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THE MYTHS LAWYERS BELIEVE About Cessation of Practice

By Jaclyn Roberson and Dean Schaffer



John had been dead for only a week when a stranger's fist struck the glass of his widow's car window.

It was almost midnight in a grocery store parking lot, the kind with flickering overhead lights and a wind that pushes shopping carts in unpredictable directions. She had gone out for milk, something small and routine in a week when nothing felt familiar. When the knock jolted the window, she gasped and dropped her keys into the footwell. Her hands shook as she leaned forward, and grief clouded her thinking. She lowered the window.

A man bent down toward her, his breath visible in the cool air.

"You're my lawyer's wife," he said. "I need help. He was supposed to call me back. He told me he would. I have court, and I need to know what I'm supposed to do."

It took her a moment to find her voice.

"I need help too," she managed, and the words seemed to dissolve between them.

He pulled back slightly, startled by the rawness of her answer. She watched confusion cross his face as he realized she could not help him. She was not a lawyer. She could not access files. She could not return phone calls. She could barely get through a day without forgetting where she put her shoes.

What she knew, what she was certain of, was that her husband had died the previous week at fifty-seven years old, three weeks shy of their twentieth wedding anniversary. He

had been packing for a trip to Fiji. They had argued playfully over whether they should snorkel on the first or second day. She had ordered sunscreen. She had bought a new suitcase. She had also, without realizing it, assumed that the rest of their lives would unfold slowly and in order.

Now she was answering the phone every day with an apologetic whisper and a plea for people to call the State Bar. Someone there would help them, she believed. Someone would take care of things.

But in Texas, the State Bar does not assume control of a law practice when a lawyer dies or collapses or disappears. Courts may step in, sometimes weeks later. Custodians may be appointed. But none of it is automatic, and none of it prevents the chaos that unfolds in the first hours and days after a lawyer's sudden absence.

As this widow sat in her car while the stranger paced outside the door, she felt the truth settling into her bones. Her husband's work had no plan to outlive him. And she was about to discover that very few lawyers in Texas do.

The First Myth: "This Will Not Happen to Me"

If you sit in any conference room where lawyers gather, you will find people who believe that unplanned cessations are rare. They imagine that lawyers die at the end of long retirements or fade out gracefully after decades in practice.

They imagine that the profession, stitched together by rules and traditions, has built-in safety nets.

At the State Bar of Texas Office of Chief Disciplinary Counsel, often referred to as CDC, the staff learned otherwise.

During the 2010s, calls linked to unplanned cessations began to spike in a way that could not be ignored. Lawyers were dying in their forties and fifties. They were collapsing in courtrooms. They were found unconscious in offices. They were experiencing strokes and heart attacks at dinner tables. Some quietly battled mental health or substance use issues until the situation escalated into a crisis that prevented the attorney from practicing for a period of time.

When COVID-19 hit, the calls surged with heartbreaking speed as the illness hospitalized lawyers overnight and entire practices went dark without warning.

The CDC created a pilot program to centralize and study these calls. After thousands of inquiries involving hundreds of practices, the pattern became unmistakable. Unplanned cessations were not rare at all. They were rising. They were draining the system. And they were rooted not in a failure of character, but in a failure of planning.

The myth that "this will not happen to me" was widespread and deeply held. Almost every lawyer who died suddenly had intended to plan eventually. They believed they would have time to write down passwords, to clean

up trust account records, to clarify which files were open and which were closed, to identify the colleague they trusted enough to designate as custodian. But time is not an equal partner in the law. It does not make promises. It does not wait.

John believed he had time. He had even joked a year earlier that he would “deal with all that end-of-career stuff later.” He was healthy. He was busy. He had no intention of disappearing.

Then he did.

The Second Myth: “Someone Else Will Step in and Keep the Practice Running”

This myth takes two familiar forms: the belief that a spouse, staff, or estate executor can keep things afloat, and the assumption that the State Bar will step in when disaster strikes. Both ideas feel comforting, but both collapse instantly in real life.

