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x246

August 18, 2010

VIA ELECTRONIC MAIL

William H. Hebert, Vice President
Board of Governors
State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Attorney Surrogacy Committee

Dear Bill:

Please find the enclosed final draft of an Agreement to Close Law Practice in the Future. The Attorney Surrogacy Committee has concluded its work and presents this report to the Discipline Committee, Board of Governors.

The intent of this agreement is to comply with current California statutory requirements with respect to the appointment and authority of a Practice Administrator. The Committee believes that the utility of this Agreement could be expanded with certain statutory amendments. If the Discipline Committee desires to expand on this issue, please let me know.

Special thanks are due to committee member Marshal Oldman and Randy Difuntorum who provided exemplary expertise in this area.

On behalf of the Committee, thank you for allowing us to participate in this important endeavor.

Very truly yours,



Richard A. Frankel
Chair, Attorney Surrogacy Committee

Enc.

RAF/kf

cc: Judy Johnson, Executive Director,
State Bar of California, w/enclosure

J:\STATEBAR\Attorney Surrogate Program\Ltr W.Hebert.doc

ATTACHMENT A

AGREEMENT TO CLOSE LAW PRACTICE IN THE FUTURE

This Agreement is entered into by and between _____ (“Planning Attorney”), an individual admitted and licensed to practice as an attorney in the courts of the State of California and whose office for the practice of law is located at the address on the signature page, and _____ (“Practice Administrator”), an individual admitted and licensed to practice as an attorney in the courts of the State of California and whose office for the practice of law is located on the signature page. This Agreement shall be effective as of the date it is signed by the last party to sign it. Planning Attorney, Practice Administrator and Successor Practice Administrator are referred to as a “party” or collectively “parties.”

RECITALS

WHEREAS, Planning Attorney is an attorney engaged in the practice of law in California; and

WHEREAS, Planning Attorney recognizes the importance of protecting the interests of his/her clients, family and staff in the event that he/she is unable to practice law by reason of his/her death, disability, incapacity or other inability to act; and

WHEREAS, Planning Attorney wishes to plan for the orderly disposition or closing of his/her law practice if he/she is unable to practice law for the above stated reasons; and

WHEREAS, Planning Attorney has requested Practice Administrator to act as his/her agent to take all necessary actions to close Planning Attorney’s practice and Practice Administrator has consented to this appointment; and

WHEREAS, Planning Attorney and Practice Administrator are entering into this Agreement to define their rights and obligations in connection with the disposition or closing of Planning Attorney’s practice.

THEREFORE, it is agreed that:

1. **Implementation Date.** This Agreement shall be implemented only upon Planning Attorney’s death, disability, incapacity or other inability to act, as established by paragraph 3. The appointment and authority of Practice Administrator shall thereafter remain in full force and effect as long as it is necessary or convenient to carry out the terms of this Agreement, or unless sooner terminated under paragraphs 9 or 11.
2. **Practice Administrator.** The Practice Administrator shall comply with and act in accordance with Business & Professions Code §6185. Practice Administrator shall file a petition with the Probate Court to be appointed practice administrator if (a) a conservator is appointed for Planning Attorney (Probate Code §§ 2469 or 17200(b)(23)) or, (b) Planning Attorney dies (Probate Code §§ 9764 or 17200(b)(22)). Practice Administrator shall file an application with the superior court in the county in which Planning Attorney has his/her principal office for the practice of law to be appointed practice administrator in the event Planning Attorney (a) ceases to practice law requiring compliance with Business & Professions Code § 6180, or (b) is incapacitated (Business & Professions

Code § 6190). In order for the Practice Administrator to fulfill the duties and responsibilities set forth in this Agreement, Planning Attorney agrees to maintain accurate records of his/her law practice as set forth in Exhibit A. Planning Attorney also agrees to advise his/her staff of the existence of this Agreement and contact information for Practice Administrator and Successor Practice Administrator.

3. **Determination of Death, Disability, Incapacity.** Practice Administrator shall make the determination that Planning Attorney is dead, disabled, incapacitated or otherwise unable to practice law, and if disabled or incapacitated, that such disability or incapacity is permanent in nature or likely to continue indefinitely. Practice Administrator shall base his/her determination on reliable evidence such as communications with the members of Planning Attorney's family and written opinions of licensed physicians and other medical professionals who diagnosed or treated Planning Attorney. As part of the process of determining whether the Planning Attorney is disabled, incapacitated, or otherwise unable to continue the practice of law, all individually identifiable health information and medical records may be released to Practice Administrator, even though the authority of the Practice Administrator has not yet become effective. This release and authorization applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") 42 U.S.C. 1320d and 45 C.F.R. 160-164.¹ Practice Administrator may also consider the opinions of colleagues, employees, friends or other individuals with whom Planning Attorney maintained a continuous and close relationship. Practice Administrator shall sign an affidavit stating the facts upon which his/her determination is based, and such affidavit shall, for the purposes of this Agreement, be conclusive proof that the Planning Attorney is disabled, incapacitated, or otherwise unable to continue the practice of law.

