

**Supreme Court of the State of New York  
Appellate Division: Second Judicial Department**

**HON. A. GAIL PRUDENTI, PRESIDING JUSTICE**



**HANDBOOK FOR  
COURT-APPOINTED INVENTORY ATTORNEYS**

January, 2008

## **I. INTRODUCTION**

This handbook is designed to assist an attorney who is appointed to act as an inventory attorney pursuant to the Rules of the Appellate Division, Second Department (22 NYCRR 691.10, 691.13). Those rules authorize the court to appoint attorneys to inventory the files of disbarred, suspended, or resigned attorneys, or attorneys who have abandoned their practice or who are incapacitated.

If an inventory attorney encounters additional questions or problems not covered by these guidelines, he or she may contact the Appellate Division, Second Department, Office of Special Counsel for further assistance (Phone: 631-854-1130 or e-mail: [ad2osc@courts.state.ny.us](mailto:ad2osc@courts.state.ny.us)).

The Appellate Division greatly appreciates the service which inventory attorneys provide to the public and the profession.

## **II. APPOINTMENT OF THE INVENTORY ATTORNEY**

### *A. Application to Appoint an Inventory Attorney*

There are several different circumstances that give rise to the appointment of an inventory attorney. Under 22 NYCRR 691.10(g) “[w]henver it shall be brought to the court’s attention that a disbarred, suspended or resigned attorney shall have failed or may fail to comply” with applicable rules, the court may appoint an attorney or attorneys to inventory that attorney’s files, “and to take such action as seems indicated to protect the interests of his [or her] clients and for the protection of the interests of the disbarred, suspended or resigned attorney.”

Pursuant to 22 NYCRR 691.10(k), “[w]hen, in the opinion of the court, an attorney has abandoned his [or her] practice, [it] may appoint . . . an attorney to take custody and inventory the files of such attorney and to take such action as seems indicated to protect the interests of his [or her] clients.”

Finally, pursuant to 22 NYCRR 691.13(d), “[w]henver an attorney is suspended for incapacity or disability, [the] court . . . may appoint an attorney or attorneys to inventory the files of the suspended attorney and to take such action as it deems proper and advisable to protect the interest of his [or her] clients and for the protection of the interest of the suspended attorney.”

Oftentimes these circumstances are brought to the court’s attention by motion from one of the three Grievance Committee’s within the Second Department. Motions brought by a Grievance Committee to appoint an inventory attorney may be made on notice to the attorney, or upon such other notice as the court may direct.

The Second Department Grievance Committees encourage attorneys who may be in danger of abandoning their practice or becoming unable to practice to seek early intervention and help from the Lawyer’s Assistance Programs of their local bar associations.

## *B. Order Appointing an Inventory Attorney*

The order appointing the inventory attorney will identify him or her by name and give the authority to inventory and take custody of the attorney's books, records, and business and client files, and to take any other action that is deemed proper and advisable to protect the interests of the clients and/or the attorney with respect thereto. The order will also state that the inventory attorney shall serve until discharged by order of the court.

Together with the order of appointment, the inventory attorney will be provided with a copy of this handbook, as well as contact information about the attorney who is the subject of the order and the location of his or her records and files, if known. If an inventory attorney encounters additional questions or problems, including those concerning proper procedures and the scope of his or her authority, he or she may contact the Office of Special Counsel.

## **III. DUTIES OF THE INVENTORY ATTORNEY**

The inventory attorney's primary task is to expeditiously facilitate the return of client files and safeguard the attorney's business, escrow and trust account records. How this task is accomplished may vary depending on such factors as the size and type of practice the attorney maintained, whether the attorney is cooperative or uncooperative, the location of the attorney's files and their accessibility, and whether the attorney is represented by counsel. In carrying out his or her duties, the inventory attorney must remain mindful of 22 NYCRR 691.10(h) and 22 NYCRR 691.13(d)(2), which prohibit disclosure of "any information contained in any file so inventoried without the consent of the client to whom such file relates, except as is necessary to carry out the order of this court which appointed the attorney to make such inventory."

