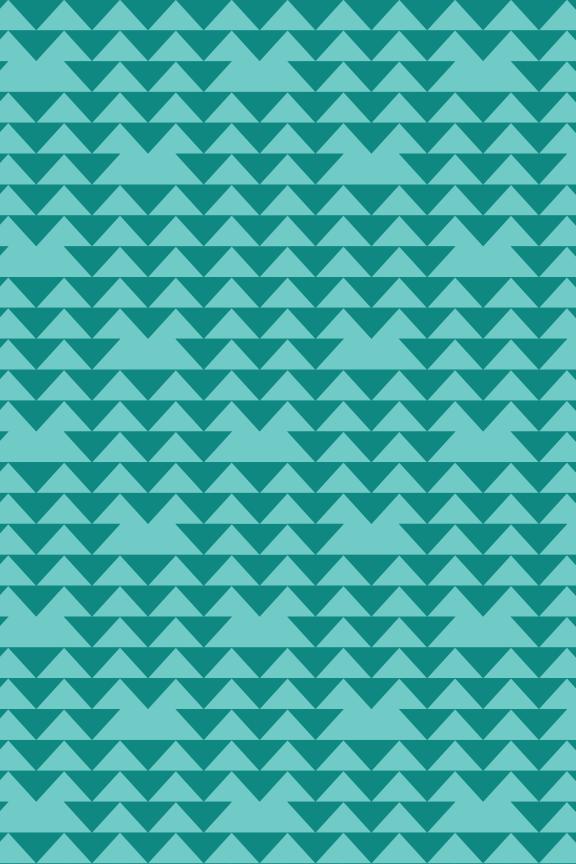
Mastering Your Lawyer Trust Account





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INTRODUCTION

This handbook serves as a comprehensive guide for managing client funds and property by providing practical guidance for opening and maintaining a lawyer trust account. Our goal is to help you safeguard client funds, ensure greater accountability, and reduce the number of ethical complaints each year relating to the management of client funds.

However, this handbook does not address every potential legal issue that might arise when handling complex legal matters involving client property. Contact the practice management attorneys of the PLF at 503.639.6911 or 1.800.452.1639, or the Oregon State Bar Legal Ethics Helpline at 503.431.6475 if you have questions.

To fully understand your obligations and responsibilities to maintain your lawyer trust account, it is best to read this book from beginning to end. If your time is constrained, you may skip to the relevant topics using the Table of Contents.



INTRODUCTION 7

The Importance of the Lawyer Trust Account



As a legal professional, you may find yourself responsible for safeguarding monies that are not your own. The legal profession is held to rigorous standards through ethical rules and opinions for handling these entrusted funds. Due to the serious nature of this responsibility, the repercussions for failing to uphold these ethical obligations can be severe.

ETHICAL OBLIGATIONS

The ethical obligations related to lawyer trust accounts are rooted in the principle that a lawyer who holds client or third-party funds in trust, even temporarily or intermittently, has a fiduciary duty to safeguard and segregate those assets from the lawyer's personal and business assets. Oregon Rules of Professional Conduct (ORPC) 1.15-1 and 1.15-2 set forth the ethical obligations to protect against both the actual loss of client funds and the risk of loss while in your possession.

The applicable ORPCs governing the lawyer trust account are excerpted below:

ORPC 1.15-1 Safekeeping Property

- A lawyer shall hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" maintained in the jurisdiction where the lawyer's office is situated. Each lawyer trust account shall be an interest-bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform to the rules in the jurisdictions in which the accounts are maintained. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.
- **b** A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purposes of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes.
- c A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as "earned on receipt," "nonrefundable" or similar terms and complies with Rule 1.5(c)(3).
- d Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
- When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

ORPC 1.15-2 IOLTA Accounts and Trust Account Overdraft Notification

- A lawyer trust account for client funds that cannot earn interest in excess of the costs of generating such interest ("net interest") shall be referred to as an IOLTA (Interest on Lawyer Trust Accounts) account. IOLTA accounts shall be operated in accordance with this rule and with operating regulations and procedures as may be established by the Oregon State Bar with the approval of the Oregon Supreme Court.
- **b** All client funds shall be deposited in the lawyer's or law firm's IOLTA account unless a particular client's funds can earn net interest. All interest earned by funds held in the IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule.
- c Client funds that can earn net interest shall be deposited in an interest bearing trust account for the client's benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in paragraphs (a) through (d) of Rule 1.15-1 for the principal funds of the client. The interest bearing account shall be either:
 - 1. a separate account for each particular client or client matter; or
 - a pooled lawyer trust account with subaccounting which will provide for computation of interest earned by each client's funds and the payment thereof, net of any bank service charges, to each client.
- d In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:
 - 1. the amount of the funds to be deposited;
 - the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held:
 - 3. the rates of interest at financial institutions where the funds are to be deposited;
 - 4. the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;

- 5. the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and
- any other circumstances that affect the ability of the client's funds to earn a
 net return for the client
- e The lawyer or law firm shall review the IOLTA account at reasonable intervals to determine whether circumstances have changed that require further action with respect to the funds of a particular client.
- If a lawyer or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the lawyer shall transfer the funds into an account specified in paragraph (c) of this rule and request a refund for the lesser of either: any interest earned by the client's funds and remitted to the Oregon Law Foundation; or the interest the client's funds would have earned had those funds been placed in an interest bearing account for the benefit of the client at the same bank.
 - The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.
 - The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted to the financial institution for transmittal to the lawyer or law firm, after appropriate accounting and reporting.
- g No earnings from a lawyer trust account shall be made available to a lawyer or the lawyer's firm.
- **h** A lawyer or law firm may maintain a lawyer trust account only at a financial institution that:
 - is authorized by state or federal banking laws to transact banking business in the state where the account is maintained;
 - 2. is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;
 - 3. has entered into an agreement with the Oregon Law Foundation

- to remit to the Oregon Law Foundation, at least quarterly, interest earned by the IOLTA account, computed in accordance with the institution's standard accounting practices, less reasonable service charges, if any; and
- ii. to deliver to the Oregon Law Foundation a report with each remittance showing the name of the lawyer or law firm for whom the remittance is sent, the number of the IOLTA account as assigned by the financial institution, the average daily collected account balance or the balance on which the interest remitted was otherwise computed for each month for which the remittance is made, the rate of interest applied, the period for which the remittance is made, and the amount and description of any service charges deducted during the remittance period; and
- 4. has entered into an overdraft notification agreement with the Oregon State Bar requiring the financial institution to report to the Oregon State Bar Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored.
- i Overdraft notification agreements with financial institutions shall require that the following information be provided in writing to Disciplinary Counsel within ten banking days of the date the item was returned unpaid:
 - 1. the identity of the financial institution;
 - 2. the identity of the lawyer or law firm;
 - 3. the account number: and
 - 4. either (i) the amount of the overdraft and the date it was created; or (ii) the amount of the returned instrument and the date it was returned.
- j Agreements between financial institutions and the Oregon State Bar or the Oregon Law Foundation shall apply to all branches of the financial institution. Such agreements shall not be canceled except upon a thirty-day notice in writing to OSB Disciplinary Counsel in the case of a trust account overdraft notification agreement or to the Oregon Law Foundation in the case of an IOLTA agreement.
- **k** Nothing in this rule shall preclude financial institutions which participate in any trust account overdraft notification program from charging lawyers or law firms for the

- reasonable costs incurred by the financial institutions in participating in such program.

 Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing of the same information required by paragraph (i). The lawyer shall include a full explanation of the cause of the overdraft.
- m For the purposes of paragraph (h)(3), "service charges" are limited to the institution's following customary check and deposit processing charges: monthly maintenance fees, per item check charges, items deposited charges and per deposit charges. Any other fees or transaction costs are not "service charges" for purposes of paragraph (h)(3) and must be paid by the lawyer or law firm.

Supervisory Duties

In addition to the ethical duties specific to trust accounting, ORPCs 5.1 and 5.3 outline your responsibilities if you are supervising a lawyer or nonlawyer. You are accountable for every penny of these funds in your possession. This responsibility cannot be delegated, transferred, or excused by your ignorance, inattention, incompetence, or dishonesty. You may employ others to help carry out this duty but must provide adequate training and supervision to ensure that all ethical and legal obligations to account for those monies are met. You can delegate but not abdicate responsibility for the trust account.

Whether you are supervising a lawyer or nonlawyer, you are responsible for that person's violation of an ethical rule if you ordered or, with knowledge of the specific conduct, ratified the conduct involved, or knew of the conduct at a time when its consequences could have been avoided or mitigated but you failed to take reasonable remedial action. ORPCs 5.1 and 5.3. See In re Mannis, 295 Or 594, 668 P2d 1224 (1983) (lawyer reprimanded although he was unaware employee was commingling funds).

It should be self-evident why a client's funds must be handled with extreme care. Nonetheless, cases continue to arise in which practicing lawyers, whether inadvertently or intentionally, mishandle their clients' money, subjecting those clients to the risk of economic hardship and undermining public confidence in the legal profession. Mishandling client funds can also subject you to disciplinary action, which may result in losing your license to practice law.

DISCIPLINARY ACTION RESULTING FROM MISMANAGEMENT OF CLIENT FUNDS OR PROPERTY

The Oregon Supreme Court has consistently required strict compliance with the ethical rules governing client funds and property. The court has also developed a significant body of case law interpreting these rules. The rules distinguish between a charge of dishonesty by misappropriation under ORPC 8.4(a)(3) and a charge of failing to maintain funds in a trust account under ORPC 1.15-1. As the court pointed out in In re Phelps, 306 Or 508, 760 P2d 1331 (1998), conduct leading to a charge of failing to maintain client funds in trust often precedes conduct leading to a charge of dishonesty by misappropriation, but the two are different.

You may remove money from a trust account without intentionally appropriating the money for your own purposes without violating the prohibition against dishonesty. Removing money from a trust account itself does not automatically constitute an intentional misappropriation. The difference between the two is reflected in the sanction imposed. If the Oregon State Bar (OSB) proves you guilty of dishonesty by intentionally appropriating client funds, the sanction is disbarment. Failing to maintain funds in a trust account does not require intent, and it carries a lesser sanction. See In re Mannis, supra (public reprimand); In re Starr, 326 Or 328, 952 P2d 1017 (1998).

Promptly Notify Clients of Receipt of Funds, Securities, or Other Properties

The disciplinary rules also require that you promptly notify a client of the receipt of client funds, securities, or other properties. See ORPC 1.15-1(d). Client property that is not cash or another form of money must be labeled and identified upon receipt and placed in a safe, a safe deposit box, or other place of safekeeping as soon as practical. See ORPC 1.15-1(a).

Maintain Complete Records and Provide Proper Accounting

You must maintain complete records of all funds, securities, and other property of a client coming into your possession and must render accounts to the client regarding the property. ORPC 1.15- 1(a). Failure to provide a client with a proper accounting of their property will result in discipline. In re Gildea, 325 Or 281, 936 P2d 975 (1997) (lawyer suspended for, among other things, failing to inventory a client's personal property, failing to tender a proper accounting of funds inadvertently placed in his personal account rather than his trust account, and failing to maintain adequate records of client's funds). Your failure to promptly pay or deliver, at a client's request, the funds, securities, or other property in your possession to which the client is entitled will also result in discipline. See In re Arbuckle, 308 Or 135, 775 P2d 832 (1988) (two-year suspension for failure to return client property and failure to cooperate with disciplinary investigation).

What Is a Lawyer Trust Account?



A lawyer trust account is a particular bank account where client funds are safely held until it is time to disburse them. ORPC 1.15-1 requires a lawyer to "hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate 'Lawyer Trust Account' maintained in the jurisdiction where the lawyer's office is situated."

DO I NEED A LAWYER TRUST ACCOUNT?

You need a lawyer trust account if you are holding client or third-party funds that do not belong to you. Examples of this include client retainers, advanced fees or costs for work to be completed, settlement funds that belong in part to the lawyer and in part to the client, or overpayments of bills.

TYPES OF LAWYER TRUST ACCOUNTS

Financial institutions offer different types of lawyer trust accounts. Knowing the correct trust account to use is important to ensure your ethical compliance. Generally, all client funds must be deposited in the lawyer's or law firm's Interest on Lawyer Trust Account (IOLTA) account unless a particular client's funds can earn net interest. ORPC 1.15-2(b).

IOLTA - Interest to Oregon Law Foundation

The Interest on Lawyer Trust Account (IOLTA) is only for client funds that cannot earn net interest. Any interest earned on the IOLTA funds (net any transaction costs) is remitted by the financial institution to the Oregon Law Foundation (OLF). The IOLTA program is an innovative program that helps provide access to legal representation for Oregonians regardless of income. IOLTA is the name given to lawyer trust accounts for nominal or short-term client deposits that remit interest earnings, net any transaction costs, to the OLF, a charitable, tax-exempt entity. You deposit into the IOLTA account client funds that are too small in amount or held for too short of a time to earn interest for a client, net bank charges, and administrative costs.

IOLTA is a mandatory program for all Oregon lawyers since 1989. The OLF supports access to justice in Oregon by obtaining and distributing funds through grants to provide legal services to persons of lesser means. This effort helps promote diversity in the legal profession and educate the public about the law.



To learn more about the OLF, visit the OLF website at https://oregonlawfoundation.org/.

Typically, funds placed in an IOLTA account are retainers, advance deposits on fees and costs, or settlement funds. Although some deposits may be substantial, they rarely remain in the trust account long enough to generate net interest.