After John’s death, his widow walked into his office hoping to make sense of what he left behind. The air still carried his cologne. Files lay open. Sticky-note reminders clung to case folders. Court notices sat in small, precarious stacks only he understood. His staff was kind but exhausted, operating without authority. The receptionist cried after days of being yelled at by clients who needed answers she could not give. The paralegal stayed one extra day, even after accepting another job, to help search for passwords no one could locate. Even the courier eventually stopped coming.

John’s widow stared at shelves of file boxes, an IOLTA account binder, and a locked cabinet with no key. She did not know which clients had hearings, which judges were involved, how much money sat in trust, or whether checks had been issued. And even if she found the information, she could not act on it because she was not licensed to practice law. Staff could answer phones, but they could not advise clients, withdraw from representation, transfer files, access trust records, or issue refunds. Each day the phone rang less, not because clients no longer needed help but because they had begun to give up.

In her confusion, the widow told callers to contact the State Bar, believing in the same assumption many lawyers hold that the bar has the power to take charge. The reality is that the State Bar cannot seize a practice, appoint new lawyers, or reach into accounts. Only a court can grant that authority, and courts do not move at the speed of crisis. While families, clients, and colleagues waited, deadlines passed. In one case, hearings were missed the morning after

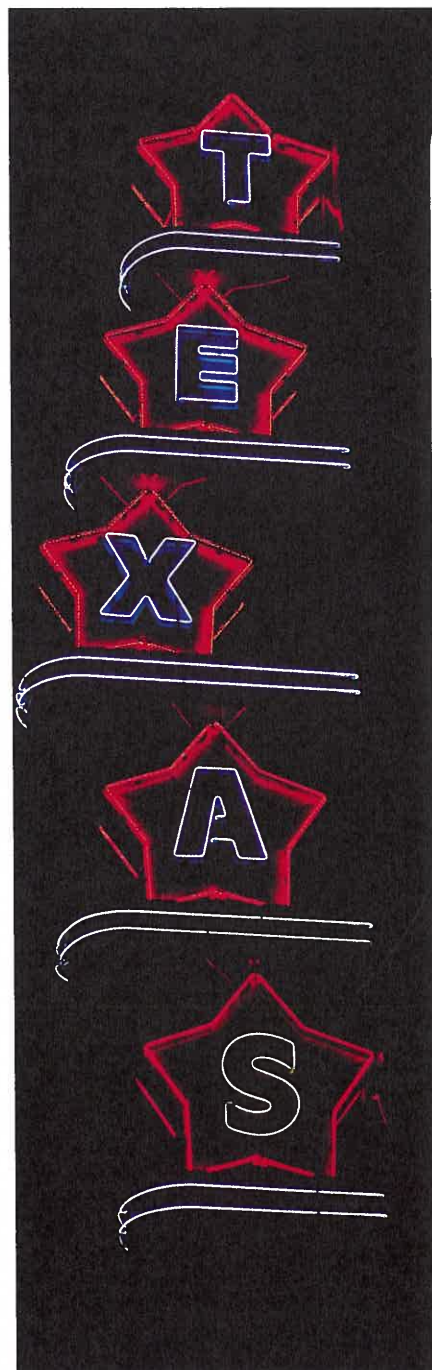
a lawyer died because everyone assumed help would arrive automatically. It took nearly two weeks before a custodian was appointed, long after a hearing was missed, a bond condition violated, and a plea deadline expired.

Both beliefs, that family or staff can wrap things up or that the State Bar will intervene on its own, are intuitive but unrealistic. They leave grieving spouses in the impossible position of managing an abandoned practice and leave clients stranded, hoping for an intervention that is not coming.

The Third Myth: “A Custodian Is a Replacement Lawyer”

This myth persists because it appears to solve the problem, yet it is often the very reason attorneys avoid asking a friend or colleague to serve as a custodian. Very few attorneys would willingly agree to take on an entire firm’s worth of unfamiliar cases and clients.

For those who do consider saying yes, a custodian’s duties are strictly administrative, but they require a law license to complete properly. Serving as a custodian is a gift to the attorney’s staff and family. The custodian



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John never designated a custodian. Doing so would not have saved his practice, but it would have spared clients weeks of uncertainty. It would have spared his widow the nightly messages. It would have spared his staff the guilt of walking away from clients while still needing to support themselves.

follows a defined checklist, which is available on the State Bar's website (Scan the QR code at the end of the article on page 19 to access the checklist.) The custodian's role is to act as an administrator who winds down the practice or, in a temporary interruption, notifies clients, courts, and counsel that the attorney is unavailable.

