

AGREEMENT – SHORT FORM

(Sample – Modify as appropriate)

The sample *Agreement – Short Form* beginning on the next page includes authorization for the Assisting Attorney to sign on your business bank accounts (except the lawyer trust accounts) and to close your law practice. It authorizes the Authorized Signer to sign on your trust account. It does not include a provision for payment to the Assisting Attorney, a description of termination powers, consent to represent the Planning Attorney's clients, or other provisions included in the sample *Agreement – Full Form*.

Caveat: The Assisting Attorney must determine ahead of time whether he or she is going to represent the Planning Attorney, clients of the Planning Attorney, or no one (acting exclusively as a neutral file-transferring agent.) If the Assisting Attorney (1) represents the Planning Attorney on issues related to office closure, (2) is a signer on the lawyer trust account, (3) finds misappropriations in the lawyer trust account, and (4) is instructed by the Planning Attorney not to inform the clients about the misappropriations, the Assisting Attorney will have conflicting fiduciary duties. To avoid this potential for conflicting fiduciary duties, it is best if the Planning Attorney selects one person to represent him or her as Assisting Attorney and another person to serve as the Authorized Signer on the trust account. (See Chapter 1, *The Duty to Plan Ahead*, and Chapter 2, *What If? Answers to Frequently Asked Questions*, in this handbook for more detailed information on these topics.)

Authorizing someone to sign on bank accounts in an agreement may not meet the banking institution's record-keeping requirements. A Planning Attorney should consult his or her banking institution to complete the paperwork required for its records.

CONSENT TO CLOSE OFFICE

This Consent to Close Office (hereinafter “this Consent”) is entered into between _____, hereinafter referred to as “Planning Attorney,” and _____, hereinafter referred to as “Assisting Attorney,” and _____, hereinafter referred to as “Authorized Signer.”

I, (*insert name of Planning Attorney*), authorize (*insert name of Assisting Attorney*), Assisting Attorney, to take all actions necessary to close my law practice upon my death, disability, impairment, or incapacity. These actions include, but are not limited to:

- Providing all keys, access codes, etc. to enable Assisting Attorney to enter my office and use my equipment and supplies, as needed, access files and to close my practice;
- Opening and processing my mail;
- Taking possession and control of all property comprising my law office, including client files and records;
- Examining client files and records of my law practice and obtaining information about any pending matters that may require attention;
- Notifying clients, potential clients, and others who appear to be clients that I have given this authorization and that it is in their best interest to obtain other legal counsel;
- Copying my files;
- Obtaining client consent to transfer files and client property to new attorneys;
- Transferring client files and property to clients or their new attorneys;
- Obtaining client consent to obtain extensions of time and contacting opposing counsel and courts/administrative agencies to obtain extensions of time;
- Applying for extensions of time pending employment of other counsel by my clients;
- Filing notices, motions, and pleadings on behalf of my clients when their interests must be immediately protected and other legal counsel has not yet been retained;
- Contacting all appropriate persons and entities who may be affected and informing them that I have given this authorization;
- Winding down the business affairs of my practice, including paying business expenses and collecting fees;
- **Informing the Idaho State Bar where closed files will be stored and the name, address, and phone number of the contact person for retrieving the files; and**
- Contacting the malpractice carrier, if any, concerning claims and potential claims.

I authorize (*insert name of Authorized Signer*), Authorized Signer, to sign checks on my trust accounts and provide an accounting to my clients of funds in trust.

My bank or financial institution may rely on the authorizations in this Consent, unless such bank or financial institution has actual knowledge that this Consent has been terminated or is no longer in effect.

For the purpose of this Consent, my death, disability, impairment, or incapacity shall be determined by evidence the Assisting Attorney deems reasonably reliable, including, but not limited to, communications with my family members or representative or a written opinion of one or more medical doctors duly licensed to practice medicine. Upon such evidence, the Assisting Attorney is relieved from any responsibility or liability for acting in good faith in carrying out the provisions of this Consent.