There are many ways you can advise clients that interest earned on these sums will be transferred to the OLF. You can display a notice in your office or on your website, provide brochures, include a statement on the client's bill, or use any other reasonable means of communication. There are no tax consequences to you or your clients from using an IOLTA. You only place funds in an IOLTA that otherwise would not produce net interest for a client. Therefore, clients suffer no loss from the IOLTA interest paid to the OLF. Moreover, the IRS has ruled that the interest earned on nominal and short-term

client funds and paid to a bar foundation under a court-established program is not includable in your or any client's gross income.

To determine whether the client funds could earn net interest, use the interest rate that you could obtain on the client's behalf by opening a non-IOLTA lawyer trust account. ORPC 1.15-2(d) provides the following guidance:

In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:

- 1. the amount of the funds to be deposited;
- the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held:
- the rates of interest at financial institutions where the funds are to be deposited;
- 4. the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;
- the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and
- any other circumstances that affect the ability of the client's funds to earn a net return for the client.

Monitor your IOLTA account at reasonable intervals to determine if circumstances have changed so a particular client's funds have earned or could earn net interest. You can calculate whether your client's funds would produce a positive net return of interest with this formula:

Interest = Principal x interest rate/12 x number of months

For example, a \$10,000 deposit at 5 percent interest held for one month would earn \$41.67 ($$10,000 \times .05/12 \times 1 = 41.67). To compare this amount with the cost of the law firm's time to open and manage the non-IOLTA account, which is \$25, and the bank's monthly maintenance fee of \$7.50, we can calculate the net return.

Net Return = Earnings - Law Firm Cost - Bank Fee Net Return = \$41.67 - \$25 - \$7.50 = \$9.17

Therefore, the client would earn a positive net return of \$9.17.

If you determine that a particular client's funds have earned or could earn net interest, you must transfer the funds into a separate or pooled interest-bearing non-IOLTA lawyer trust account. See OSB Formal Ethics Op. 2005-117. You must also request a refund from the OLF for the lesser of either: the interest earned on the client's funds and sent to the OLF, or the interest those funds would have earned if they were placed in an interest-bearing account for the client at that same bank. ORPC 1.15-2(f). This ensures that that any extra interest is retained by the OLF, preventing undue benefit for you or the client. It also encourages lawyers to carefully consider where funds should be placed.

The request for a refund must be made in writing to the OLF within a reasonable time after sending the interest to the OLF and must include written verification from the financial institution of the interest amount due. ORPC 1.15-2(f)(1). The OLF will not refund more interest than it received from the client's funds. After accounting and reporting, refunds are sent to the financial institution for transmittal to the lawyer or law firm. ORPC 1.15-2(f)(2). It is then the legal professional's responsibility to distribute the earned interest to the appropriate client(s).

Net Interest-Bearing Lawyer Trust Accounts

For client funds that can earn net interest, you must deposit the funds in an interest-bearing lawyer trust account for the client's benefit, and the net interest earned shall be held in trust as property of the client. The interest-bearing account shall be either a separate interest-bearing lawyer trust account for each client or client matter, or a pooled interest-bearing lawyer trust account with sub-accounting that provides for computation of interest earned by each client's funds and payment to clients of interest earned, net any bank service charges. ORPC 1.15-1(a) requires that all lawyer trust accounts be maintained in compliance with ORPC 1.15-2.

• Separate Accounts for Particular Clients or Client Matters

Each separate account should be set up under your Social Security number or federal Taxpayer Identification Number (TIN). Interest is reported under your name on a Form 1099-INT issued by the bank. You then issue a Form 1099-INT to each client to reflect the pass-through of interest and report the total to the IRS. This type of account should be designated as "Lawyer Trust Account for Client XYZ."

Pooled Accounts

As the name implies, a pooled account with sub-accounting is a type of trust account used to hold all client funds together in one account. It is also established under your Social Security number or TIN. This pooled account allows for separate tracking of each client's funds and the interest earned on those funds. Net interest is calculated for each client's funds and is paid to the respective client after deducting the prorated share bank service charges. This type of account requires you to individually track each client's interest and credit the interest to that their account. You must prorate the bank service charges among the clients with funds on deposit. Additionally, at the end of each year, you must also report the interest earned by each client to the IRS.



Estate or Conservatorship Accounts



At some point in your practice, you may need to open estate or conservatorship accounts. These accounts are *not* considered "lawyer trust accounts" under ORPCs 1.15-1 and 1.15-2. You must use separate bank accounts to hold funds in estate or conservatorship matters.

Appropriate accounting of the funds in these accounts must be made to the court, so they should be kept separate from other client funds. The TIN or Social Security number of the estate or conservatorship is used for these accounts, and any interest generated is credited to the estate or conservatorship. All bank charges are the responsibility of the estate or conservatorship.

Opening an IOLTA Lawyer Trust Account



Before opening an IOLTA account, it is important to understand the requirements of the Oregon State Bar as well as the bank. This section explains the requisites to ensure your lawyer trust account is opened properly.

OREGON RULES OF PROFESSIONAL CONDUCT REQUIREMENTS

The Oregon Rules of Professional Conduct (ORPC) have specific requirements regarding where the lawyer trust account must be opened, the financial institution at which to open the account, and the information that must be on the account. Understanding these imperatives helps streamline the opening process and ensure your compliance with the rules.

Jurisdiction

A lawyer trust account must be established in a financial institution in the jurisdiction where your office is situated. ORPC 1.15-1(a). If you are licensed to practice in more than one state, you must comply with the trust account regulations of each state.

PRACTICE TIP:



If you maintain a lawyer trust account in Washington, review the Professional Liability Fund (PLF) practice aid, "Trust Accounting Rules for Washington Practitioners" on the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

Financial Institution

You are required to open your trust account at a financial institution that meets the following criteria:

- The financial institution must have an agreement with the Oregon Law Foundation (OLF) to remit interest earned on IOLTA funds and provide remittance reports to the OLF; and
- The financial institution must have an agreement with the Oregon State Bar to "notify Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored." ORPC 1.15-2(h)(3)-(4).

Account Information

The name of the account must be identified by use of the phrase "Lawyer Trust Account." You can have a nonlawyer co-signer on your trust account. Some banks allow you to specify co-signing capability only upon the lawyer's incapacitation or death. Regardless of the access given to the co-signer, be sure that you fully trust any co-signer on the account to appropriately handle the funds, as ultimately you are responsible for the administration of the account.

Trust Account Must Be FDIC-Insured

Each lawyer trust account must be an insured, interest-bearing trust account in a financial institution chosen by the lawyer or law firm with reasonable care. ORPC 1.15-1(a); ORPC 1.15-2(h)(2). Depositor accounts, including trust accounts, are insured by the Federal Deposit Insurance Corporation (FDIC) for banks and the National Credit Union Administration (NCUA) for credit unions, up to the standard maximum deposit insurance amount (\$250,000), for each deposit insurance ownership category. Under the fiduciary account rules for deposit insurance, as long as an account is properly designated as an IOLTA or lawyer trust account and you have maintained adequate records, each client is protected up to \$250,000.



