

NOTICE TO THE BAR

ATTORNEY WELL-BEING -- SUCCESSION PLANNING STRATEGIES --REQUEST FOR PUBLIC COMMENT

As part of ongoing efforts in support of attorney well-being, the Supreme Court requests comment on strategies in furtherance of attorneys identifying a successor and/or developing a succession plan. In an earlier notice ([May 7, 2024](#)) the Court had requested development of a succession proposal. This outreach is recommended by a joint committee of the Supreme Court Committee on Wellness in the Law and the New Jersey Lawyers' Fund for Client Protection.

Input from Virtual Listening Sessions

In late 2024, the Joint Committee conducted three virtual listening sessions with New Jersey attorneys from various practice areas and different parts of the state, including some attorneys who had been appointed and served as attorney-trustee following another attorney's incapacity, death, disbarment, or other inability to practice. Participants in those listening sessions highlighted specific challenges associated with lack of succession planning and offered recommendations regarding (1) education and training of the bar, (2) resources to support attorneys in understanding and fulfilling their existing professional duties as to planning (trust and business accounting guides, checklists for preparing to wind down a practice, etc.), and (3) possible new strategies, like the development of a model outreach letter to a proposed successor.

Some participants supported the idea of collecting information about existing successor attorney designations (including those required by some malpractice insurance carriers) through the annual online attorney registration process. To that end, participants in each listening session considered draft language, based in part on attorney succession planning models used in other jurisdictions, which would request the identification of any designated successor attorney, or the disclosure of any person (attorney or non-attorney) with knowledge of the location of the primary attorney's files and records, or acknowledgment that the primary attorney cannot identify either a designated successor or a person with knowledge.

Other listening session participants expressed concern about any requirement to designate or disclose a designated successor attorney, or a person with knowledge who could assist an appointed attorney-trustee and suggested instead that more education and resources would be sufficient to encourage succession planning.

Input Sought on Some Potential Options

The listening sessions confirmed that, at a minimum, additional resources should be compiled and shared, both online and through regular educational programs, to enable attorneys to effectively engage in succession planning. Beyond that, however, the listening sessions did not yield sufficient information to enable the Joint Committee to recommend a particular approach for consideration by the Court.

Nonetheless, based on the range of possible approaches suggested in the listening sessions and in furtherance of its commitment to explore succession planning strategies as expressed in the earlier notice to the bar, the Court here seeks input from members of the bar on any and all potential options, including but not limited to the following three possible approaches:

- (1) Requiring attorneys in private practice, or at least certain categories of those attorneys, to designate a successor who has agreed to take on that responsibility; this would mirror requirements imposed by some malpractice insurance carriers; **or**
- (2) Requiring attorneys in private practice to report whether they have an identified successor or identified person with knowledge of how to access the attorney's physical and electronic files, so that such information is readily available if needed, **or**
- (3) Formally recommending that all attorneys strive to designate a successor (or person with knowledge) and to develop and maintain a succession plan.

Request for Comments

Please send any comments on the above and any other attorney succession planning options by **February 21, 2025** to:

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Attorney Succession Planning
Hughes Justice Complex, P.O. Box. 037
Trenton, NJ 08625-0037

Comments may also be submitted via email at the following address:
Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address, and those submitting comments by email should include their name and email address. Comments are subject to disclosure upon receipt.

/s/ Glenn A. Grant

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: January 15, 2025