

SUCCESSION PLANNING CHECK LIST (February 2015)

Succession planning includes preparation for the close of a lawyer's practice of law, whether expected, unexpected or by reason of retirement, and involves the following prefatory steps¹:

- Reach an agreement with at least one lawyer licensed in Utah who will take over and/or facilitate the transition of all pending representation – if a member of a firm, coordinate with a lawyer who will take over matters and/or facilitate the transition of matters upon the departing lawyer's succession;
- Inform clients of the succession planning contingency and of the name and contact information of the succeeding lawyer(s); and
- Assemble and archive the following information in a single location, accessible to a trusted individual and ultimately to the succeeding lawyer².

As regards the last item, for fundamental succession planning, create and keep current a SUCCESSION PLANNING file containing the following information:

1. Name, address, telephone and email of one or more lawyers who have agreed to take over work in event of inability to do so.
2. Directory including the name, address, telephone and email of all active clients and clients for which the lawyer has ongoing obligations, and client contact persons.

¹ Note that (i) compliance with these guidelines is subject to the requirements of the Utah Rules of Professional Conduct, including without limitation all obligations regarding confidentiality; (ii) these guidelines pertain to active clients and not to prior clients except to whom an attorney has ongoing responsibilities, if any; and (iii) the guidelines are subject to the terms of the client engagement letter (which, for example may include specific obligations regarding the return/destruction of files).

² Client consent to a succeeding lawyer accessing confidential information may be necessary. Consider including such consent in Engagement Letter, or amendment to the Engagement Letter.

3. Directory of all active client matters, and matters in which lawyer has ongoing obligations, including such information as is necessary to identify the nature of representation, including:
 - a. a scanned copy of the engagement letter;
 - b. the contact information for opposing counsel, if any;
 - c. e-filing information, as applicable; and
 - d. name(s) of assistant(s) or other support staff knowledgeable of matter, if any.
4. Directory of all inactive client matters and files including their physical and/or digital location.
5. Password(s) for any desktop and/or portable computer used in the practice³.
6. Location of all files, whether physical or electronic, including the physical location of all files, the URL or instructions how to locate any online applications, accounts, or other information necessary to provide access to the files. Include the location of any offsite stored files, and information necessary to access such files, including any passwords, keys, or codes.
7. Password(s) for electronic files, document management systems and individual files, as necessary. Include the URL or information on how to access online document management systems.
8. Identify, list and provide password(s) for all email accounts and passwords for accounts used in the practice.
9. Identify, list and provide password(s) for all accounting, time and billing, calendaring and docketing systems, and other applications used in the practice. If any of the systems are online, include the URL or information on how to access the applications online.

³ Client consent to access to confidential information should make clear that it includes passwords.

10. Identify, list and provide password(s) for trust account and all business bank accounts. Include URLs or instructions on how to access the bank accounts online.
11. Identify location of historic bank, business accounting, receivables, payables and billing records.
12. Identify and provide contact information for all errors and omissions, renter's insurance, general liability, and other policies related to practice.
13. Identify, list and provide password(s), contact information and, if possible, the terms of service for all vendors.
14. Identify, list and provide leases agreements, purchase agreements, and/or ownership documents related to all equipment and furniture.
15. Name and contact information for landlord, if any.
16. Copy of document and records retention policy.

Keep the file current.

In addition to the work product, active matter files should include:

- A list of all deadlines and important dates;
- Client contact information;
- Billing rates and payment information; and
- The engagement letter.

Closed matter files should also include a letter terminating task or representation.

If possible, return client original documents upon termination of representation.