The deposit insurance amount may change in the future, so go to the FDIC website for updated information: www.fdic.gov/resources/deposit-insurance/.

Keep in mind that if the client also has other money in the same financial institution, they are still only insured for the total amount they have at the bank, both personal and the amount you are holding in your lawyer trust account for them.

If you are holding more than the insured limit in trust for any one client, allocate funds between multiple institutions. Inform clients where you are maintaining their funds and explain the implications of aggregate federal insurance limits to ensure that each client's funds are protected.



To learn more, go to the Oregon Law Foundation website at https://oregonlawfoundation.org.



Also, look for the Fiduciary Accounts section of the FDIC's "Your Insured Deposits" brochure at www.fdic.gov/resources/deposit-insurance/brochures/insured-deposits/.

BANK REQUIREMENTS

Some banks may require you to deposit a certain amount to open or maintain a trust account. They may also charge you fees to service and maintain the account. According to ORPC 1.15-1(b), "A lawyer may deposit the lawyer's own funds into the lawyer trust account for the sole purpose of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes." See OSB Legal Ethics Op No 2005-145. (The rule contains no exception that allows "cushions," and placing such funds in a lawyer trust account would constitute impermissible commingling.) If a bank does not require a minimum balance, you cannot cushion the account with your own money just to keep the account open. That would be considered impermissible commingling.

OREGON STATE BAR (OSB) OPERATING REGULATIONS AND PROCEDURES

ORPC 1.15-2(a) provides that IOLTA accounts shall be operated under such "operating regulations and procedures as may be established by the OSB with the approval of the Oregon Supreme Court." This provision represents one of several amendments to ORPC 1.15-2 since its original adoption. It is advisable to monitor developments in OSB IOLTA operating regulations and procedures to ensure compliance.

ANNUAL COMPLIANCE

ORS 9.675(1) provides that every active member of the OSB shall "shall certify annually to the bar whether the member maintains any lawyer trust accounts in Oregon. If a member maintains one or more lawyer trust accounts, the member must disclose the financial institution in which each account is held and the account number for each account. The chief executive officer of the bar shall prescribe a form and due date for the certification and disclosures required by this section." Aside from the mandatory annual OSB compliance, lawyers do not need to notify the OLF or PLF when they set up a new trust account.



For instructions on completing the annual certification, visit the OSB website, www.osbar.org/IOLTA.

Lawyers who fail to file an annual certification will receive a written notice of default from the OSB Executive Director. Any lawyer who fails to cure a default within 60 days after the date the notice is given will be administratively suspended. ORS 9.675(2). A person suspended under this section may be reinstated to membership in the bar only if the person pays all required fees and contributions and complies with all rules of procedure and rules of the Supreme Court relating to reinstatement. ORS 9.675(3).

MANDATORY TRUST ACCOUNT OVERDRAFT NOTIFICATION PROGRAM

All lawyer trust accounts are subject to the mandatory trust account overdraft notification program. ORPC 1.15-2(h)(4). If you receive notice from a financial institution that an instrument drawn on your lawyer trust account has insufficient funds, whether or not it was honored, you must promptly notify the Oregon State Bar Disciplinary Counsel in writing.

The written notice must include a full explanation of the cause of the overdraft and

- 1. the identity of the financial institution;
- 2. the identity of the lawyer or law firm;
- 3. the account number: and

4. either

- i. the amount of the overdraft and the date it was created; or
- ii. the amount of the returned instrument and the date it was returned. ORPC 1.15-2(I).

BANK CHARGES

Various bank charges may accrue when opening and maintaining the lawyer trust account. It is crucial to know when you are responsible for covering those fees and when the Oregon Law Foundation (OLF) covers them.

OLF Responsibility

Financial institutions that offer IOLTA accounts are instructed by the OLF that in no instance may the principal of a lawyer's or law firm's trust account be used to pay monthly maintenance fees, per-item check charges, items deposited charges, or per-deposit charges. These service charges are the responsibility of the OLF. ORPC 1.15-2(m). Any other fees or transaction costs are not "service charges" for the purposes of ORPC 1.15-2(h)(3) and must be paid by the lawyer or law firm.

Lawyer Responsibility

When a lawyer trust account is charged for any of the items listed below, you must immediately deposit enough money from your personal or business accounts to cover the costs:

- NSF (non-sufficient funds) fees
- Stop payment charges
- Wire transfer fees
- Electronic transfer fees
- Check printing fees
- Deposit slip printing fees
- Endorsement stamp fees ORPC 1.15-1(b).

These are all considered bank charges for which your business is responsible and are not to be paid out of client trust funds. ORPC 1.15-2(m). Whether you can pass on client-related bank charges to the client (e.g., NSF fees for the client's bounced check or wire and electronic transfer fees) is debatable. At a minimum, the client must agree to pay for such costs at the outset of representation. You can incorporate appropriate language into your written fee agreement with clients.

PRACTICE TIP:

Ensure that any initial charges associated with opening the account, such as check printing fees, which are bank charges and your responsibility, are deducted from your operating account. Neglecting this step may lead to a potential overdraft shortly after opening the account. Carefully monitor your account so you can promptly address any inadvertent charges.



Trust Accounting Concepts



While reading the ethics rules is the first step in understanding your ethical obligations for handling the lawyer trust account, it should not be the last. This section explains the key concepts in trust account management to provide a fundamental framework necessary for the proper and ethical handling of your trust account.

KEEP CLIENT PROPERTY SEPARATE FROM PERSONAL PROPERTY

The lawyer trust account should be used for:

- Advanced fees or retainers for work to be completed and advances for costs to be paid on behalf of a client;
- Settlement funds and refund checks that belong, in part, to the lawyer, the client, or a third party;
- Funds that come into the lawyer's possession during the representation
 of a client, in which both the client and a third party have an interest;
- Funds of the lawyer should be deposited for the sole purpose of paying bank service charges or meeting minimum balance requirements.
 ORPC 1.15-1(b). See OSB Legal Ethics Op No 2005-145;
- Overpayments by clients. If a client overpays a billing statement, the
 entire client payment must be deposited into the trust account. Only the
 amount due to the lawyer or law firm can be disbursed from the trust
 in payment of the client's bill. Contact the client and get instructions on
 whether you should refund the overpayment or leave the money in the
 trust account to be applied against future fees and costs; and
- Fees received by a lawyer serving as an arbitrator or mediator in advance of the proceedings until the proceedings are completed.
 Funds received by an arbitrator or mediator are not property of a client because no lawyer-client relationship exists, but such funds constitute third- party funds and must be held in a lawyer trust account. See OSB Legal Ethics Op No 2005-135.

You must never keep your own personal funds, business funds, or investment money in your trust account. You may deposit your own funds in a lawyer trust account for the sole purpose of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes. Once fees have been earned from a client with money in trust, that money must be transferred promptly to your office or general account.

