

CHECKLIST FOR CLOSING ANOTHER ATTORNEY'S OFFICE

The term "Closing Attorney" refers to the attorney whose office is being closed.

1. Check the calendar and active files to determine which items are urgent or scheduled for hearings, trials, depositions, court appearances, and so on. Tip: In addition to checking the Closing Attorney's personal calendar, consider searching OJCIN (Oregon Judicial Case Information Network) and Oregon eCourt calendars on the Oregon Judicial Department (OJD) website, <http://courts.oregon.gov/OJD/OnlineServices/calendars/Pages/index.aspx>. To search court calendars, choose –All Locations- or select a specific court and enter the Closing Attorney's name in the Attorney: field.
2. Contact clients for matters that are urgent or immediately scheduled for hearing, court appearances, or discovery. Obtain permission for reset. (If making these arrangements poses a conflict of interest for you and your clients, retain another attorney to take responsibility for obtaining extensions of time and other immediate needs.)
3. Contact courts and opposing counsel immediately for files that require discovery or court appearances. Obtain resets of hearings or extensions when necessary. Confirm extensions and resets in writing.
4. Open and review all unopened mail. Review all mail that is not filed and match it to the appropriate files.
5. Look for an office procedure manual. Determine whether anyone has access to a list of clients with active files.
6. Determine whether the Closing Attorney stored files online. Locate the user name and password, retrieve the digital data, and arrange for the cloud storage provider to close the account.
7. Send clients who have active files a letter explaining that the law office is being closed and instructing them to retain a new attorney and/or pick up a copy of the open file. Provide clients with a date by which they should pick up copies of their files. Inform clients that new counsel should be chosen immediately. (See sample *Letter Advising That Lawyer Is Unable to Continue in Practice*, available on the PLF website, www.osbplf.org.)
8. For cases before administrative bodies and courts, obtain permission from the clients to submit a motion and order to withdraw the Closing Attorney as attorney of record. Review ORPC 1.16.
9. If the client is obtaining a new attorney, be certain that a Substitution of Attorney is filed.
10. Select an appropriate date to check whether all cases have either a motion and order allowing withdrawal of the Closing Attorney or a Substitution of Attorney filed with the court.
11. Make copies of files for clients. Retain the Closing Attorney's original files. All clients should either pick up a copy of their files (and sign a receipt acknowledging that they received it) or sign an authorization for you to release a copy to a new attorney. If the client is picking up a copy of the file and the file contains original documents that the client needs (such as a title to property), return the original documents to the client and keep copies for the Closing Attorney's file.
12. Advise all clients where their closed files will be stored and whom they should contact in order to retrieve another copy of their file.

CHECKLIST FOR CLOSING ANOTHER ATTORNEY'S OFFICE

13. Send the name, address, and phone number of the person who will be retaining the closed files to OSB Regulatory Services, P.O. Box 231935, Tigard, OR 97281-1935.
14. If the Closing Attorney was a sole practitioner, arrange for a forwarding phone number. In the alternative, record an appropriate announcement on the Closing Attorney's outgoing voicemail and maintain it for 30 to 60 days after the office is closed. This eliminates the problem created when clients call the Closing Attorney's office and hear a recording stating that the number is disconnected, and do not know where to turn for information.
15. Contact the PLF and the Closing Attorney's excess carrier, if applicable, about extended reporting coverage.
16. If the Closing Attorney is a notary and wishes to resign his or her commission, he or she must file a Termination of Notary Public Commission Due to Resignation with the Oregon Secretary of State (SOS):

"A notary public whose commission was terminated because of resignation shall arrange for the storage of his/her notarial records, in any form and at any location within 30 days following resignation. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records pursuant to OAR 160-100-320(1).

A notary public shall store such records for a period of seven years after the date of resignation. After the seven-year period, the notary public may destroy such records pursuant to OAR 160-100-320(3)."

A notary resignation form is available on the SOS website at <http://sos.oregon.gov/business/Documents/notary-forms/termination-of-notary-public-commission.pdf>.

17. If the Closing Attorney is a registered agent for Oregon businesses, deliver a signed, written statement of resignation to the Corporation Division and give notice to the affected businesses.

Businesses must designate a new registered agent and provide that information to the Corporation Division. Failure to do so will result in the administrative dissolution of the business.

For more information and forms, see <http://sos.oregon.gov/business/Pages/registered-agents-service-of-process.aspx>.
18. If the Closing Attorney died, you may wish to speak to family members about submitting memorial notices or obituaries to appropriate publications. *In Memoriam* notices may be submitted to the Editor of the Oregon State Bar *Bulletin* newsletter to editor@osbar.org. Family members should also be advised that if the Closing Attorney is a notary, Oregon law requires an heir or personal representative to file the Closing Attorney's notarial records with the SOS within 30 days of death. The notary seal should be destroyed. A Termination of Notary Public Commission Due to Death is available on the SOS Web site at <http://sos.oregon.gov/business/Documents/notary-forms/termination-of-notary-public-commission.pdf>.
19. (*optional*) If you have authorization to handle the Closing Attorney's financial matters, look around the office for checks or funds that have not been deposited. Determine whether funds should be deposited or returned to clients. (Some of the funds may be for

CHECKLIST FOR CLOSING ANOTHER ATTORNEY'S OFFICE

services already rendered.) Get instructions from clients concerning any funds in their trust accounts. These funds should be either returned to the clients or forwarded to their new attorneys. Prepare a final billing statement showing any outstanding fees due and/or any money in trust. (To withdraw money from the Closing Attorney's accounts, you will probably need: (1) to be an Authorized Signer on the accounts; (2) to have a written agreement such as the sample provided on the PLF website; or (3) to have a limited power of attorney. If none of these have been done and the Closing Attorney is dead, disabled, impaired, or incapacitated, you may have to request the Oregon State Bar Board of Governors petition the court to take jurisdiction over the practice and the accounts pursuant to ORS 9.705 to 9.755. If the Closing Attorney is deceased, another alternative is to petition the court to appoint a personal representative under the probate statutes.) Money from clients for services rendered by the Closing Attorney should go to the Closing Attorney or his/her estate.

20. *(optional)* If you are authorized to do so, handle financial matters, pay business expenses, and liquidate or sell the practice.
21. *(optional)* If your responsibilities include sale of the practice, you may want to advertise in the local bar newsletter, the Oregon State Bar *Bulletin*, and other appropriate places.
22. *(optional)* If your arrangement with the Closing Attorney or estate is that you are to be paid for closing the practice, submit your bill.
23. *(optional)* If your arrangement is to represent the Closing Attorney's clients on their pending cases, obtain each client's consent to represent the client and check for conflicts of interest.

IMPORTANT NOTICES

This material is provided for informational purposes only and does not establish, report, or create the standard of care for attorneys in Oregon, nor does it represent a complete analysis of the topics presented. Readers should conduct their own appropriate legal research. The information presented does not represent legal advice. This information may not be republished, sold, or used in any other form without the written consent of the Oregon State Bar Professional Liability Fund except that permission is granted for Oregon lawyers to use and modify these materials for use in their own practices. © 2021 OSB Professional Liability Fund