Alternative for Disability or Incapacity: The disability of Planning Attorney, shall be defined as a mental or physical disability as that term is described in any disability insurance policy in effect for the benefit of Planning Attorney at the time of such disability and, if no such policy is then in effect, disability shall mean a mental or physical disability that prevents Planning Attorney from substantially performing the duties of an attorney with respect to Planning Attorney's ongoing clients in the professional opinion of two licensed medical doctors or one medical doctor and one psychologist, all of whom must be currently licensed to practice medicine or psychology in the state of Planning Attorney's principal place of business. *If this alternative is effective, initial here:* _____

¹. To assure compliance with HIPAA, the Planning Attorney, upon execution of the Agreement To Close Law Practice, should sign two written authorizations, one to his or her health care provider, and one leaving the provider line blank, giving the identity of the Practice Administrator and authorizing the disclosure of information relating to the Planning Attorney's capacity to practice law upon request by the Practice Administrator. A sample authorization is attached to the end of this document.

4. **General Power and Appointment of Practice Administrator as Attorney-In-Fact.** Upon the determination that Planning Attorney is unable to continue the practice of law by reason of death, disability, incapacity or other inability to act as provided herein, and is unable to close his/her own practice, Planning Attorney consents to and authorizes the Practice Administrator to take all necessary actions to become appointed as Practice Administrator in an estate proceeding and to proceed to take control and dispose of Planning Attorney's practice.

5. **Specific Powers.** Planning Attorney consents to and authorizes the following actions by Practice Administrator in addition to any other actions Practice Administrator in his/her sole discretion deems necessary to carry out the terms of this Agreement.
 - a. **Access to Planning Attorney's Office.** To enter Planning Attorney's office and use his/her equipment and supplies as needed to close Planning Attorney's practice.
 - b. **Designation as Signatory on Financial Accounts.** To replace Planning Attorney as signatory on all of Planning Attorney's law office accounts with any bank or financial institution, including without limitation, attorney trust, escrow or special accounts, checking accounts, and savings accounts. Planning Attorney's bank or financial institution may rely on this authorization unless such bank or financial institution has actual knowledge that this Agreement has been terminated or is no longer in effect.
 - c. **Opening of Mail.** To receive, sign for and open Planning Attorney's law practice mail and deliveries by courier and to process and respond to them, as necessary.
 - d. **Possession of Property.** To take possession, custody and control over all of Planning Attorney's property relating to his/her law practice, real and personal, including client files and records.
 - e. **Access to and Inventory/Examination of Files.** To enter any storage location where Planning Attorney maintained his/her files and to inventory and examine all client case files, including client wills, property and other records of Planning Attorney. If Practice Administrator identifies a conflict of interest with a specific file or client, he/she shall assign the file to the Successor Practice Administrator in accordance with paragraph 9(b).
 - f. **Notification to Clients.** To notify clients, potential clients and those who appear to be clients, of Planning Attorney's death, disability, incapacity or other inability to act, and to take whatever action Practice Administrator deems appropriate to protect the interests of the clients, including advising the clients to obtain substitute counsel.
 - g. **Transfer of Files.** To safeguard files and arrange for their return to clients; to obtain consent from clients to transfer files to new attorneys, to transfer files and property to clients or their new attorneys; to obtain receipts therefor.