The IRS may examine your trust accounts to determine whether you are leaving funds in those accounts past the end of the fiscal or calendar year to avoid taxes. Leaving earned fees in your trust account beyond a reasonable administrative time period constitutes commingling.

CONSIDER EACH CLIENT AS A SEPARATE ACCOUNT

An important aspect of trust accounting is carefully tracking each client's money separately to determine immediately the balance each client has in trust at any time. To do this, maintain a separate record for each client that shows the amount of each deposit made to the trust account on behalf of that client, the amount of each disbursement, and the purpose for each.

DON'T SPEND WHAT YOU DON'T HAVE

To prevent over-drawing your trust account, consider the following practices to ensure the account maintains the necessary balance for proper disbursement.

Collected vs. Available

You cannot disburse money from a client's trust account until the funds deposited are both "available" and "collected" by the bank. Banks often make at least a portion of funds deposited available for withdrawal before the money has actually been collected from the check-issuing bank. Do not confuse available funds with collected funds. This may not be an issue for a personal or operating account, but for a lawyer trust account, the funds must be collected—i.e., received from the issuing bank by the bank holding the trust account—and are in the trust account. If you disburse money on behalf of a client whose funds have not cleared—even if the funds show as "available"—you are using money from the trust account that belongs to other clients.

Time Frame to Disburse Funds

It can take anywhere from one day to several weeks after you make a deposit into your trust account before the money is collected and can be disbursed. The time it takes for trust account funds to clear the bank after deposit depends on the form in which you deposit them and the bank's procedures. Every bank has different procedures, so when you open your trust account, be sure to ask for the bank's schedule of when each type of deposit generally clears the bank.

Even with the general number of days a deposit may take to clear the bank, adopt a cautious approach with your trust account disbursements. If a check is returned due

to insufficient funds, an improper endorsement, a stop payment order, or any other reason, and you have already paid out the money based on those funds, you can be in serious trouble for failing to preserve client funds in a trust account. Below are certain types of transactions that require additional consideration:



Dealing with Cash and Checks

Be especially careful when a client insists on paying a retainer in cash. Although some clients have legitimate reasons for using cash only, others may be involved in criminal enterprises and you may inadvertently become involved in money laundering. Carefully document any cash deposits and have your client sign your written receipt of cash.

Paper checks are usually the slowest to process. For clients who pay their retainer by check, wait a prudent amount of time for the funds to clear before drawing on those funds. For an ordinary transaction with an established client or known third party, wait three banking days for locally written checks, five banking days for checks written within Oregon but outside your local area, and ten or more banking days for out-of-state checks. For checks in the amount of five thousand dollars or more, banks are allowed to hold these funds for seven banking days whether the check is local, in-state, or out-of-state.



Use 3-5-10 Day Guideline

To avoid the growing problem of check scams, wait at least ten banking days before disbursing funds in the following circumstances: (1) the transaction is with a new client or a client you are unsure about; (2) the check is very large; (especially compared with the extent of legal services provided, if the check is a retainer); (3) the check is from an unknown third party; or (4) any aspect of the transaction raises (or should raise) your suspicions. Counterfeit checks may be difficult to detect, so do not put your other clients' trust funds at risk by withdrawing funds drawn on fraudulent deposits. To verify that funds have cleared, ask your bank to contact the issuing bank. Remember that drafts or other instruments may take longer than ten banking days to process.

While the 3-5-10 day waiting period is derived from old banking practices, many scammers will pressure you to ignore waiting periods. Although many checks are now processed faster through mobile deposit, banks have the power to place holds on deposits and delay their collection, so it is still a prudent waiting standard and especially true for lawyer trust accounts. You should also apply the 3-5-10 day waiting period to other types of checks that claim to process faster, such as cashier's checks and certified checks. Banks often have fraud protection in place to put holds on those types of transactions if they suspect fraud. And even

though eCheck payments—otherwise known as ACH (Automated Clearing House) payments—process faster than regular checks, it can often take 3-5 business days for the money to clear. If you have any concerns, talk to your bank about their procedures, and verify the money has cleared before disbursing it.

PRACTICE TIP:

Avoid allowing clients to pay into the trust account using a digital wallet. Digital wallets are software applications that store financial information allowing for transfers of money electronically. While digital wallets have become more widely used, banks generally do not maintain fraud protection for these applications. You risk issues involving confidentiality and security breaches, as well as difficulty maintaining records. For more information about security considerations in today's banking world, see Rachel Edwards, "Mobile Banking: Take Advantage and Tread Lightly," PLF inPractice, (February 10, 2021).

Unfortunately, even after a deposit has cleared and been collected, you cannot be entirely certain that deposited funds in a lawyer trust account are safe to disburse. Banks maintain the ability to put holds on transfers or even recall and remove amounts from your account if fraud is suspected. The prudent amount of time to wait before disbursing funds depends on what was deposited and your financial institution's policies and procedures regarding collected funds. Each financial institution has its own schedule for disbursement based on regulations and internal banking procedures. Discuss this with the financial institution handling your trust account.

For further discussion of banking rules, check scams, and the time that may be necessary for funds to clear, see Amber Hollister, "Settlements and Scams: Consider the Scope, Be Aware of the Risks," Oregon State Bar Bulletin (January 2020); Rachel Edwards, "Check Washing: Don't Get Hung Out to Dry By This Reemerging Scam," PLF inPractice (May 1, 2023).

MAINTAIN AN AUDIT TRAIL

ORPC 1.15-1(a) states that a lawyer shall maintain complete records of trust account funds and other property of clients or third parties in the lawyer's possession. "Complete" records include checkbooks, canceled checks, check stubs, vouchers, deposit slips, ledgers, journals, client billing statements, bank statements, closing statements, accountings, other statements of disbursement, and any other records reflecting trust account transactions.

For additional information about maintaining trust accounting records, see Daniel Atkinson, "Safety Tips for Handling Client Funds: Other People's Money," Oregon State

Bar Bulletin (December 2022). Access and monitor your trust account online often and retrieve canceled checks and bank statements monthly. Complete trust accounting records, including checks and bank statements, must be preserved for five years after termination of representation.

Your bank may not preserve complete records of your account for the five years you must retain them. Keep your own records to ensure compliance. Also use caution when making electronic, telephonic, or wire transfers to and from the trust account. These transfers rarely generate a clear audit trail of whose money was transferred and for what purpose. It is easy to make trust account errors without proper documentation.

AVOID A NEGATIVE BALANCE

There should never be a negative balance for either the trust account or the individual client's trust balance. Each client has either a positive or zero balance. Having a negative balance is a sign of negligence or theft, at worst.

IMPLEMENT SAFETY MEASURES

Implement the following recommended safety measures to avoid embezzlement, fraud, or a negative trust account balance.

