



# Selecting Your Backup Attorney

A solo attorney recently reached out wanting to know how to select a backup attorney. Having now addressed his concerns, I thought it would be worthwhile to share my answer for the benefit of others who may have similar questions. Here's what I had to say.

I see the process of selecting a backup attorney and a successor attorney as being one in the same because for most solos, one individual often agrees to serve in both roles. In light of the responsibilities every backup/successor attorney may need to fulfil, you will want to look for someone who is competent and experienced in your areas of practice and also who is not likely to have a significant number of conflict concerns arise as a result of having to step into either role. Of course, this person should have the time, or the ability to make the time, to assume something of an additional practice for short periods of time. When the process is completed, don't overlook the importance of making certain appropriate employees are aware of who you've selected as your designated backup/successor attorney and how they can contact this individual in the event of an emergency.

It's important to note that the role of a backup attorney is to cover for you during short absences, such as a vacation or a medical emergency of some sort; and the role of a successor attorney is to take on the responsibility of winding down your practice. Neither role is charged with taking on the responsibilities of running of a second practice long term. This understanding can help make the process of finding someone willing to serve a bit easier, particularly if an agreement to serve in this capacity is reciprocal.

Beyond designating a backup/successor attorney, there are several other things every solo attorney should do as part of this process. Prioritize maintaining a current office procedures manual that discusses the calendaring system, conflict system, active file list, open and closed file systems, accounting system, and any other key system as this can be valuable in expeditiously bringing the designated attorney up to speed on how your practice is run. Most importantly, keep critical systems such as the calendar and conflict systems current at all times, and make certain that all files are thoroughly documented and current kept as to their status. The reason is the designated attorney will need to review your files and mistakes can and will be made with poorly documented and/or incomplete files.

Finally, consider providing notice of the existence of and reason for a designated attorney in your fee agreements so that clients are aware of the steps you have taken to protect their interests in the event of an emergency. Such notice might read as follows:

### **Succession Planning/Backup Attorney Notice:**

While I strive to deliver excellent legal services to each and every client, I also have an ethical obligation to protect your interests during any extended absences, such as a vacation, an illness, or in the event of my unexpected death or disability. To accomplish this, I have named [insert name] as my backup attorney who will be available during any extended absences or will step in to assist in the closing of my practice should that ever prove necessary. I will personally provide you advance notice of any planned absences and my office staff or backup attorney will contact you with information on how to proceed should any unexpected event ever occur.

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