- h. **Storage of Files and Attorney's Records.** To arrange for storage of closed files, unclaimed files, and records for a minimum of five (5) years from the implementation date (defined in paragraph 1 above) of this Agreement.
- i. **Transfer of Original Documents.** To arrange for and transfer to clients all original documents, including wills, trusts and deeds.
- j. **Extensions of Time.** To obtain client's consent for extensions of time, to contact opposing counsel and courts/administrative agencies to obtain extensions of time, and to apply for extensions of time if necessary pending employment of new counsel by clients.
- k. **Litigation.** To file motions, pleadings, appear before court, and take any other necessary steps where the clients' interests must be immediately protected pending retention of other counsel.
- l. **Notification to Court and Others.** To contact all appropriate agencies, courts, adversaries and other attorneys, professional membership organizations such as the State Bar of California, local bar associations and any other individual or organization that may be affected and advise them of Planning Attorney's death or other inability to act and that Planning Attorney has given this authorization to Practice Administrator.
- m. **Collection of Fees and Return of Client Funds.** To send out invoices for unbilled work by Planning Attorney and outstanding invoices; to prepare an accounting for clients on retainer, including return of client funds; to collect fees and accounts receivables on behalf of Planning Attorney or Planning Attorney's estate; and to prepare an accounting of each client's attorney-client trust account and arrange for transfer of trust account funds, including obtaining consent from client to transfer trust account funds and acknowledgment of receipt of trust account funds by new counsel or client.
- n. **Payment of Business Expenses and Creditors.** To pay business expenses including but not limited to, posting any surety bonds required by statute, office rent, rent for any leased equipment, library expenses, salaries to employees or other personnel, to determine the nature and amount of all claims of creditors, including clients, of Planning Attorney and to pay or settle same.
- o. **Personnel.** To continue the employment of Planning Attorney's employees and other personnel to the extent necessary to assist the Practice Administrator in the performance of his/her duties; to compensate and to terminate such employees or other personnel; and to employ or dismiss agents, accountants, attorneys or others.
- p. **Termination of Obligations.** To terminate or cancel business obligations of Planning Attorney, including office lease; lease of equipment such as copier, computer, furniture; library, magazine or newspaper subscriptions; telephone service, internet service or cellular phone service.
- q. **Insurance.** To purchase, renew, maintain, cancel, make claims against or collect benefits under fire, casualty, professional liability, or other office insurance of Planning Attorney; to notify any professional liability insurance carriers of

Planning Attorney's death, disability, incapacity or other inability to act; and to cooperate with such insurance carriers regarding matters related to Planning Attorney's coverage, including addition of Practice Administrator as an insured under said policy.

- r. **Taxes.** To prepare, execute or file income, information or other tax returns or forms and to act on behalf of Planning Attorney's law practice in dealing with the Internal Revenue Service, any division of the Franchise Tax Board, Employment Development Department, or any office of any other federal or state tax department or agency.
- s. **Settlement of Claims.** To settle or compromise, or submit to arbitration or mediation, all debts, taxes, accounts, claims, or disputes between Planning Attorney's law practice and any other person or entity; and to commence or defend all actions affecting Planning Attorney's law practice.
- t. **Execution of Instruments.** To execute, as Planning Attorney's attorney-in-fact, any deed, contract, affidavit or other instrument on behalf of Planning Attorney.
- u. **Attorney as Fiduciary.** To resign any position which Planning Attorney holds as a fiduciary, such as executor or trustee, and to notify other named fiduciary, if any, and beneficiaries of the estate or trust; if the trust or will does not name a successor fiduciary, to apply to the court for appointment of a successor fiduciary; and to confer with the personal representative of the Planning Attorney's estate with respect to the obligation of such personal representative to account for the assets of the estate or trust that Planning Attorney was administering.
- v. **Power of Sale and Disposition.** To sell or otherwise arrange for disposition of Planning Attorney's furniture, books, or other personal property located in Planning Attorney's law office.
- w. **Representation of Planning Attorney's Clients.** To provide legal services to Planning Attorney's clients, provided that Practice Administrator is able to accept such a client in accordance with the Rules of Professional Conduct and the State Bar Act (3-310 and 3-320) and obtains the consent of Planning Attorney's clients. If Planning Attorney's clients engage Practice Administrator to perform legal services, Practice Administrator shall have the right to payment for such services from such clients.
- x. **Access to Safe Deposit Box.** To open Planning Attorney's safe deposit box used for law practice, to inventory same, and to arrange for return of property to clients.

Practice Administrator will not process, pay, or in any other way be responsible for payment of Planning Attorney's personal bills.

- 6. **Preservation of Attorney-Client Privilege and Confidences and Secrets of Client.** Practice Administrator shall maintain the confidences and secrets of a client and protect the attorney-client privilege as if the Practice Administrator represented the clients of Planning Attorney.
- 7. **Sale of Planning Attorney's Practice.** Subject to Order of the Superior Court in the estate action and in the event of Planning Attorney's death, disability, incapacity, or other

inability to act, Practice Administrator shall have the power to sell Planning Attorney's law practice, to the extent provided by California law. In the case of the death of the Planning Attorney, the sale shall be approved by the personal representative of the deceased Planning Attorney. Such power shall include, without limitation, the authority to sell all assets of the Planning Attorney's practice such as goodwill, client files and fixed assets such as furniture and books; to advertise Planning Attorney's law practice; to arrange for appraisals; and to retain professionals such as lawyers and accountants to assist Practice Administrator in the sale of the practice. Upon the sale of the practice, Practice Administrator will pay Planning Attorney or Planning Attorney's estate all net proceeds of sale.