Divide Tasks

You should divide bookkeeping tasks among your staff. The person who pays the bills should not be the person who reconciles the account. Consider assigning a two-person team to process deposits and account reconciliations, such as pairing a lawyer with a staff member. The bank statement should be delivered to the principal lawyer or managing partner for review for forgeries or other irregularities. Regularly reviewing the checks and the statements can help you catch identity theft or embezzlement at an early stage.



For more information about protecting your firm from embezzlement, see the PLF Practice Aid "Embezzlement Happens: Protect Your Firm." Go to the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

Duplicate Receipts

Use duplicate numbered receipts for cash payments, and advise clients it is their responsibility to keep those receipts. Ask the client to sign the receipt acknowledging the amount paid, preferably in front of another witness. Write the receipt number on the deposit slip to identify who made the payment, and enter that number on the client's ledger when posting the transaction. If you enter more than one cash payment on a deposit slip, use a deposit ledger to itemize deposits.

Be Patient

Do not rush. Be sure you are using the proper account. Verify that all disbursements are supported by adequate documentation, including the case name or number before signing checks or approving electronic transactions.

Require Two Signatures

Require two signatures on large checks. Requiring two signatures for checks over a certain amount can be an important internal control even if your bank disclaims responsibility for cashing checks with fewer than the required signatures. Avoid using signature stamps.

Do Not Allow Checks Payable to Cash

Allow no one to issue or sign checks made payable to "cash."

Approve and Reconcile

Carefully review and approve all client billings, and reconcile receipts of payment.

Control Access to Checkbooks

Restrict the number of people who have access to checkbooks. Also, limit the number of blank checks on hand.

Use Different Colored Checks

Order trust account checks in a different color from those used for your business account.

Do Not Use Debit Cards

There are serious risks with connecting a debit card to your trust account. Debit cards can be lost, misplaced, or used fraudulently, resulting in the theft of client funds. For this reason, you may decide to obtain a business debit card tied to your business account to pay filing fees, treating the expense like any other cost advanced on a client's behalf.



To manage the risks associated with debit cards, see "Oregon eFiling Checklist for First Time eFiler." Go to the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

Control Access to Online Banking

If you are in a firm, use proper accounting controls and supervise staff with access to online accounts. If you are a solo practitioner, do your online banking at home or take precautions to protect access to your account. Be sure to have up-to-date virus protection on your computer before accessing any online banking sites and be on the alert for any phishing or scamming schemes that may deliver malware to your computer.

Protect Against Fraud

Determine whether your bank offers Positive Pay fraud protection. This service is commonly offered to bank customers. You provide the bank with a list of checks or ACH transfers that have been approved for deposit. If a check or ACH payment is presented that does not match the information on your approved list, the bank notifies you and withholds payment until you instruct them to either accept or reject the payment. Some banks offer the service for free, while others charge. It also protects against duplicate deposits if a check is lost or someone attempts to deposit one of your checks multiple times. Remember that stop-payment orders typically expire after six to twelve months, depending on the institution, although they can usually be extended by request.

Be on Alert for Bank Error or Theft

If money is stolen from your trust account because of something outside your control, such as bank errors, third-party theft, or identify fraud, certain actions can be taken to restore the funds directly to the client(s). See OSB Legal Ethics Op No 2022-199 for more information. For a more thorough discussion of OSB Legal Ethics Op No 2022-199, see Daniel Atkinson, "Other People's Money: Safety Tips for Handling Client Funds," Oregon State Bar Bulletin (December 2022). Also see Mark Fucile, "Depositing Funds Into Trust to Correct Bank Errors or Thefts," Multnomah Lawyer (June 2023).

If money is stolen from your trust account because of actions taken by someone under your supervision, such as a bookkeeper or staff member, rather than something outside your control, additional ethical duties apply. See OSB Legal Ethics Op No 2023-202 for more information. Also see Mark Fucile, "New OSB Opinion on Staff Thefts of Client Funds," Multnomah Lawyer (July/August 2023). Contact the Oregon State Bar Ethics Helpline at 503.431.6475 if you have any questions.

Understand "Earned On Receipt" Fees (ORPC 1.5(c)(3))

Flat fees designated as "earned on receipt" must be deposited into your office or general account, not your trust account. Note, however, that in accordance with ORPC 1.5(c)(3), a lawyer shall not enter into an arrangement for, charge, or collect a fee denominated as "earned on receipt," "nonrefundable," or in similar terms unless pursuant to a written agreement, signed by the client, which explains that (i) the funds

will not be deposited into the lawyer trust account, and (ii) the client may discharge the lawyer at any time and, in that event, may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed.

For more information about flat fees designated as "earned on receipt," see Mark A. Turner "Avoiding Discipline: Understand Earned-on-Receipt Agreements; Cooperate with Investigations," Oregon State Bar Bulletin (May 2022); Jennifer Meisberger "Considerations When Charging Fixed Fees," PLF inPractice (February 10, 2017); Amber Hollister "Getting Paid: The Ethics of Collecting Fees," Oregon State Bar Bulletin (November 2016).



The PLF also provides sample fee agreements for practitioners, including an option for an "earned on receipt" arrangement

– Earned On Receipt Fee Agreement. You can find it on our website at osbplf.org > Services > CLEs & Resources

> Practice Aids > search by category or by document name.

Address Unclaimed Client Funds and Property

Periodically, lawyers find they have unclaimed client funds in a trust account or unclaimed property in their possession. This can occur when clients disappear or disbursement checks remain uncashed. Pursuant to ORS 98.332, funds held by a fiduciary, including a lawyer, are deemed abandoned if the owner has not accepted payment of the funds, corresponded in writing about the funds, or otherwise indicated an interest in the funds within two years after the funds are payable or distributable to the owner. Common situations include:

- A client deposits a retainer with the lawyer and then never returns to the office.
 When the lawyer tries to make contact, the client cannot be located;
- Witnesses or others may fail to cash small checks received for appearance fees, mileage, or other services;
- A settlement check may be received that is payable to both the lawyer and the client, but the lawyer cannot locate the client.

If unclaimed funds remain in your trust account, you must comply with the Uniform Disposition of Unclaimed Property Act (UDUPA) (ORS 98.302-98.436). You must exercise due diligence to determine the whereabouts and communicate with the owner of the funds. Funds deemed abandoned as of June 30 of each year must be reported to the Oregon State Treasury during the month of October that same year. Unclaimed

funds held in lawyer trust accounts must be paid over to the Oregon State Bar along with a copy of the report. The money paid to the OSB will be appropriated to the Legal Services program, which funds legal aid organizations that provide civil legal services to the poor statewide.



The reporting forms are available on the Oregon State Treasury website at https://unclaimed.oregon.gov/app/lawyer-trust.

Affected legal professionals must send two reports, one to the Oregon State Treasury, and one to the Oregon State Bar with your payment by the due date.



Go to the Oregon State Bar website at www.osbar.org > For Members > OSB Resources > Unclaimed Client Funds for more information about the process.