It is a myth that a custodian will automatically take over the practice, meet with clients, or continue the legal work. Custodians are not successors. They are not new counsel. They do not become the attorney for the clients whose files appear on their desks. Their responsibilities are limited and technical. They locate files, notify clients that the lawyer is no longer practicing, return client property, and complete trust account reconciliations. They close the practice. They do not inherit it.

John never designated a custodian. Doing so would not have saved his practice, but it would have spared clients weeks of uncertainty. It would have spared his widow the nightly messages. It would have spared his staff the guilt of walking away from clients while still needing to support themselves.

Designating a custodian is only the first

step. Ensuring the custodian has access to key information is what allows them to do the job effectively. A few hours spent planning and documenting account details will make it possible for the custodian to assist your family. Updating engagement agreements with a standard custodian clause will streamline their work. Adopting simple filing practices will make returning files easier.

In John's case, passwords were missing, file lists were outdated, trust accounts were incomplete, and boxes were mislabeled. Closed files were mixed with active ones. A custodian with a clear roadmap would have known exactly where to begin.

A custodian is only as effective as the preparation done in advance.

The Fourth Myth: "Reputation Survives the Lawyer"

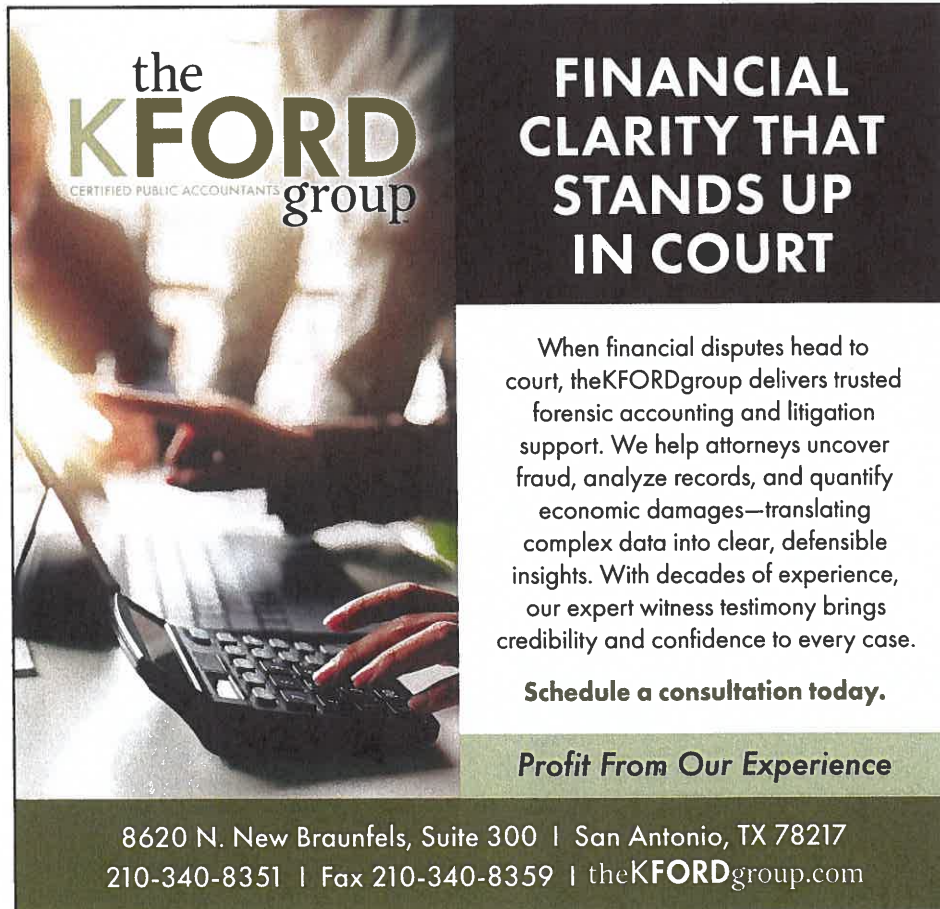
There is a quiet myth in the legal profession that a lawyer's reputation, once earned, floats above the reach of circumstance. Lawyers imagine that their decades of work, their courtroom victories, their community service, and their good standing will speak for them after they are gone.