Practice Administrator shall have the right to purchase, in whole or in part, Planning Attorney's practice, provided that the purchase price is the fair market value as determined by an appraiser and that the terms of the sale are approved by the personal representative of Planning Attorney's estate or an independent third party.

8. **Compensation.** Practice Administrator shall be paid reasonable compensation for the services performed in closing the law practice of Planning Attorney subject to order of the Superior Court made in the estate action. Such compensation shall be presented in accordance with Rules 7.702 and 7.703 of the California Rules of Court and the Probate Code. Practice Administrator's compensation shall be paid from Planning Attorney's law practice. Planning Attorney agrees to make appropriate provisions as a part of his/her estate plan to pay Practice Administrator consistent with the terms of this Agreement.
9. **Resignation of Practice Administrator and Appointment of Successor Practice Administrator.**
 - a. Prior to the effective date of this Agreement, Practice Administrator may resign at any time by giving written notice to Planning Attorney. After the effective date of this Agreement, Practice Administrator may resign by giving written notice to Planning Attorney, or if Planning Attorney is deceased, to Planning Attorney's personal representative, subject to any ethical or professional obligation to continue or complete any matter undertaken by Practice Administrator.
 - b. If Practice Administrator resigns or otherwise is unable to serve, Planning Attorney appoints _____ as Successor Practice Administrator, and Successor Practice Administrator consents to this appointment as evidenced by his/her signature to this Agreement. Successor Practice Administrator shall have all the rights and powers, and be subject to all the duties and obligations of Practice Administrator. During the tenure of Practice Administrator, Successor Practice Administrator shall review and take any necessary action with respect to those client files of Planning Attorney in which Practice Administrator identifies a conflict of interest.
10. **Liability and Indemnification of Practice Administrator.** Practice Administrator shall not be liable to Planning Attorney or Planning Attorney's estate for any act or failure to act in the performance of his/her duties hereunder, except for willful misconduct or gross negligence. Planning Attorney agrees to indemnify and hold harmless Practice Administrator from any claims, loss or damage arising out of any act or omission by

Practice Administrator under this Agreement, except for liability or expense arising from Practice Administrator's willful misconduct or gross negligence. This indemnification does not extend to any acts, errors or omissions of Practice Administrator while rendering or failing to render professional services as attorney for former clients of Planning Attorney.

11. **Revocation, Amendment and Termination.**

- a. Prior to the effective date of this Agreement, Planning Attorney may at any time remove the Practice Administrator, or revoke, amend or alter this Agreement by written instrument delivered to Practice Administrator and Successor Practice Administrator, provided that any amendment or modification to Practice Administrator's obligations hereunder and to his/her rate of compensation shall require Practice Administrator's written consent.
- b. This Agreement shall terminate upon (i) prior to the effective date of this Agreement, delivery of written notice of termination by Planning Attorney to Practice Administrator and Successor Practice Administrator; and (ii) after the effective date of this Agreement, delivery of a written notice of termination to Practice Administrator by the personal representative of Planning Attorney's estate upon a showing of good cause, or by a court order.

12. **Miscellaneous.**

- a. **Amendment.** This Agreement may be amended only with the written consent of the parties to this Agreement
- b. **Arbitration.** If any dispute arises concerning the interpretation, validity, or performance of this Agreement or any of its terms and provisions, including but not limited to the issue of whether or not a dispute is arbitrable, (i) if the amount claimed by a party is equal to or less than the jurisdictional limit of the California Small Claims Court, then the parties shall resolve the matter in the California Small Claims Court, or (ii) if the amount claimed by the party exceeds the jurisdictional limit of the California Small Claims Court, then the parties shall submit the dispute for binding determination before an arbitrator selected from JAMS or any similar organization mutually acceptable to the parties. The parties shall mutually agree on one arbitrator from the list provided by the arbitrating organization; provided that if the parties cannot agree, then one arbitrator shall be selected according to the then prevailing rules of the arbitrating organization. The arbitration shall take place in _____ County, and shall be conducted in accordance with the then prevailing rules of the arbitrating organization. The parties shall have all rights for depositions and discovery as provided in Code of Civil Procedure §1283.05. The arbitrator shall apply California substantive law and the California Evidence Code to the proceeding. The arbitrator shall have the power to grant all legal and equitable remedies including provisional remedies and award compensatory damages provided by law, but the arbitrator may not order relief in excess of what a court could order. The arbitrator shall prepare and provide the parties with a written award including factual findings and the legal reasoning on which the award is based. The arbitrator shall not have the power to