Under no circumstance are you permitted to take these unclaimed funds for personal use. See OSB Legal Ethics Op No 2005-48. You must retain records of the name and last-known address of the owner of the funds as well as any other evidence that would assist in the identification of the owner for three years after remitting the funds. Note that if the owner's last-known address is in a different state, those abandoned funds must be reported to and sent to that state according to the applicable state's rules.

If a settlement check is made payable to both you and the client, you cannot sign the client's name on the endorsement without the client's authorization. In re Maroney, 324 Or 457 (1996) (lawyer disbarred, in part, for signing settlement check without client's knowledge or consent). You must comply with OSB Legal Ethics Op No 2005-48 and the Uniform Disposition of Unclaimed Property Act regarding the client's portion of the settlement. See OAR 141-045-0031 (3)(d). Instruct your clients to notify you if any of their contact information changes. If a client is unavailable to sign such a check, discuss your ethical responsibilities and options with OSB ethics counsel.

Implement the following tips to avoid unclaimed funds:

Monitor Uncashed Checks.

Uncashed check funds revert to the client and should be reimbursed to the client. You must try to find the client and must maintain reasonable records sufficient to permit the client to make a claim for the return of the property for the period permitted by the UDUPA. One way to avoid this problem is to monitor uncashed checks in your trust accounts. If a check has not cleared the trust account for two months, track down the check immediately and send a letter to the client or third party asking them to cash the check, or cancel the original check and send a replacement as necessary.

Monthly Reconciliation.

Regularly investigate unclaimed funds, ideally monthly when you are reconciling your trust account. The longer you wait to address a problem, the more difficult it will be to track down clients and meet the requirements of the UDUPA.



You can find more information about the unclaimed funds rule on the Oregon State Bar website at www.osbar.org/resources/abandonedfunds.html.

See also Amber Hollister "Mystery Money: The Ethics of Unclaimed Lawyer Trust Account Funds," Oregon State Bar Bulletin (May 2019).

Protect Trust Property Other Than Cash

Occasionally lawyers must hold property other than cash for a client (valuable papers, coins, stamps, or other types of collectibles). It is your responsibility to properly inventory and safeguard this non-cash property from theft, loss, and destruction. ORPC 1.15-1(a). Obtaining insurance coverage for client property is recommended but not required.

Theft, loss, or destruction of client property may be covered under the data breach and cyber liability endorsement in the PLF Claims Made Excess Plan. If you experience this loss and your firm has excess coverage with the PLF, contact us at 503.639.6911 or 800.452.1639.

Additionally, legal professionals must notify clients promptly of the receipt of funds, securities, or other properties; maintain complete records; and render appropriate

accountings to clients. ORPC 1.15-1(d); In re Gildea, 325 Or 281, 290 (1997) (lawyer suspended for failing to render appropriate accountings to the client).

Maintain Records for Five Years

Maintain complete records in connection with your trust account and trust properties for five years after termination of the representation. ORPC 1.15-1(a). Such records include checkbooks, canceled checks, check stubs, vouchers, deposit slips, ledgers, journals, client billing statements, bank statements, closing statements, accountings, other statements of disbursements rendered to clients, three-way reconciliations of client ledgers, and journals of transactions, along with any other records reflecting trust account transactions

When you receive notice that your monthly bank statement is available, access your trust account online. Download your statement along with any other banking transactions. Note that most banks will only maintain online account records for four years. Therefore, you must download and maintain complete records of trust account funds and other property to preserve them for a period of five years after termination of the representation. ORPC 1.15-1(a). Keep these records separate and apart from the clients' files, and store or file them monthly and yearly. It is relatively easy to locate specific documents when records are filed in this manner.



Trust Accounting Procedures



This section provides more details on the procedures of opening a lawyer trust account and handling specific tasks, including depositing funds, accepting credit cards, and disbursing from the trust account. It will cover the procedures for maintaining trust records, reconciling the trust account, and, finally, closing it.

OPENING YOUR TRUST ACCOUNT

It is up to you to where to open your trust account as long as it is: (1) in the jurisdiction where your office is located, and (2) at a financial institution that has an agreement with the Oregon State Bar and Oregon Law Foundation. See ORPC 1.15-1(a) and 1.15-2(h)(4).

A law firm may open one trust account for all lawyers in the firm. Some lawyers choose to establish their trust account at the same financial institution they use for other banking, while others choose to keep the accounts separate.

The Oregon Law Foundation website provides a helpful list of banks that will maximize the rate of return on IOLTA accounts. Most of the banks listed also provide direct contact information for bank managers who can assist you with opening your trust account and other customer service questions. You can help the OLF in its mission by opening your IOLTA account at one of their Leadership Banks and Credit Unions committed to maximizing the rate of return on IOLTA accounts.



For a list of participating financial institutions, visit the OLF website at https://oregonlawfoundation.org/.

When you are at the financial institution, explicitly instruct the banker to open a lawyer trust account. If the banker is not familiar with this type of account, ask to speak with the manager or someone who knows about lawyer trust accounts. Make sure you attach the OLF's tax ID number (93-0817536) to the account.

PRACTICE TIP:

Download the document entitled "Notice to Financial Institutions," available on the OLF website, https://oregonlawfoundation.org/. Take it to the bank when setting up your IOLTA account. This is not mandatory, but some financial institutions request documentation before opening an IOLTA account, and this form should help meet that requirement. The notice also clarifies what kind of account you are requesting and includes the OLF's tax ID number.

Many banks will allow you to set up a trust account with no funds, or you may open the account using funds provided by a client for future fees or costs. If a minimum balance is required to open a trust account, you may deposit your own funds into the trust account, but only in an amount necessary for that purpose. ORPC 1.15-1(b).

DEPOSITING FUNDS

Deposit trust funds promptly, using a duplicate deposit slip and listing each deposit separately. If a deposit is made to the trust account via bank or electronic transfer, keep a copy of the transfer confirmation. To protect confidentiality, list the names of those whose checks are being deposited only on the duplicate, or attach photocopies or scans of the checks to the deposit receipt.

Use Deposit Slips

Always use the proper deposit slip. If you deposit the funds into the wrong account, you might not notice the error immediately, which can lead to trust account overdrafts. If you discover that funds have been deposited into the wrong account, immediately transfer them to the proper account.

Wait for Funds to Clear Before Disbursing

You cannot use funds deposited in a trust account until those funds have cleared the bank. Only make disbursements according to the guidelines described in this handbook, even if you have held the funds for a while before depositing. If a check is returned for insufficient funds, you want to know that promptly. You cannot distribute money immediately on the client's behalf unless you receive cash from the client.

Notify Clients Upon Receipt

When you receive funds from third parties for the client's benefit, such as settlement checks or drafts, promptly notify the client. ORPC 1.15-1(d). Checks or drafts made payable to you and the client must be endorsed by you and the client before they may be deposited in the trust account. If you know the client may be unavailable for endorsing during a critical period, discuss whether the client should give you a power of attorney to endorse the check or draft to ensure prompt presentation for payment. Absent such authorization, however, you cannot endorse the check or draft for the client.

