

HOW I PREPARED MY LAW FIRM IN THE EVENT I SUDDENLY BECAME UNABLE TO PRACTICE LAW

By Molly Gillis, Founding Partner, Gillis Law Firm, LLC

Considerations for solo / small firm practitioners and our duty to protect our clients.

This year, I was asked to provide guidance on how to prepare a law firm for the unexpected – specifically, what would my law firm do if I suddenly became unable to practice law?

There could be a myriad of reasons a lawyer is unable to practice law – COVID, sudden death, disbarment, or a number of rather unpleasant things to think about. However, when presented with this issue, I realized I had not yet put into practice the best and most efficient way for my designated attorneys to take over my clients' cases, if ever necessary.

I started my law firm a little over two (2) years ago, and my husband joined my firm last summer. We are the only attorneys in our firm, and we are supported by a fantastic staff. If a catastrophic event ever happened to my husband and me, our designated attorneys and my staff will work together to protect our clients' interests.

We take our duty to our clients very seriously. They have trusted us in some of their most difficult situations. *“To my clients, I offer faithfulness, competence, diligence and good judgment. I will strive to represent you as I would want to be represented and to be worthy of your trust.”* – *Lawyer's Creed (2-5); Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013.*

If I am ever unable to practice law, my firm will transition my case load to my two (2) designated attorneys. We have taken the following steps to ensure that the transition to them from me would go as smoothly as possible and to ensure my clients' interests are protected.

- 1) Make sure your designated attorneys, in fact, know that they are listed as your designated attorneys. Choose competent designated attorneys.**

While preparing for this seminar, I took the opportunity to touch base with my two (2) designated attorneys to ensure they knew that I had listed them as my designated attorneys. (They knew.)

We also took a few minutes to discuss who they would be in contact with at my firm in the event they had to step in and disburse my cases, as well as the manner and method they would notify my clients.

I designated two (2) attorneys that I trust and are also in the same practice area as my practice areas. Choosing reliable, dependable and competent designated attorneys is one of the biggest things you can do to make sure your clients' interests will always be protected. Since my designated attorneys are in the same specialty area of law, I am confident they will know how to handle pressing issues in my clients' cases and also be able to distribute my cases accordingly.

2) Make sure at least one, if not more, trusted members of your staff know who the designated attorneys are and their contact information.

I am extremely grateful to have a staff that I know will handle time-sensitive issues in the event my law partner / husband and I are unable to continue to practice law. My paralegal, Kim, knows who my designated attorneys are and that she should contact them immediately, if ever necessary. She has all of their contact information, and she also knows to notify the State Bar of Georgia if my designated attorneys are needed.

3) Maintain an active, updated and complete case list.

All of us should maintain an active and complete case list, in general, as a best practice for our clients.

However, maintaining this list is crucial for designated attorneys to perform their duties in the event I am absent from the practice of law. At my firm, I review our Master Case List at least once per week with my staff at our weekly meeting. I ensure that all relevant client and case information is easily attainable to the staff. We also note on our Master Case List if a case has been referred to us by another attorney. If a designated attorney had to take over

my case load, he or she would know all the case names, case status, jurisdiction, pending court dates, and referral source from one spreadsheet.

“To the courts, and other tribunals, and to those who assist them, I offer respect, candor, and courtesy. I will strive to do honor to the search for justice.” – Lawyer’s Creed (10 - 12); Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013.

4) Maintain an accurate, clear and concise accounting practice within your firm.

The majority of my cases are personal injury, which are taken on a contingency fee basis. Of course, all contingency agreements must be reduced to writing, pursuant to the Georgia Rules of Professional Conduct Rule 1.5 (c)(1)¹, so my designated attorneys would have a clear understanding of what is or will be owed to the clients. Our case expenses are also reconciled weekly and entered into two (2) databases – QuickBooks and our case management system.

However, we also take a handful of criminal and contract cases. Those are taken in different manners – on an hourly basis and some have retainers. My firm recently transitioned to a new case management system which tracks the amount billed to a client to date, as well as how much has been billed against a client’s retainer.

Regardless of the case type, a designated attorney would be able to come into my firm, and with the assistance of my staff, know exactly what money is owed to which client.

After all, in the end,

“As a lawyer, I will aspire to achieve the excellent of our craft, especially those that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.”

- General Aspirational Ideals; Part IX of the Rules and Regulations of the State Bar of Georgia, as amended September 10, 2003 and April 26, 2013.

¹ See <https://www.gabar.org/Handbook/index.cfm#handbook/rule55>