commit errors of law or legal reasoning or to make findings of fact except on sufficiency of the evidence. Any award that contains errors of law or legal reasoning or makes findings of fact except on the sufficiency of the evidence exceeds the power of the arbitrator, and may be corrected or vacated as provided by applicable law. The arbitrator shall award costs and attorney fees in accordance with the terms and conditions of this Agreement. Any court having jurisdiction may enter judgment on the award rendered by the arbitrator, or correct or vacate such award as provided by applicable law. The parties understand that by agreement to binding arbitration they are giving up the rights they may otherwise have to trial by a court or a jury and all rights of appeal. Pending resolution of any arbitration proceeding, any party may apply to any court of competent jurisdiction for any provisional remedy, including but not limited to a temporary restraining order or a preliminary injunction but excluding any dispute relating to discovery matters, and for enforcement of any such order. The application for or enforcement of any provisional remedy by a party shall not operate as a waiver of the within agreement to submit a dispute to binding arbitration.

- c. **Binding Effect.** Subject to the restrictions contained in this Agreement, this Agreement shall be binding on the parties and their respective successors, assigns, representatives, and beneficiaries.
- d. **Captions and Headings.** Captions and headings used in this Agreement are for convenience purposes only. They shall not control, affect, modify, amend, or change the meaning or construction of any term or provision contained in this Agreement.
- e. **Counterparts and Facsimiles.** The parties may execute this Agreement simultaneously, in any number of counterparts, or on facsimile copies or a scanned email, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- f. **Entire Agreement.** This Agreement contains the parties' entire agreement and supersedes any prior oral or written agreements among them with respect to the subject matter of the Agreement. There are no representations, agreements, arrangements, or understandings (oral or written) among the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement.
- g. **Governing Law.** The transactions contemplated by the provisions of this Agreement and the parties' respective rights and obligations under this Agreement shall be governed by and construed in accordance with the laws of the State of California.
- h. **Independent Representation.** Each party acknowledges that he/she had the right to obtain independent legal, tax, medical and financial advice prior to executing this Agreement.

- i. **Jurisdiction and Venue.** The parties agree that all actions or proceedings arising out of or in connection with this Agreement shall be tried and litigated exclusively in the state and federal courts located in the County of _____, State of California. The parties intend the choice of venue to be mandatory and not permissive in nature, precluding the possibility of litigation among the parties with respect to any matter arising out of or in connection with this Agreement in any jurisdiction other than that designated in this section.
- j. **Notice.** A notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given (i) on personal delivery; (ii) 24 hours after deposit for overnight service with Federal Express or a comparable express courier, addressed to a party at the address set forth below his or her signature; or (iii) 48 hours after deposit in the United States mail, by certified mail, postage prepaid, addressed to party to this Agreement at the address set forth below his or her signature. A party may designate another address for notice purposes by giving written notice to the other parties.
- k. **Prevailing Party's Fees.** In any dispute among the parties, the party substantially prevailing shall be entitled to recover from the other party reasonable attorney fees, costs, and expenses; court costs; and other costs of action. For purposes of this Agreement, the terms "attorney fees" or "attorney fees and costs" shall mean the fees and expenses of counsel to the parties and may include, without limitation, printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians, and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorney fees" or "attorney fees and costs" shall also include, without limitation, all fees and expenses for appeals, arbitrations, and bankruptcy proceedings.
- l. **Ambiguities.** Each party has participated fully in the review of this Agreement. Unless otherwise required by law, the provisions of this Agreement shall control over any contrary provisions provided by statute.
- m. **Severability.** If a court of competent jurisdiction finds any provision in this Agreement to be invalid, such invalidity shall not affect the remainder of the Agreement; the invalid provision shall be deemed severed from it and the remainder of the Agreement shall remain enforceable in accordance with its terms and of full force and effect.
- n. **Waiver.** A party's waiver of any breach of any provision contained in this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of that provision or any other provision of this Agreement.
- o. **Will or Estate Planning Provisions.** Planning Attorney acknowledges that he/she has made adequate provisions to carry out the provisions of this Agreement in

his/her will or estate planning and that his/her spouse or domestic partner has consented to the terms and conditions thereof.

