
E-84-5 Disposition of closed client files

Question

A lawyer has retired from private legal practice and has inquired as to the proper procedures for disposition of closed client files in his possession. In particular, the lawyer has inquired as to how long closed client files should be retained.

Opinion

Of course, an attorney does not have a general duty to preserve all of his or her files permanently. However, former clients reasonably expect that valuable and useful information in their attorney's files, not otherwise readily available to the clients will not be prematurely and carelessly destroyed. ABA Informal Op. 1384 (March 14, 1977).

An attorney should use care not to destroy information that a former client may need, especially information that the attorney knows or should know may still be necessary or useful in the assertion or defense of the former client's position in the matter for which the applicable statute of limitations has not expired. ABA Informal Op. 1384 (March 14, 1977). Important documents should be returned to the client if feasible or placed in storage. In the alternative, such documents may be turned over to any lawyer who assumes control over the retiring attorney's active files. Op. 81-8(M), Florida State Bar, *ABA/BNA Lawyer's Manual on Professional Conduct*, at 801:2502. Whether disposed of, stored or transferred to another attorney, a lawyer should preserve in his or her personal records an index or identification of his or her former clients' files.