But reputations are fragile. They are built on intangible trust. And when a lawyer leaves clients in the dark without intending to, that trust can fray in hours.

John had built a reputation as a fierce defender who never abandoned a client. Within days of his death, social media accounts filled with messages from people who felt abandoned anyway. They needed help. They wanted answers. They did not know where to turn. Some asked for refunds to which they were legally entitled but which no one could access because the account information was incomplete. Others asked whether a plea offer still stood or whether a hearing could be reset. Some were grieving John alongside his family. Others were angry because their lives, their freedom, and their futures depended on John's guidance.

A lawyer's reputation cannot survive in a vacuum. It can only survive with a plan.

A succession plan is not created for the lawyer who drafts it. It is created for everyone the lawyer leaves behind. Appointing a custodian is the final word an attorney offers to clients, the legal community, staff, and family. Designating a custodian preserves the attorney's work and provides clarity when it is needed most.



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KEY FACTS AND RULES ABOUT SUCCESSION AND CESSATION OF PRACTICE IN TEXAS

Unplanned Cessations in Texas

The Office of Chief Disciplinary Counsel reported a significant rise in unplanned cessations beginning in the 2010s, involving sudden death, incapacity, mental illness, substance use, aging demographics, and market disruptions affecting law practices. Firms affected by temporary cessations (sudden illness, accidents, etc.) can be made more vulnerable without quick intervention by a custodian to protect the firm while the attorney is unavailable. The right time to appoint a custodian is today.

Impact on the System

Emergency law-practice cessations were once handled informally by regional CDC offices, but the sharp rise in unplanned closures created significant strain and revealed gaps in how these situations were managed. A pilot program later centralized calls and transitioned in 2020 to the State Bar's Law Practice Management Program, which now provides resources, guidance, and tools for those involved in cessations. This shift does not mean that the CDC or the State Bar will take over managing a lawyer's practice; rather, they offer support for custodian attorneys who perform the actual cessation work, including an online custodian-designation system and a free Succession Planning Toolkit for Texas lawyers.

Texas Rules of Disciplinary Procedure, Part 13

Part 13 governs the cessation of practice for lawyers who die, disappear, resign, become inactive, are suspended or disbarred, or are physically, mentally, or emotionally unable to practice.

Cessation Procedures

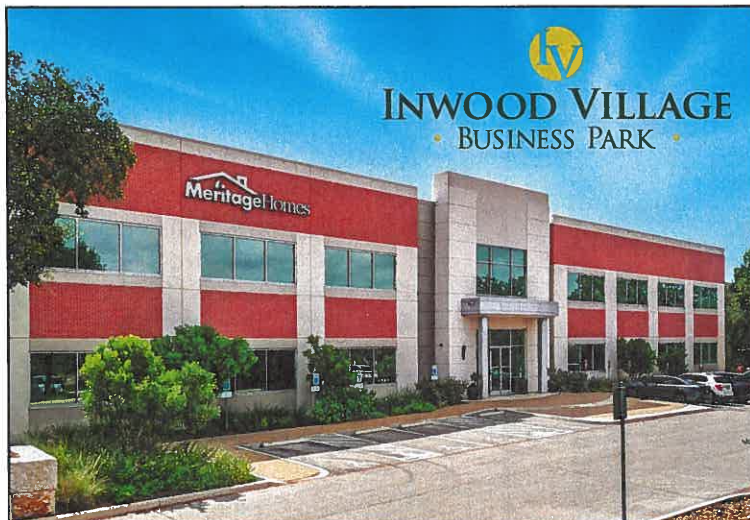
Routine cessation involves client notification and return of property. Extraordinary situations allow any interested party to petition a court to assume jurisdiction. Courts may appoint custodians whose role is limited to winding down the practice.

Reforms

TRDP 13.04 (effective July 1, 2021) allows voluntary custodian designations without court action. TRDP 13.05 (effective October 1, 2024) allows termination of custodianships and the lawyer's return to practice if competent.