### *A. Obtaining Access to Attorney's Office and Client Files*

After the order of appointment is issued, the inventory attorney should immediately take action to secure the attorney's records and files. If necessary to ensure the security of those records and files, the inventory attorney should remove them to the inventory attorney's office or other safe location to be determined by the inventory attorney. In certain circumstances, the inventory attorney may be able to maintain and inventory the attorney's files in the attorney's office. If an inventory attorney is unable to secure the attorney's records and files in a safe location, or determines that it is necessary to maintain them in a separate storage facility, he or she should contact the Office of Special Counsel for guidance. Similarly, should the inventory attorney encounter difficulties in retrieving and securing records and files believed to be maintained in electronic form, he or she may seek guidance from the Office of Special Counsel.

The inventory attorney should make an effort to make copies of any bank and bookkeeping records maintained on the attorney's computer, if reasonably accessible. Copies should be made in electronic format (e.g., CD or flash drive). If necessary, the name of the software program used to create the records should be ascertained to facilitate the ability to read them. The inventory attorney should also retrieve and secure any CDs or disks of the attorney to the extent that CDs or disks are identifiable as containing bank and bookkeeping records or related information.

## B. *Reviewing Client Files and Contacting Clients*

In pursuing the objective to return client files, the inventory attorney's first step should be to review those files to determine which are active and which are closed. Clients with active matters should be contacted first and advised of the need to obtain new counsel and/or make arrangements to pick up their files. Contacting the client may be done by telephone, mail, or any other means the inventory attorney deems appropriate, based on time constraints and other considerations. A record of the file review and communication to the client should be maintained by the inventory attorney (*see*, Sample Inventory Review Form).

Similarly, notification should be made to clients whose matters are closed or inactive. Again, a record of the communication should be maintained, and the clients should be advised to contact the inventory attorney to pick up their files. An exception may be made in the case of legal matters that have been closed for more than seven years. If inspection of the file reveals that the underlying legal matter has been closed for seven years or more, the inventory attorney need not send notification to those clients and may designate those files for destruction. The inventory attorney must ensure, nevertheless, that the contents of each file is examined to determine if it contains original wills or other special documents or records in need of preservation as set forth in Section F, *infra*.

There may be occasions when the inventory attorney is unsuccessful in the initial attempts to contact a client, or if contact is made, in gaining a response from the client regarding his or her wishes with respect to the disposition of the file. Under these circumstances, the inventory attorney is required to exercise due diligence in undertaking further attempts at contact. While the steps to be taken are within the discretion of the inventory attorney based on each particular situation, the following are recommended:

- A letter should be sent to the client's last known address. It is important that this letter advise the client that the file will be destroyed, pursuant to court order, if it remains unclaimed (*see*, Sample First Letter to Clients). If the inventory attorney is unsure of the last known address, or believes it may have changed and cannot reasonably (or without expending substantial costs) ascertain the current address, he or she may contact the Office of Special Counsel for assistance.
- If the inventory attorney does not receive a response to this letter, and there is no indication that the letter was received by the client, a second letter may be sent by certified mail for the purpose of ensuring and confirming delivery (*see*, Sample Second Letter to Clients). The Postal Service offers several options to confirm delivery of certified mail without requiring the use of a "return receipt," which is the most costly method. One method of tracking a certified mailing permits the sender to track and confirm delivery on-line at [www.usps.com](http://www.usps.com). A second method permits the sender to receive an e-mail from the post office confirming delivery. This method is available only if the postage is processed on-line through the website. The inventory attorney is encouraged to explore and use these cost-saving alternatives.

