

# The Aging Lawyer and Retirement: Guidelines for Closing Your Law Practice

by Janet S. Hunt

Are you a Baby Boomer? More than 50% of active attorneys in Hawaii are over the age of 50. We are never going to grow old, right? We are still active; we are engaged in the community; our practices are thriving; we are good attorneys with a number of years or even decades left to successfully practice our profession. In short, we are not prepared for old-age; we are not prepared to accept limitations, or even the outright inability or disability, to continue just as before.

All too often, the Office of Disciplinary Counsel receives a phone call that one of our members has unexpectedly passed away. What happens in that event is not the subject of this article. However, the unexpected happens, whether through illness, or just the realization that you would like to leave the stress of the practice of law behind. Retirement is just around the corner.

A law practice has a monetary value which can be sold, or you can opt to just close up shop. But how do you close a law practice? Where do you start? How do you organize everything?

## KEY PLAYERS

To begin, make a list of all of the entities and people you must notify that you are retiring. These are the key players who interact with your law firm. Clients immediately spring to mind, but there are others: financial institutions, HSBA, courts, vendors and suppliers, utilities, landlords, taxing authorities, the postal service, the local press, and your staff.

## STAFF

You should inform your staff first thing. You do not want them to hear it

from someone else. Answer their questions honestly; they will be nervous and unsure of their future. Decide whom you will need to keep on throughout the closing process and whom you will not need. Offer to help them search for a new job; provide references and consider hiring a job search agency for them. You might offer a seniority base severance package. You should develop incentives to keep critical staff on board until the last day of operation. Have answers to questions about pensions, retirement accounts, and COBRA benefits.

## CLIENTS

Research your ethical duties to your clients. The easy ones to remember are that you must keep your clients' property safe, and that your clients' interests and confidences must be protected. Then develop a letter to send to your clients by certified mail. The letter should advise the client of how long you will maintain their file; that you will be closing all trust accounts and returning remaining balances; and that any outstanding invoices should be paid immediately. Give your clients a set time during which to pick up their files, and most importantly, let them know the date on which their files will be destroyed. You should also give your clients contact information if the need to reach you arises in the future.

## DEVELOP A TIMELINE

Preparing a timeline is essential. Include everything you need to do. Establish completion dates for each item and identify who is responsible for carrying out each detail. Develop a system to track all steps and dates.

## PROCEDURE

Talk to your assistants for ideas. Create a file ledger to document all action taken by the staff relating to each file. Use a tickler system to track notices to clients and their responses, if any. Check calendars and computers for all pending litigation. Look carefully for original documents in every file. Make sure all inactive files have been formally closed. Determine if you need to withdraw as attorney of record in a case.

Has all work been completed in your active files? Inventory and prioritize all active files according to urgency and time constraints. Identify the next step in all open litigation files; reconcile and inventory your IOLTA accounts; and develop a system to record the return of files to the client. Make clear to the clients that they must retain new counsel to handle ongoing matters.

## FEES

Prepare final bills in all matters. Determine any quantum meruit fees based upon the value of the services rendered up to the time of the office closing. File permitted attorney liens in ongoing contingency cases. Refund all unearned fees.

## MISCELLANEOUS

Do not forget office and equipment leases and insurances policies. Close all utility, vendor and supply accounts. Make sure you retain all employer/employee records. Record all expenses incurred in closing your office.

## HAVE A HAPPY AND LONG RETIREMENT!

---

*Janet S. Hunt is Hawaii's Chief Disciplinary Counsel.*

## Guidelines for Closing or Selling a Law Practice

- A. When is it necessary
  - a. Death
  - b. Physical or mental inability
  - c. Retiring
  - d. Disbarred
  - e. Suspended
  - f. Elected or appointed to Public Office
  - g. Accepts employment opportunity
  - h. Military service
  - i. Moving to another state
  - j. Merging practice
  - k. Selling practice
  - l. Drugs or alcohol
- B. Key Players
  - a. The lawyer
  - b. Executor-is there a probate matter
  - c. Conservator/guardian
  - d. Another lawyer with whom arrangements have been made
  - e. Spouse
  - f. Family members
  - g. Buyer of practice
  - h. Financial institutions
  - i. Bar association
  - j. Courts-Probate-Civil
  - k. Vendors/suppliers
  - l. Utilities
  - m. Landlord
  - n. Taxing authorities
  - o. Postal service
  - p. Local press
  - q. Staff
- C. Staff
  - a. First thing –inform your staff once the decision is made
  - b. You don't want them to hear it from somewhere else
  - c. Answer their questions honestly. They will be concerned about their future
  - d. Decide who you will need and who you will not need
  - e. Offer job search help
  - f. Seniority based severance
  - g. Develop incentives to keep critical staff on board until the end
  - h. Pension, IRA, COBRA benefits



#### D. Client Considerations

- a. Ethical duties to clients
- b. Client interests and confidences must be protected
- c. Keep their property safe
- d. Notification by certified mail
- e. Follow-up telephone call
- f. Referral to at least 3 qualified lawyers
- g. Return all files and personal property
- h. Advise client how long you are required to keep their file
- i. Advise that you will close all trust accounts and return client funds
- j. Request immediate payment on all open invoices
- k. Advise past clients they have 30 days to pick up their files
- l. Advise clients the date their files will be destroyed

#### E. Develop a Timeline

- a. Planning is essential
- b. Describe everything you need to do
- c. Establish Completion Dates for everything you need to do
  - i. The date you will close the practice
  - ii. The date the lease runs out
  - iii. The date to complete all steps in the process
  - iv. Develop a system to track all steps and dates

#### F. Procedure

- a. Label file drawers active or closed
- b. Create a file ledger if one does not exist
- c. Check calendars, diary, answering service, computer for all pending litigation
- d. Talk to your secretary
- e. Check for original documents in inactive files
- f. Make sure all inactive files have been formally closed
  - i. Do you need to withdraw as attorney of record
- g. Make sure all work has been completed in open files
- h. Inventory and prioritize all file according to urgency and time constraints
- i. Identify next step in all open litigation
- j. Identify Statute of Limitations in all open cases
- k. Reconcile and inventory your IOLTA accounts
- l. Check files for original Wills
- m. Notify Courts and opposing counsel in all pending litigation
- n. Develop a system to record all files returned to clients
- o. Document all action taken by the staff relating to each file
- p. Use a tickler system to track notices to clients and responses

G. Fees

- a. Determine quantum meruit basis value of services rendered
- b. Pay client the difference between money paid and services received

H. Miscellaneous

- a. Equipment leases
- b. Insurance policies
- c. Record expenses incurred in closing office
- d. Maintain employer/employee records

I. Questions?

J. Good Luck!!!