
APPENDIX S
SPECIAL PROVISIONS FOR ATTORNEY'S WILL
INSTRUCTIONS REGARDING MY LAW PRACTICE

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

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

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

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

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

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

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

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

(c) Request that the attorney(s) engaged to wind up the practice, with my Executor's assistance, where appropriate:

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

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

(iii) Take possession and control of all assets of my law practice including client files and records.

- (iv) Open and process my mail.
- (v) Examine my calendar, files, and records to obtain information about pending matters that may require attention.
- (vi) Notify courts agencies, opposing counsel, and other appropriate entities of my death and, with client consent, seek and obtain extensions of time.
- (vii) Notify clients and those who appear to be clients of my death and that it is in their best interests to obtain other counsel.
- (vii) Obtain client consent to transfer client property and assets to other counsel.
- (viii) Provide clients with their property and assets and copies of material in their files and return unearned retainers and deposits.
- (ix) File notices, motions and pleadings on behalf of clients who cannot be contacted prior to immediately required action.
- (x) Contact my malpractice carrier concerning claims or potential claims, to notify of my death, and to obtain extended reporting or “tail” coverage.
- (xi) Dispose of closed and inactive files by delivery to clients, storage, and arranging for destruction, remembering that records of my trust account are to be preserved for at least seven years after my death as required by the New York Lawyer’s Code of Professional Responsibility or other provisions of law, and files relating to minors should be kept for five years after the minor’s eighteenth birthday.
- (xii) Send statements for unbilled services and expenses and assist in collecting receivables.
- (xiii) Pay current liabilities and expenses of my practice, terminate leases, and discontinue subscriptions, listing, and memberships.
- (xiv) Determine if I was serving as registered agent for any corporations and, if so, notify the corporation of the need to designate a new registered agent (and perhaps registered address).
- (xv) Determine if I was serving as an Executor or Trustee of any estate or trust, or in any other fiduciary capacity and, if so, determine the appropriate parties to be notified of the need, if any, to designate a successor fiduciary; take the steps deemed necessary to obtain discharge of my responsibilities in such fiduciary capacity.
- (xvi) Rent or lease alternative space if a smaller office would serve as well as my present office.

In performing the foregoing, my Executor is to preserve client confidences and secrets and the attorney-client privilege and to make disclosure only to the extent necessary for such purposes. For example: Client files are to be reviewed only by employees of my firm, to whom attorney-client privilege attaches (e.g., my secretary, my paralegal, my associates (if any), or attorneys retained by my Executor to assist him in closing the practice). It is for this reason that I have authorized my Executor to retain the services of these personnel, and to give them sufficient incentives to remain in the employ of the firm through its wind-up. Though there are special rules permitting disclosure of certain client information in connection with the sale of a practice, my Executor is to abide scrupulously with such rules. My Executor shall rely, without

independent investigation, on employees of my firm to (i) supply data concerning the outstanding fees owed by my clients at the time of my death, and the unused retainers paid by clients for which services have not yet been rendered; (ii) to communicate with clients concerning the disposition of their files; and (iii) to review clients' files in response to any inquiries that arise in the course of my estate's administration.

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