- If the certified mailing is ignored or “unclaimed,” or if the certified letter is returned, *and* the post office indicates that the address is no longer current, alternative methods of contact should be undertaken. These methods may include telephone calls to the client, or telephone or written communication to other contact persons identified in the client file or ascertained by the inventory attorney. Of course, the inventory attorney must maintain client confidentiality when communicating with third parties.
- Some clients, although successfully contacted, may fail to follow through on making arrangements to pick up the file or consent to its destruction. Here, since there is confirmation that the client has received the initial notice, the inventory attorney may send a follow-up reminder by regular mail (*see*, Sample Second Notice to Client by Regular Mail).
- The inventory attorney may discover files of a client whom the inventory attorney has reasonable cause to believe may be deceased. In such case, reasonable efforts should be made to contact the personal representative of the deceased client. This may require some investigation, perhaps through the appropriate Surrogate’s Court.
- Finally, the inventory attorney may seek authorization from the court to place a notice in a local newspaper or other publication as a means of contacting the clients. The request for authorization may be done by letter to the court (*see*, Sample Letter to Appellate Division Requesting Publication; Sample Publication Notice). This is usually a method of last resort; however, there may be cases in which it is impractical to contact all of the attorney’s clients and publication may be the best method in the first instance.

C. *Protecting the Client’s and the Attorney’s Interests*

While the inventory attorney is waiting for clients to retrieve their files or select a new attorney, the inventory attorney should take reasonable steps to avoid foreseeable prejudice to the clients, remaining especially cognizant of applicable statutes of limitation or other time-sensitive considerations. This may include contacting opposing counsel, contacting the court, and reviewing incoming mail. The inventory attorney may review mail in the attorney’s office, if possible, or may make arrangements to have the mail forwarded to another secure location.

Notably CPLR 321(c) provides as follows:

If an attorney dies, becomes physically or mentally incapacitated, or is removed, suspended or otherwise becomes disabled at any time before judgment, no further proceeding shall be taken in the action against the party for whom he appeared, without leave of the court, until thirty days after notice to appoint another attorney has been served upon that party either personally or in such manner as the court directs.

The inventory attorney may not act as the clients’ attorney, or accept an offer of employment from those clients.

In some cases the order appointing the inventory attorney may direct [him or her] to take action necessary to protect the interests of the subject attorney. This may include consideration of the attorney's right to assert a retaining lien against a file for outstanding legal fees. In the event the attorney reasonably asserts a lien, or if the inventory attorney reasonably concludes that an attorney suspended for mental infirmity would have done so, then delivery of the file to the client may be withheld by the inventory attorney for a reasonable period of time to allow the client and the attorney, or his or her legal representative, to resolve the lien. In such situations, the inventory should notify both sides in writing of the conditions precedent to the release of the file (*see*, Sample Lien Letter).

*D. Delivering Files to Clients*

When a client receives delivery of the file, the inventory attorney should ask him or her to sign a receipt (*see*, Sample Acknowledgment of Receipt of File). A copy of the receipt should be maintained by the inventory attorney. The inventory attorney should require clients to produce appropriate identification before releasing the file. Absent written instructions from the client, a file should not be released to anyone other than the client. In scheduling pick-up dates, the inventory attorney may wish to designate one or more specific dates and times when clients can come to the inventory attorney's office, or other location, to obtain their files. This may be particularly helpful in situations in which publication was used or if the records in question are voluminous.

Client files may also be returned by certified mail, return receipt requested, if the client's written consent is obtained and a copy of the client's identification is provided. Proof of the consent, identification, and delivery should be maintained by the inventory attorney. Inventory attorney's are encouraged to have client's pick up files in person.

*E. Representing Clients and Recommending New Attorneys*

To avoid even the appearance of impropriety, an inventory attorney is not permitted to render legal services to any client on any matter that was covered by the court ordered inventory. Only after being discharged by the court, may the inventory attorney be retained by a client on a new matter that was not part of the inventory process. In addition, the inventory attorney may not recommend successor or substitute counsel to any clients on matters related to the inventory. Referrals may be made to local bar associations for referrals to new counsel. No file should be sent to a successor attorney without the client's prior written consent.

Clients who believe they are owed a refund of fees, or are otherwise entitled to funds belonging to the attorney, should be encouraged to seek independent counsel and/or contact the Lawyer's Fund for Client Protection at (800) 442-FUND. Where appropriate, inventory attorneys should refer clients to Fee Dispute Resolution Committees of the local bar associations or courts.