Assisting Attorney and Authorized Signer agree to preserve client confidences and secrets and the attorney client privilege of my clients and to make disclosure only to the extent reasonably necessary to carry out the purpose of this Consent. Assisting Attorney and Authorized Signer are appointed as my agents for purposes of preserving my clients' confidences and secrets, the attorney client privilege, and the work product privilege. This authorization does not waive any attorney client privilege.

(Delete one of the following paragraphs as appropriate:)

Assisting Attorney Is Attorney for Planning Attorney. (Delete one of the following paragraphs as appropriate.)

While fulfilling the terms of this Agreement, Assisting Attorney is the attorney for Planning Attorney. Assisting Attorney will protect the attorney client relationship and follow the Idaho Rules of Professional Conduct. Assisting Attorney has permission to inform the malpractice carrier, if any, of errors or potential errors of Planning Attorney.

While fulfilling the terms of this Agreement, Assisting Attorney is the attorney for Planning Attorney. Assisting Attorney has permission to inform Planning Attorney's clients of any errors or potential errors and instruct them to obtain independent legal advice. Assisting Attorney also has permission to inform Planning Attorney's clients of any violations of the rules of professional conduct committed by Planning Attorney.

OR:

Assisting Attorney Is Not Attorney for Planning Attorney.

While fulfilling the terms of this Agreement, Assisting Attorney is not the attorney for Planning Attorney. Assisting Attorney has permission to inform the malpractice carrier, if any, of errors or potential errors of Planning Attorney. Assisting Attorney has permission to inform Planning Attorney's clients of any errors or potential errors and instruct them to obtain independent legal advice. Assisting Attorney also has permission to inform Planning Attorney's clients of any violations of the rules of professional conduct committed by Planning Attorney.

Authorized Signer is not my attorney. Authorized Signer may inform my clients of any misappropriations in my trust account and instruct them to obtain independent legal advice or contact the Idaho State Bar Client Assistance Fund.

I, Planning Attorney, appoint Authorized Signer as signator, in substitution of my signature, on my lawyer trust account(s) upon my death, disability, impairment, or incapacity.

I understand that neither Authorized Signer nor Assisting Attorney will process, pay, or in any other way be responsible for payment of my personal bills.

I and/or my estate agree to indemnify Assisting Attorney and Authorized Signer against any claims, loss, or damage arising out of any act or omission by Assisting Attorney and Authorized Signer under this Consent, provided the actions or omissions of Assisting Attorney and Authorized Signer were in good faith and in a manner reasonably believed to be in my best interest. Assisting Attorney and Authorized Signer shall be responsible for all acts and omissions of gross negligence and willful misconduct.

Assisting Attorney and/or Authorized Signer may revoke this acceptance in writing at any time, and each has the power to appoint a new assisting attorney or authorized signer in Assisting Attorney's and/or Authorized Signer's place. My authorization and consent to allow Assisting Attorney and Authorized Signer to perform these and other services necessary for the closure of my law office do not require Assisting Attorney and/or Authorized Signer to perform these services. If Assisting Attorney and/or Authorized Signer revokes this acceptance, Assisting Attorney and/or Authorized Signer must promptly notify me.

[Planning Attorney]

[Date]

STATE OF IDAHO)
) ss.
County of _____)

On this _____ day of _____, before me (here insert the name and quality of the officer), personally appeared _____, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or she) executed the same.

NOTARY PUBLIC FOR IDAHO
My commission expires: _____

[Assisting Attorney]

[Date]

STATE OF IDAHO)
) ss.
County of _____)

On this _____ day of _____, before me (here insert the name and quality of the officer), personally appeared _____, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or she) executed the same.

NOTARY PUBLIC FOR IDAHO
My commission expires: _____

[Authorized Signer]

[Date]

STATE OF IDAHO)
) ss.
County of _____)

On this _____ day of _____, before me (here insert the name and quality of the officer), personally appeared _____, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or she) executed the same.

NOTARY PUBLIC FOR IDAHO
My commission expires: _____