

Wrapping Up and Winding Down

Please visit the Loss Prevention section of the LIANS website (www.lians.ca) for the following article complete with sample precedents.

In Nova Scotia, there are 497 practising lawyers who were admitted to the Bar more than twenty-five years ago. As the baby boom generation of lawyers begins to approach retirement, many private practitioners have questions on what should be considered and which tasks completed, prior to and upon retirement. The following checklist does not deal with the sale of a practice which involves valuation and accounting issues. It does not propose to be a comprehensive list, but rather a starting point. It is geared primarily to the sole or small firm practitioner who will be winding up his or her practice or to those assisting in an involuntary windup of a lawyer's practice.

1. Finalize as many active files as possible. Decide when you will cease to accept new files.
2. Notify clients with active files that you are retiring from practice and that a new lawyer needs to be retained. A new lawyer can be recommended but the client should be made aware that he or she can choose another lawyer to assume their file. You should inform them about time limitations and time frames important to their cases (see sample precedent), and provide applicable authorizations for the client's signature (see sample precedent).
3. Check for potential conflicts before referring and transferring client files to another lawyer. If the client chooses to self-represent, have a receipt of file signed by the client (see sample precedent). Maintain a copy of the file.
4. For cases that have pending court dates, discoveries or other appearances, discuss with the client and assuming lawyer how to proceed.
5. Where applicable, ensure that a Notice of Change of Solicitor or a Notice of Intention to Act in Person (signed by the client) is filed.
6. Advise the Prothonotary of your retirement and your contact information.
7. Review closed files to determine whether they should continue to be stored, destroyed, returned to the client or, with the client's consent, transferred to another lawyer for storage. How long a file should be retained depends on the type of case, the client, and the advice given, especially where your advice is ignored. Many files should be kept indefinitely. Without a file, it is difficult to defend an errors and omissions claim. For additional information, see the Practice Assistance Manual and its Guidelines for File Closure, Retention & Destruction, published by the Society in 1998 (available at the Nova Scotia Barristers' Library).
8. If you do destroy a file, keep a record of the files destroyed and the destruction date. Protect the client confidentiality by shredding. For files transferred, maintain a record of instructions received and where file was sent (see sample precedent).
9. Maintain your old phone number for six months or a year, or arrange for a new phone number to be given out or a voice-mail activated when your old phone number is called, so former clients have some way to contact you for file information. Re-direct mail.
10. Seek instructions from corporate clients for new addresses for their registered and records office and ensure that the notices are filed with the Registrar of Joint Stock Companies.
11. Make satisfactory arrangements to fulfill any outstanding undertakings. Complete reporting letters.
12. Submit the application required for Change of Category to the Society (see application).
13. Close trust accounts and file applicable audit reports.
14. Complete billings to clients.
15. Terminate lease or sublet office premises and deal with office equipment leases.
16. Give sufficient notice to staff of your pending retirement.
17. Pay any outstanding firm liabilities.
18. If applicable, leave open a general account to satisfy any outstanding obligations or for receipt of any accounts receivable after the closure of your practice.

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