*F. Preservation and Disposal of Files and Records*

Files remaining after the inventory attorney has concluded the inventory process and exercised due diligence in contacting clients and returning files, and files for matters that have been inventoried but have been closed for seven years or more, may be destroyed, *with the permission of*

*the court*, which will be set forth in the order of discharge, and subject to the bookkeeping records set forth in the Lawyer's Code of Professional Responsibility DR 9-102(D), 22 NYCRR 1200.46. The method of destruction is within the discretion of the inventory attorney, and may include shredding or incinerating, as the case may require.

Original wills should be preserved by the inventory attorney and not destroyed. Any original wills remaining unclaimed should be itemized within the inventory attorney's Application to be Discharged, together with a request authorizing (1) that the wills be deposited with the appropriate Surrogate's Court pursuant to Surrogate's Court Procedure Act §2507 and/or §2508 as may be applicable, and (2) that the filing fees, if any, be waived (*see* Section V and Sample Motion, *infra*). Filing fees should be waived by the Surrogate's Court upon presentment of the Order of Discharge; however, should the inventory attorney encounter problems in this regard, he or she should contact the Office of Special Counsel.

In addition, if the inventory attorney believes there are special circumstances that warrant the continued preservation of a particular unclaimed legal file or record of the subject attorney, such file or record should also be delivered to the grievance committee having jurisdiction over the attorney. The inventory attorney should provide the grievance committee with a list of all files and records that are being turned over, the reason the files should be maintained, and for how long.

Bank and bookkeeping records related to the attorney's practice should be preserved by the inventory attorney and not destroyed. It is not the function of the inventory attorney to serve as a successor signatory to the attorney's accounts, nor to disburse funds or otherwise resolve competing claims to funds in such accounts. In the event another individual or attorney is appointed to serve as successor signatory, or to take control of such records for the purpose of facilitating disbursement of funds in such accounts, the inventory attorney should comply with a request for the turnover of such records. In other cases, the inventory attorney may receive requests from law enforcement offices or attorney disciplinary committees seeking to take custody and control over the bank and bookkeeping records of the attorney. The inventory attorney may exercise discretion to comply with such requests if he or she reasonably concludes that to do so is consistent with the best interests of the clients. Upon discharge, all bank and bookkeeping records remaining in the custody of the inventory attorney should be delivered to the appropriate grievance committee for preservation.

Finally, upon discharge, the inventory attorney should deliver to the appropriate grievance committee, the complete file of all records and documents related to his/her appointment. Such records should include the inventory review form, correspondence, executed receipts, motions, etc.) These records will be maintained by the Grievance Committee for future reference and safekeeping.

#### IV. INVENTORY ATTORNEY'S COMPENSATION

Inventory attorneys will be compensated for their time at the rate of \$75 an hour, subject to court approval. In addition, inventory attorneys will be compensated for all other reasonable expenses incurred as part of the court appointed inventory.

##### COMPENSATION RATE:

\$75 per hour (subject to court approval) - time expended for travel is not compensable.

The court will pay the inventory attorney the following reasonable expenses. Office overhead will not be reimbursed.

Time is recorded by twentieths of an hour as follows:

- .05 = 3 min
- .10 = 6 min
- .15 = 9 min
- .20 = 12 min
- .25 = 15 min etc.

##### EXPENSES:

###### Faxes:

- only the costs of long distance facsimile transmissions may be reimbursed
- copies of paid bills must be submitted

###### Phone Charges:

- only long distance telephone charges may be reimbursed
- copies of telephone bills must be submitted

###### Photocopying:

- 15¢ per copy limit, the number of copies must be indicated (example: 10 copies x 15 cents = \$1.50)
- in excess of 50 pages, a receipt must be submitted

###### Postage:

- \$5.00 limit without receipts;
- Federal Express, Certified Mail, etc. may be reimbursed
- receipts must be submitted

###### Parking:

- \$5.00 limit without receipts



Travel Expenses:

- mileage: state prevailing rate (contact the Office of Special Counsel for prevailing rate)
- public transportation costs incurred (receipts required)
- tolls: receipt required
- expenses incurred traveling to and from court are not compensable

TIME RECORDS & VOUCHERS:

Inventory attorneys are expected to maintain detailed and accurate time records. Those records should include client names, dates, work performed, time expended, and costs incurred. Descriptions should be sufficiently specific and detailed to enable one to understand the nature and extent of the services performed (see, Sample Time Sheet). The court, in its discretion, may request that the inventory attorney submit time records at least every 60 days.