Signature Pages To Follow

PLANNING ATTORNEY

_____ Dated: _____

Name:

California State Bar Number:

Address:

Telephone:

Cell Phone:

E-mail address:

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ [Officer's seal]
Notary Signature

PRACTICE ADMINISTRATOR

I accept the duties and responsibilities of the Practice Administrator as set forth in this Agreement. I am a member in good standing of the State Bar of California.

_____ Dated: _____

Name:

California State Bar Number:

Address:

Telephone:

Cell Phone:

E-mail address:

GENERAL MEDICAL RECORDS RELEASE AND AUTHORIZATION FOR USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

Patient Name: _____

Address: _____

Social Security Number: _____

I authorize the custodian of the records _____ to disclose/release the following information _____ [all medical records, including mental health, substance abuse and HIV/AIDS records] or [a subset of records]. These records are for services rendered [in the last two years] or: _____.

Please send the records listed above to my Practice Administrator

Name: _____

Address: _____

Phone number: _____

The information may be used/disclosed to assist in the determination of my mental or physical capacity to practice law.

The Authorization expires one (1) year from the date it is presented to the custodian of records.

I understand that after the custodian of records discloses my health information, it may no longer be protected by Federal privacy laws. By signing below I represent and warrant that I have authority to sign this document and authorize the use or disclosure of protected health information and that there are no claims or orders pending or in effect that would prohibit, limit or otherwise restrict my ability to authorize the use or disclosure of this protected health information.

Signature of Patient

Date

SPOUSAL/ DOMESTIC PARTNER CONSENT

I, _____ certify and declare that:

1. I am the spouse/domestic partner of _____ [Planning Attorney].
2. I have read the Agreement to Close Law Practice in the Future and agree to be bound by all of the terms and conditions set forth in the agreement, as amended from time to time (“Agreement”).
3. I agree not to take any action at any time that might interfere with the operation of the Agreement notwithstanding any community rights I may have to the interests my spouse may have to his/her law practice relating to the Agreement.
4. I have been afforded the opportunity to seek independent legal, tax, medical and financial advice of my own choosing to provide advice concerning my rights, interests, and obligations in the Agreement.
5. I have read, understand, and agree to the terms of this Agreement.

Executed in the City of _____, County of _____,
State of California.

Date: _____
[Name]

Exhibit A

OPERATIONAL MATTERS RELATING TO PLANNING ATTORNEY'S LAW PRACTICE.

1. Include the language in all written client engagement letters substantially similar to the following:

In the event of my death, disability or incapacity, I have made arrangements for a Practice Administrator, _____, and, in his/her unavailability, _____, as Successor Practice Administrator, to provide assistance in fulfilling responsibilities of this representation agreement. Your signature below consents to this substitute representation in the unlikely event of my death, disability or incapacity prevents me from continuing to act as your attorney.

2. Contact information for office landlord/property manager; provide extra set of keys (or combinations) and to interior locked file cabinets, safes and offices.
3. Provide computer data and password accessibility.
4. Confirm with legal malpractice insurance carrier that insurance coverage will continue if Practice Administrator is implemented.
5. Have all financial, business, payroll, retirement account and other employee benefit information and records in a complete and reconciled manner including federal and state income tax returns.
6. Keep desk calendars, computer calendars and secretarial calendars accessible to seek information on cases in progress and due dates.
7. Provide access information for open and closed files if files are located at a satellite office or off-site storage facility. Provide location of all back-up tapes, disks, memory sticks, hard drives.
8. Notate the names of all parties on the outside of the file in order to prevent disclosure of confidential information in the event the Practice Administrator has a conflict of interest.
9. Contact information for spouse/domestic partner, next of kin.
10. Location and custodian of will/trust.
11. Employee roster with contact information.

12. Names, contract information and account information of Planning Attorney's CPA, insurance agent(s), payroll service, benefits administrator, health plan administrator, information technology/computer consultant, bank (checking, trust account, other), credit cards.
13. Equipment (telephone, photocopy, furniture, computer, etc.) leases including copy of lease agreement, account number and contact information of equipment lessor.
14. Current accounts payable and accounts receivable statements.
15. Promissory notes, deeds of trust, stock certificates, stock option agreements or stock warrants held by Planning Attorney.
16. Loan agreements