

APPENDIX I

PCS AND PLLCS: APPOINTING THE APPROPRIATE AGENT TO MANAGE A SOLO LAW PRACTICE IN THE EVENT OF A DEATH, DISABILITY OR OTHER INABILITY TO PRACTICE LAW

When an attorney practices law as a solo practitioner, he or she is able to delegate a great deal of authority to act on the attorney's behalf through a power of attorney. However, if the attorney practices in the form of an entity such as Professional Service Corporation ("PC") or a Professional Limited Liability Company ("PLLC") in which he or she is the only owner, it is necessary to have the appropriate entity authorizations in place before someone can act on behalf of the entity.

If the attorney and the entity have not properly planned ahead of time for an unexpected death, illness or other inability of the attorney to carry on his or her affairs, the PC or the PLLC is not able to continue in practice during the incapacity because there is no one who can legally act on behalf of the entity. Checks cannot be signed, employees cannot be paid, the practice cannot be sold, no one can act on behalf of clients without court involvement, etc. This can be easily remedied during the long term planning process by preparing the appropriate entity resolutions.

The PC or PLLC will have resolutions in place that clearly state when and how an Assisting Attorney may act on behalf of the entity. Because these are actions of the entity which is controlled by the sole owner, they can be changed at any time by the owning attorney.

Sample minutes of a PC that accomplish this purpose are set forth in this section. Similar documents should be prepared for a single member PLLC.

In lieu of a formal meeting, the appointment of an Assisting Attorney by a sole practitioner who is the sole shareholder/director of a corporation may be accomplished by a Consent of Shareholder, pursuant to BCL Section 615, or consent of the Board of Directors for Action Without a Meeting, pursuant to BCL Section 708.

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

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

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

SHAREHOLDER:

DIRECTOR:

[Note: Similar Documentation Would Be Utilized for a PLLC]

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

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

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

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

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

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

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

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

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

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

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

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

, Secretary