At the time the inventory attorney submits a motion to be discharged, he or she should simultaneously, but separately, submit a completed voucher to the court for the specific dollar amount requested, together with a copy of his or her time records. The appropriate voucher form may be obtained from the Attorney Matters section of the General Clerk's Office at the Appellate Division (telephone 718-722-6334 or 6335). Claims for compensation in excess of \$4,400 require an affirmation of "extraordinary circumstances." The affirmation should set forth the extraordinary circumstances that compelled the expenditure of time, e.g., unusually voluminous or complex files. Upon approval, the inventory attorney will then receive payment.

Where appropriate, including appointments that are lengthy and financially burdensome, an inventory attorney may make interim applications to the court for reimbursement of expenses prior to the completion of all services and the making of a motion to be discharged, using the appropriate voucher.

**V. APPLICATION BY INVENTORY ATTORNEY TO BE DISCHARGED**

Once the inventory attorney has completed his or her duties, a motion to be discharged must be filed with the court (*see*, Sample Motion).

Unless otherwise directed, the motion may be made *ex-parte*. Although the motion will vary depending on the services performed by the inventory attorney, the motion should be supported by an affirmation which includes, at a minimum:

- 1) a copy of the order of appointment;

2) a description of the number of files delivered to clients and/ or their attorneys, the number of files unclaimed, and the efforts made to contact clients;

3) a description of any records or files turned over, or to be turned over, to a grievance committee;

4) a list of any unclaimed original Wills, and a request to deposit same with the appropriate Surrogate's Court, without fee, for safekeeping; and

5) a request for court authorization to destroy any remaining files that do not have to be preserved, as well as a request for authorization on the method of destruction.

## **VI. ORDER OF DISCHARGE**

The court will issue an order discharging the inventory attorney and relieving him or her of his or her duties. The court may also authorize the destruction of files and the method of destruction, if requested in the motion to be discharged. (The court will send a copy of the order to the appropriate grievance committee.) If practicable, the inventory attorney will serve a copy of the order on the attorney whose files were the subject of the inventory.

A final post-discharge voucher may be submitted by the inventory attorney for expenses incurred in destroying remaining files. This request can be made by letter, with a voucher and any receipts annexed.

Rev. 01/08

Sample Inventory Review Form

Client Name \_\_\_\_\_ BOX #: \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Telephone: Home \_\_\_\_\_  
Cell \_\_\_\_\_

Work \_\_\_\_\_  
Fax # \_\_\_\_\_

FILE:	STATUS: (ACTIVE/INACTIVE)	NATURE OF MATTER:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**SIGNIFICANT ORIGINAL DOCUMENTS? (Wills, Deeds, etc) If yes, briefly describe:**

\_\_\_\_\_  
\_\_\_\_\_

**CHECK LIST:**

Inventory File(s) Date \_\_\_\_\_

Contact Client 1st Letter \_\_\_\_\_ 2nd Letter \_\_\_\_\_ Other \_\_\_\_\_

Release File(s) Date \_\_\_\_\_ To \_\_\_\_\_

Method \_\_\_\_\_ Receipt: \_\_\_\_\_

Unclaimed File(s) (circle one): Destroy Preserve

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sample First Letter to Clients

*INSERT*

Date

Client Name

Client Address

Re: *INSERT Attorney Name*

Dear *INSERT*:

Please be advised that by order of the Appellate Division, Supreme Court, Second Judicial Department, dated *INSERT*, the above-named attorney was *INSERT* *disbarred, suspended* from practicing law in the State of New York. Pursuant to this order, I have been appointed to inventory the attorney's files and deliver them to the clients.

