Client understands that if Client's case proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such award will be entirely the responsibility of Client.

**8. BILLING STATEMENTS.** Lawyer will send Client periodic billing statements for costs and expenses incurred in connection with this matter. Each statement is to be paid in full within \_\_\_\_\_ days after the date of such statement.

**9. DISCHARGE AND WITHDRAWAL.** Client may discharge Lawyer at any time, upon written notice to Lawyer. Lawyer may withdraw from representation of Client (a) with Client's consent (b) upon court approval, or (c) if no court action has been filed, for good cause and upon reasonable notice to Client. Good cause includes Client's breach of this contract, Client's refusal to cooperate with Lawyer or to follow Lawyer's advice on a material matter or any other fact or circumstance that would render Lawyer's continuing representation unlawful or unethical.

Notwithstanding Lawyer's withdrawal or Client's notice of discharge, and without regard to the reasons for the withdrawal or discharge, Client will remain obligated to pay Lawyer for all costs incurred prior to the termination. In the event that there is any recovery obtained by Client after *conclusion* of Lawyer's services, Client remains obligated to pay Lawyer for the reasonable value of all services rendered from the effective date of this Agreement to the date of discharge.

Lawyer will maintain Client's file for \_\_\_ years after this matter is concluded. Client may request the file at any time during, upon conclusion of, or after conclusion of, this matter. \_\_\_ years after the conclusion of this matter, the file may be destroyed without further notice to Client.

**10. DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this Agreement and nothing in Lawyer's statements to Client will be construed as a promise or guarantee about the outcome of this matter. Lawyer makes no such promises or guarantees. There can be no assurance that Client will recover any sum or sums in this matter. Lawyer's comments about the outcome of this matter are expressions of opinion only. Client acknowledges that Lawyer has made no promise or guarantees about the outcome.

**11. NEGOTIABILITY OF FEES.** The rates set forth are not set by law, but are negotiable between a lawyer and client.

**12. APPROVAL NECESSARY FOR SETTLEMENT.** Lawyer will not make any settlement or compromise of any nature of any of Client's claims without Client's prior approval. Client has the absolute right to accept or reject any settlement. Client agrees to seriously consider any settlement offer Lawyer recommends before making a decision to accept or reject such offer. Client agrees not to make any settlement or compromise of any nature of any of Client's claims without prior notice to Lawyer.

**13. LIMITATION OF REPRESENTATION.** Lawyer represents Client only on the matter described in paragraph 2 – Scope of Services. Lawyer's representation does not include independent or related matters that arise, including, among other things, claims for property damage, workers' compensation disputes with health care providers about the amount owed for services, or claims for reimbursement (subrogation) by any insurance company for benefits paid under an insurance policy.

In the event there is a dispute between Client and a third party regarding any amounts allegedly owed by Client to the third party and there is a colorable claim to a lien on any proceeds in Lawyer's possession by the third party, Lawyer will interplead those proceeds to the court for resolution of the dispute, if Client and the third party are unable to resolve the dispute amicably after a reasonable period of time.

This agreement does not include defending Client against, or representing Client in any claims that may be asserted against Client as a cross-claim or counter-claim in Client's case. This agreement does not apply to any other legal matters. If any such matters arise later, Lawyer and Client will either negotiate a separate Agreement if Client and Lawyer agree that Lawyer will perform such additional legal work or Client engage separate counsel with respect to cross-claims or counter-claims or additional legal work.

Client may have other possible causes of action arising from the facts and circumstances giving rise to this representation. As Lawyer does not represent Client on these other possible claims, Client should seek independent representation if Client wishes to pursue a remedy. Delay or failure to do so may result in Client being barred by a statute of limitations from being able to recover under these other causes of action.

**14. CONCLUSION OF SERVICES.** When Lawyer's services conclude, all previously approved cost and expenses will immediately become due and payable. Lawyer is authorized to use any funds held in Lawyer's trust account as a deposit (advanced fee) against costs to apply to such unpaid costs and expenses. After Lawyer's services conclude, upon request, Client's file and property will be delivered to Client; Client's Lawyer's whether or not Client has paid any fees and/or costs owed to Lawyer. Client understands that to the limited extent Lawyer has paid out of pocket expenses for items, which have not yet been reimbursed by Client, Lawyer may be reimbursed for that particular expense before releasing that item.

**15. LIEN.** Client hereby grants Lawyer a lien on any and all claims or causes of action that are the subject of Lawyer's representation under this Agreement. Lawyer's lien will be for any sums owing to Lawyer for any unpaid costs, or lawyers' fees, at the conclusion of Lawyer's services. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise.

**16. RECEIPT OF PROCEEDS.** All proceeds of Client's case shall be deposited into Lawyer's trust account for disbursement in accordance with the provisions of this Agreement. No disbursement may be made until the settlement/or recovery check has cleared the bank.

**17. ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties. No other agreement, statement or promise made on or before the effective date of this Agreement will be binding on the parties.

**18. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**19. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.



**20. EFFECTIVE DATE.** This Agreement will govern all legal services performed by Lawyer on behalf of Client commencing with the date Lawyer first performed services. The date at the beginning of the Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Lawyer the reasonable value of any services Lawyer may have performed for Client.

**21. Lawyer may appoint another lawyer to assist with the closure of Lawyer’s office in the event of Lawyer’s death, disability, impairment, or incapacity. In such event, Client agrees that the Successor Lawyer can review Client’s file to protect Client’s rights and can assist with the closure of Lawyer’s law practice.**

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM, AS OF THE DATE LAWYER FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE JOINTLY AND SEVERALLY FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.**

DATED: \_\_\_\_\_

Client Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone: \_\_\_\_\_

DATED: \_\_\_\_\_

LAW FIRM  
By: \_\_\_\_\_  
(NAME), Partner

*For more detailed information please refer to The Missouri Bar Sample Fee Agreement Forms & Comments*

**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 lawyer to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the Successor Lawyer 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 \_\_\_\_ 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,

[Lawyer]  
[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.]