Resource Tools

The State Bar's Law Practice Management Program provides a succession planning toolkit, fee-agreement language, templates for client notifications, guidelines for custodianship, trust account procedures, and transition planning guidance at texasbarpractice.com.



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The Widow in the Parking Lot

John's widow still remembers the man who knocked on her window. She remembers the sound of his desperation and the helplessness of her response. She remembers thinking that she had never understood how many people depended on her husband, how many lives he held steady just by showing up.

In that moment she understood that grief was not the only thing she was carrying. She was also carrying the weight of a practice that had no plan to outlive John.

If John had created a succession plan, the man in the parking lot would not have felt compelled to hunt down his lawyer's family. If John had designated a custodian, clients would have received clear instructions. If John had left organized files, staff would not have fled, overwhelmed by the task of translating chaos into action.

His widow replayed the scene in the parking lot for months. It haunted her. It shaped her understanding of the profession. It made her wish that every lawyer could live long enough

to put a plan in place, not for themselves but for the strangers who might someday knock on a bereaved spouse's window.

Succession Planning as an Expression of Care

The myths surrounding succession planning persist because the work is uncomfortable. It requires acknowledging mortality. It requires imagining a world that goes on without you. It requires handing your life's work to someone else.

But succession planning is not an administrative exercise. It is an act of care.

- It protects clients who depend on you.
- It protects staff who trust you.
- It protects families who love you.
- It protects colleagues who respect you.
- It protects courts that rely on you.
- It protects the legacy you spent decades building.

Most of all, it protects the person who will answer the phone after you are gone.

John's widow never wanted to become the voice on the end of that line. No spouse does. No child does. No parent or sibling or staff member does. She wanted to grieve him. She wanted to remember him. She wanted to be spared the role of explaining to people why the lawyer they depended on was not calling them back.

A lawyer's death should not create a crisis. It should create a closure. The difference between the two is a plan written before the world changes.

The myths surrounding succession planning lose their power the moment they are examined up close. What remains is the truth the CDC discovered through years of calls and heartbreaking stories: every law practice ends. The only question is whether it ends in confusion or in order.

The stranger in the parking lot was looking for his lawyer. He found a widow instead. Her answer was honest. It was also a plea for every lawyer to understand what their clients, staff, and families will face if the myths are allowed to stand.

She needed help, too.

And she should never have been put in that position.

Afterword: Reason for Hope

The Silent Cessation phenomenon is not unique to Texas. It is a national issue, affecting bar associations across the country. Rest assured, the State Bar of Texas is very much in the fight to effect a cure.

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Upon centralizing calls, it was evident that most contacts involved deceased lawyers. The lawyer discipline system, on the other hand, applies only to living lawyers.

In 2020, the pilot migrated from CDC to the State Bar's Law Practice Management Program. There, the State Bar's Law Practice Management Committee – a team of experts appointed from throughout Texas – collaborates with bar staff to develop solutions.

Texas soon went live with an online system for advance designation of custodian attorneys. The system for responding to calls evolved and the LPM Program routinely provides guidance on cessations to lawyers, their families and staff, clients, colleagues, court personnel, and others. LPM also created the Succession Planning Toolkit, a comprehensive resource that is free to all Texas lawyers at the LPM website, texasbarpractice.com.

To all Texas lawyers:

Consider the arc of your practice. How do you want it to end? Will it be an unplanned cessation with abrupt closure of the practice? Or will you take care with plans to benefit you, your clients, and your family? ★



Jaclyn Roberson practices family law, probate, and estate planning for Roberson Duran Law, PLLC, where she is a senior partner. She serves on the Board of Directors of the Texas Lawyers Insurance Exchange and is a member of the SBOT Law Practice Management Committee.



Dean Schaffer administers the State Bar of Texas' succession planning program and assists the State Bar of Texas Law Practice Management Committee. He joined the State Bar of Texas staff in 2017 after 29 years in general litigation, trials, appeals, and outside general counseling. His work on the Cessation of Practice Pilot Program earned a State Bar of Texas Presidential Citation.



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Assumption of Practice: A Custodian's Guide

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