As part of my inventory, I have possession of a legal file in which it appears you have an interest. *Insert: [For active matters: This matter appears to be active and requires your immediate attention. To avoid potential prejudice to your legal matter you should retrieve this file and consult with a new attorney immediately. You or your new attorney may contact me to arrange for prompt turnover of the file.] [For inactive or closed matters: Kindly contact me to make arrangements to retrieve your file or have it released to a new attorney of your choice within the next 30 days.]*

At the time your file is released you will be requested to sign a written receipt, or provide written authorization for its delivery to your new attorney. As a matter of security, you will be required to produce some form of photo identification to ensure that the file is being released to an authorized person.

**PLEASE TAKE NOTICE THAT FILES NOT CLAIMED IN A TIMELY MANNER WILL BE DESTROYED PURSUANT TO COURT ORDER.**

I am not permitted to provide you with legal representation or advice in this matter. If you are in need of a referral for a new attorney you may contact the bar association in your area for assistance. In addition, if you believe that you may be entitled to a refund of money previously paid to, or entrusted to the attorney, you may file a claim with the Lawyer's Fund for Client Protection at 119 Washington Ave., Albany, NY 12210, telephone 1-800-442-FUND.

Thank you for your anticipated cooperation.

Very truly yours,

Sample 2<sup>nd</sup> Letter to Clients (Certified Mail With Confirmation of Delivery)

**SECOND NOTICE**

*INSERT*

*Date*

Client Name

Client Address

Re: *INSERT Attorney Name*

Dear *INSERT*:

Enclosed is a copy of my previous letter to you, dated *[insert]*, which is self-explanatory. To date my office has no record of receiving any response from you.

It would be appreciated if you would kindly respond within the next 10 days.

**PLEASE TAKE NOTICE** that if no response is received from you or any attorney on your behalf within 10 days of your receipt of this letter, it will be assumed that you have no further interest this matter. Your file will then be destroyed pursuant to court order.

Please be guided accordingly.

Very truly yours,

CERTIFIED MAIL

Sample 2<sup>nd</sup> Letter to Clients (Without Certified Mail)

SECOND NOTICE

INSERT

Date

Client Name

Client Address

Re: INSERT Attorney Name

Dear INSERT:

Enclosed is a copy of my previous letter to you, dated [insert], which is self-explanatory. Our file reflects that you previously advised this office that you intended to retrieve your file.

It would be appreciated if you would kindly contact our office to make arrangements to retrieve your file within the next 10 days.

PLEASE TAKE NOTICE that if no response is received from you within 10 days of your receipt of this letter, it will be assumed that you have no further interest this matter. The file will then be destroyed pursuant to court order.

Please be guided accordingly.

Very truly yours,

Sample Letter to Appellate Division Requesting Publication

Date

*INSERT*, Clerk  
Appellate Division, Second Department  
Supreme Court, State of New York  
45 Monroe Place  
Brooklyn, New York 11201

Re: Court Appointed Inventory  
In the Matter of *INSERT Attorney Name*

Dear *INSERT* :

Please be advised that by order of this Court, dated *INSERT*, I was appointed to inventory the above-named attorney's files. (Copy annexed). At this time, for the reasons detailed below, I respectfully request authorization to place a notice in (*INSERT local newspaper or other publication*) notifying the public in the judicial district where the attorney practiced that I am in possession of his(her) legal files.

In discharging my duties as inventory attorney, I am attempting to return all client files to their rightful owners. Given the volume of files (*or, i.e. after exercising due diligence, there are many files that remain unclaimed*), I am requesting authorization to place a notice in (*INSERT local newspaper or other publication*) that interested parties should contact me to arrange to pick up files (*or note specific date(s) for pick up*); and that files that remain unclaimed will be destroyed. (A copy of the proposed notice is annexed.) The estimated cost of publication is \$\_\_\_\_.

Thank you for your consideration in this matter.