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**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 Lawyer's 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 lawyer to assist with closing my practice in the event of my death, disability, impairment, or incapacity. In such event, my office staff or the Successor Lawyer 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. 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 \_\_\_\_\_ years. I will destroy the file after that period of time.

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,

[Lawyer]  
[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.]*

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

Re: [Name of Case]

Dear [Name]:

Due to ill health, [Planning Lawyer] is no longer able to continue to practice law. You will need to retain the services of another lawyer to represent you in your legal matters. I will be assisting [Planning Lawyer] in closing [his/her] practice. We recommend that you retain the services of another lawyer 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 lawyer. I am enclosing a written authorization for your file to be released directly to your new lawyer. You or your new lawyer 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 lawyer yourself.

Please make arrangements to pick up your file, or have your file transferred to your new lawyer, 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 [Planning Lawyer] for your closed files at the following address and phone number:

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[Phone]

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

On behalf of [Planning Lawyer], 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,

[Successor Lawyer]  
[Firm]

Enclosure

**LETTER ADVISING 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 lawyer to handle your case for you. You can select any lawyer you wish, or I would be happy to provide you with a list of local lawyers who practice in the area of law relevant to your legal needs. Also, the (Missouri Bar, Local) Bar provides a lawyer referral service that can be reached at \_\_\_\_\_.

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

It is imperative that you obtain a new lawyer 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 lawyer, or pick up a copy of your file by [date].

I [or: insert name of the lawyer 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 lawyer 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 lawyer 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 lawyer 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 lawyer can reach me at the following phone number and address:

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[Phone]

Remember, it is imperative to retain a new lawyer 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,

[Lawyer]  
[Firm]

**LETTER FROM FIRM OFFERING TO CONTINUE REPRESENTATION**  
*(Sample -- Modify as appropriate)*

Re: [Name of Case]

Dear [Name]:

Due to ill health, [Planning Lawyer] 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 lawyer 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 lawyer, please give us written authority to release your file directly to your new lawyer. If you prefer, you may come to our office and pick up a copy of your file and deliver it to your new lawyer 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,

[Successor Lawyer]

Enclosures

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

---

[Client]

---

[Date]

## 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]*

## AUTHORIZATION FOR TRANSFER OF CLIENT FILE

I hereby authorize the law office of [*Firm/Planning Lawyer Name*] to deliver a copy of my file to my new lawyer at the following address:

---

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[*Client*]

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[*Date*]



## REQUEST FOR FILE

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

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---

*[Client]*

---

*[Date]*

## OFFICE CLOSURE FILE TRACKING CHART

FILE NAME	FILE NO.	REVIEWED	DISCUSSED W/CLIENT	INSTRUCTIONS RECEIVED	FILE COPIED	FILE TO NEW LAWYER	OTHER ACTION REQUIRED	RECEIPT REC'D & FILED

# LAW OFFICE LIST OF CONTACTS

LAWYER NAME: \_\_\_\_\_ Social Security #: \_\_\_\_\_

Bar #: \_\_\_\_\_ Federal Employer ID #: \_\_\_\_\_ State Tax ID#: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Office Address: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## **SPOUSE:**

Name: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Employer: \_\_\_\_\_

Email: \_\_\_\_\_

## **OFFICE MANAGER:**

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## **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: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**POST OFFICE OR OTHER MAIL SERVICE BOX:**

Location: \_\_\_\_\_  
\_\_\_\_\_

Box No.: \_\_\_\_\_

Obtain Key From: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Other Signatory: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

**SECRETARY:**

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_  
\_\_\_\_\_

Home Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**BOOKKEEPER:**

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_  
\_\_\_\_\_

Home Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**LANDLORD:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

**PERSONAL REPRESENTATIVE:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**LAWYER:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**ACCOUNTANT:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**LAWYERS TO HELP WITH PRACTICE CLOSURE:**

First Choice: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Second Choice: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Third Choice: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**LOCATION OF WILL AND/OR TRUST:**

Access Will and/or Trust

by Contacting: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**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 Lawyer: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**PROCESS SERVICE COMPANY:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact: \_\_\_\_\_

**OFFICE-SHARER OR "OF COUNSEL:"**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**OFFICE PROPERTY/LIABILITY COVERAGE:**

Insurer: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Policy No.: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

**OTHER IMPORTANT CONTACTS:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Reason for Contact: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Reason for Contact: \_\_\_\_\_

**GENERAL LIABILITY COVERAGE:**

Insurer: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Policy No.: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

**LEGAL MALPRACTICE--PRIMARY COVERAGE:**

Provider: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
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 No.: \_\_\_\_\_  
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: \_\_\_\_\_

**LAWYER TRUST ACCOUNT:**

IOLTA: \_\_\_\_\_  
Institution: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Other Signatory: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**INDIVIDUAL TRUST ACCOUNT:**

Name of Client: \_\_\_\_\_  
Institution: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Other Signatory: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**GENERAL OPERATING ACCOUNT:**

Institution: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Other Signatory: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**BUSINESS CREDIT CARD:**

Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Account Number: \_\_\_\_\_

Other Signatory: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**MAINTENANCE CONTRACT:**

Item Covered: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Expiration: \_\_\_\_\_

**ALSO ADMITTED TO PRACTICE IN THE FOLLOWING STATES:**

State of: \_\_\_\_\_

Bar Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Bar ID #: \_\_\_\_\_



*Planning Ahead*