Very truly yours,

Enclosures

## Sample Publication Notice

PLEASE TAKE NOTICE that by Order of the Appellate Division, Second Judicial Department, the undersigned has been appointed as inventory attorney for the law practice of (*INSERT Attorney's Name*), and hereby notifies the public and members of the bar that client files previously in the possession of said attorney are now in my custody, being held at (*INSERT location*). Former clients of (*INSERT Attorney's Name*), or a duly authorized representative, may arrange to retrieve files by contacting the undersigned in advance. Files will be released only upon production of photo identification and the signing of a receipt acknowledging delivery.

PLEASE TAKE FURTHER NOTICE that client files not picked up pursuant to this Notice by (*INSERT date*) will thereafter be destroyed by court order.

*INSERT CONTACT INFORMATION  
FOR INVENTORY ATTORNEY*

NAME

ADDRESS

PHONE #



Sample Lien Letter

*INSERT*

Date

Client Name

Client Address

Attorney or Legal Representative Name

Address

Re: *INSERT Attorney Name*

Dear *INSERT*:

Please be advised that by order of the Appellate Division, Supreme Court, Second Judicial Department, dated *INSERT*, I have been appointed to inventory the client files of *[Mr./Ms. attorney name]*.

As part of my inventory, I have possession of a legal file related to the matter of *[identify matter or caption]*. It has been brought to my attention that *[Mr./Ms. attorney name]* *[has asserted -or- may be entitled to assert]* a retaining lien for outstanding compensation allegedly due and owing in this matter by *[client name]*. Under these circumstances, I am temporarily withholding the release of this file to allow *[attorney name]* to make the appropriate application for compensation as required by Section 691.10 of the Rules of the Appellate Division, Second Department (22 NYCRR 691.10). If proof of such application is submitted to me within 60 days of this date, I will continue to withhold release of the file pending the outcome of the application. If such proof is not submitted within 60 days, the file will be released to *[client name]*. Of course, should the lien be resolved earlier between the parties, the file will be released accordingly.

Thank you for your anticipated cooperation.

Very truly yours,

Sample Acknowledgment of Receipt of File

ACKNOWLEDGMENT OF RECEIPT OF FILE

I, *(INSERT Client Name)*, hereby acknowledge that I have received my legal file from the office of *(INSERT Attorney's Name)* in the matter of *(INSERT caption, file #, etc.)*. This file was delivered to me by *(INSERT Inventory Attorney's Name, or agent/employee of inventory attorney)*, the attorney appointed by court order to inventory the files of *(INSERT Attorney Name)*.

I acknowledge that I have been informed the that by order dated *(INSERT)*, *(INSERT Attorney's Name)* was *(INSERT disbarred, suspended, etc.)* and that I should retain substitute counsel immediately to handle any ongoing legal matters in which I am involved.

Date \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

FOR OFFICE USE:

Form of identification presented: \_\_\_\_\_

Approved by: \_\_\_\_\_

\*\* Amend language as necessary if file picked up by or mailed to substitute counsel \*\*

Sample Time Sheet

CLIENT	DATE	WORK PERFORMED	HOURS	COSTS
Bill Smith	10/2/06	initial inventory of file	.5	Postage: .39 ¢
	10/2/06	telephone call to client; s/w spouse	.05	
	10/7/06	drafted & sent letter to client	.25	
	10/9/06	drafted receipt for client's signature	.2	
	10/9/06	Met with client & returned file; had client execute receipt	.3	
Dan Jones	10/2/06	initial inventory of file	.7	Cert. Mail: \$2.79
	10/3/06	telephone call to client	.15	
	10/4/06	received & reviewed written consent from client to return file via mail w/ copy of photo i.d.	.2	
	10/5/06	returned file to client via Cert.Mail RRR	.1	

Sample Motion to be Discharged

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : SECOND DEPARTMENT

-----X      Radi No. *INSERT*  
In the Matter of *INSERT*,  
A (*INSERT Disbarred, Suspended*) Attorney

*INSERT* Attorney’s Name,  
Respondent;

NOTICE OF MOTION  
TO BE DISCHARGED AS  
INVENTORY ATTORNEY

*INSERT* Inventory Attorney’s Name,  
Inventory Attorney.

-----X

S I R S:

Upon the annexed affirmation of *INSERT*, the attorney appointed by this court to inventory the files of the above-captioned (*INSERT disbarred, suspended*) attorney, dated *INSERT*, and the exhibits annexed thereto, the undersigned will move this Court at the courthouse thereof, located at 45 Monroe Place, Brooklyn, New York, on the *INSERT* day of *INSERT*, at 9:30 o’clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order:

1. Discharging the movant as Inventory Attorney in the above-captioned matter;
2. Authorizing the movant to destroy any remaining files contemplated by the court ordered inventory that remain unclaimed;
3. Authorizing the movant to deposit any unclaimed, original wills with the appropriate Surrogate’s Court and without the payment of the fees, if any, that otherwise may be required; and
4. For such other and further relief as this Court may deem just and proper.

Dated: *INSERT*, New York  
*INSERT*, 2007

Yours, etc.,

*INSERT*  
*Inventory Attorney*  
*Address*  
*Telephone*

---

*(Signature)*

TO: *INSERT*  
*Attorney's Name*  
*Address*

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : SECOND DEPARTMENT

-----X      Radi No. *INSERT*

In the Matter of *INSERT*,  
A (*INSERT Disbarred, Suspended*) Attorney.

AFFIRMATION

*INSERT* Attorney's Name,  
Respondent;

*INSERT* Inventory Attorney's Name,  
Inventory Attorney.

-----X

*INSERT*, an attorney admitted to the practice of law in all the courts in the State of New York, under the penalties of perjury, affirms as follows:

1. I *INSERT* am the attorney appointed by order of this court to inventory the files of *INSERT* and am fully familiar with all the facts and proceedings related to this matter. (A copy of the order of appointment is annexed as Exhibit A.)
2. This affirmation is submitted in support of my motion for an order discharging me as Inventory Attorney in this matter.
3. Upon my appointment I secured the attorney's files and conducted a comprehensive inventory of all client files maintained in the subject attorney's office.
4. Arrangements were then made with (*INSERT #*) clients to pick up their files and (*INSERT #*) clients to transfer their files to new counsel.
5. Approximately (*INSERT #*) files remain in my possession unclaimed. I exercised due diligence in attempting to contact clients and return those files. Specifically, (*INSERT describe generally actions taken*).
6. I request authorization to destroy, by incineration [shredding], those files that remain unclaimed.

7. A record of all files inventoried, delivered to clients or their counsel, and those remaining unclaimed, is maintained within my file which will be preserved and hereafter entrusted to the (*INSERT 2<sup>nd</sup> & 11<sup>th</sup>, 9<sup>th</sup> or 10<sup>th</sup>*) District Grievance Committee.

8. I have identified banking and bookkeeping records related to (*INSERT #*) client files that must be preserved pursuant to 22 NYCRR 1200.46. An itemized list of these records is annexed as Exhibit B. On or about *INSERT* these records were entrusted to the (*INSERT 2<sup>nd</sup> & 11<sup>th</sup>, 9<sup>th</sup> or 10<sup>th</sup>*) District Grievance Committee for safekeeping and preservation for the requisite time periods.

9. Annexed hereto as Exhibit C is a list of the names of testators for original Wills which remain unclaimed and in my possession, together with the county in which the testator is believed either to be a domiciliary, or to have been domiciled at the date of death. I request authorization to deposit these Wills in the Surrogate's Court of the appropriate county without payment of the fee, if any, that may otherwise be required;

WHEREFORE, I respectfully request that this motion be granted in all respects and that an order be entered:

1. Discharging me as Inventory Attorney in the above-captioned matter;
2. Authorizing me to destroy, by incineration or shredding, any remaining files contemplated by the court ordered inventory that remain unclaimed;
3. Authorizing me to deposit any unclaimed, original Wills with the appropriate Surrogate's Court and without payment of the fees, if any, that otherwise may be required; and
4. Granting such other and further relief as this Court may deem just and proper.

Dated: *INSERT*, New York

---

*INSERT*, Inventory Attorney