Settlement Drafts

Frequently, settlements are paid by bank draft, which is a payment instrument issued by a bank that guarantees the availability of funds. However, a draft has not cleared and is not available for disbursement until it has reached the payor's bank and has been approved for release of funds. Drafts can be dishonored by the paying bank for irregularities such as an incorrect or incomplete endorsement.

ACCEPTING CREDIT CARDS

Accepting credit cards requires extra attention to bookkeeping, particularly when trust funds are involved. Most banks and private credit card processors charge setup fees, monthly fees, and annual fees in addition to the convenience fee surcharge on each transaction. Account for these fees ethically, in compliance with substantive law, and in your client fee agreement.



See the PLF practice aid, "Accepting Credit Cards." Go to the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

Legal professionals who accept credit card payments from clients should carefully review OSB Legal Ethics Op No 2005-172. Any credit card payments deposited to the trust account for services already rendered must be withdrawn promptly from the trust account and transferred to the general or office account to avoid commingling earned fees with unearned fees. See OSB Legal Ethics Op No 2005-172.

Designating a Merchant Account

If your bank requires you to designate a single merchant account for all credit card transactions and you accept credit card payments for earned and unearned fees, your merchant account should be a trust account. If you accept credit card payments for earned fees only, designate your business account as the merchant account. OSB Legal Ethics Op No 2005-172.

Credit Card Surcharges

Credit card surcharges are a subject of special concern. In 2013, the U.S. District Court for the Eastern District of New York approved the "Payment Card Interchange Fee Settlement," a class action suit among merchants, Visa, MasterCard, and other defendants involving allegations of excessive credit card surcharges.



For more information, visit the settlement website at www.paymentcardsettlement.com/en.

Some Oregon law firms take the position that the "Payment Card Interchange Fee Settlement" (PCIFS) permits them to pass Visa and MasterCard surcharges through to clients. The PLF does not advise lawyers on issues of substantive law. This includes interpreting the applicability of the PCIFS. You should note this comment in OSB Legal Ethics Op No 2005-172: "Some jurisdictions suggest that a lawyer can pass the credit card transaction fee on to the client if the client agrees. Interpretation of federal and state law on this issue is beyond the scope of this opinion, but we note that charging the client for the transaction fee may implicate Regulation Z of the Truth in Lending Act (12 CFR pt 226), requiring that the lawyer make certain specific disclosures to the client

and offer cash discounts to all clients." The opinion cites CONSUMER LAW IN OREGON CH 14 (Oregon Legal Pubs 2013).

If you elect to pass credit card surcharges on to clients, proceed at your own risk.

Conduct your own legal research on Regulation Z and other applicable laws, as well as current regulations and case law in Oregon on this topic.

Merchant Fees

The safest practice when accepting credit card payments is to treat the merchant fee or surcharge as a business expense. Arrange for the merchant fee to be deducted from your general office account and the client funds to be deposited in your trust account. If the bank will not deduct fees from your general account, you have two options.

First, permit the use of credit cards only for earned fees you can deposit immediately in your general account. Because banks will usually not deposit credit card payments into multiple accounts, limit acceptance of such payments to earned fees if you are using the general account. If you receive retainers or other unearned costs and fees by credit card, the trust account is the proper account to deposit these payments. This creates the challenge of accounting for the merchant fee. One correct but very cumbersome method is to calculate the merchant fee on each transaction and deposit that amount into the trust account on the same day the credit card payment is made.

Another approach is to use a private credit card processor. Private credit card processors are often more flexible than banks and will usually allow you to deduct merchant fees from the general account for all your transactions, regardless of which account receives your deposit. Many companies offer this service. Evaluate each company's reputation, references, rates, and services. Find a credit card processor experienced in serving the legal profession.

Lawyer's Responsibility to Pay Credit Card Fees

Credit card setup fees, monthly fees, and annual fees assessed by banks and credit card processors are a business expense of the law firm and your responsibility. You can calculate and build these costs into your billable fees with credit card surcharges, but clients must be informed and agree to the fee structure.



For a discussion of billing client costs, see Allison Martin Rhodes and Calon N. Russell "Billing Costs," Fee Agreement Compendium (2018). See also BarBooks™ on the OSB website, www.osbar.org.

DISBURSING FUNDS

ORPC 1.15-1(c) states, "A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred." Send each client a monthly statement showing all sums deposited and disbursed.

Generally, funds in a trust account may be withdrawn when earned and invoiced, unless you expect the client to dispute the amount due. ORPC 1.15-1(e). It is good practice, however, to give the client time to review the bill and notify you of such a dispute. Waiting a reasonable period – such as 30 days – after the client has been invoiced before withdrawing earned funds helps ensure that only undisputed funds are withdrawn. OSB Legal Ethics Op No 2005-149.

While there are no specific requirements to disburse trust funds, some methods are more insecure than others. For example, disbursing funds using a debit card carries serious risks. The card can be lost, misplaced, stolen, or used fraudulently, resulting in the theft of client funds. Using digital wallets (ApplePay, GooglePay, PayPal, etc.) may also pose a risk to confidentiality and security and may make it difficult to maintain accurate records. You should not connect your IOLTA to a debit card or to a digital wallet.

Never disburse from your trust account until deposited funds have cleared your bank. Disbursing funds on behalf of a client whose funds have not cleared the bank is the equivalent of using another client's money. The amount deposited for the client's benefit may be returned for insufficient funds or may not be honored by their bank. It is not easy to determine when deposited funds have been collected. All deposited items have varying times for collection, so check with your bank to determine the appropriate wait time before making a disbursement based on a particular deposit.

Never disburse from the trust account for "cash" or to pay personal or business expenses. Trust account disbursements should be made only to the client or for the benefit of the client. "Benefit of the client" includes payment from the trust account to the legal professional's general account to pay their fees and to pay for costs and expenses related to the client's representation. Best practice is to never use trust account funds to pay a personal expense. This means you should never use trust account funds to pay, for example, your OSB membership dues or your PLF assessment. To do so gives the appearance of converting client funds for your personal use. If the client owes \$350 for fees, you should disburse \$350 from that client's trust money to your business account. Only once the amount is in your business account is it available for your general use. Following this practice provides you with precise records of trust accounting and of personal and business expenses.

MAINTAINING TRUST ACCOUNT RECORDS

Trust account records should consist of a trust account journal and a separate client ledger card for each client. All deposits and disbursements must be tracked in the trust account journal, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement. The trust account journal keeps a running total of how much is in the account. A client's ledger card shows all funds deposited for that client's benefit and all disbursements

on behalf of the client against those funds, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement.

Recordkeeping Options

Trust account records can be maintained manually on paper or electronically via software. Although lawyers may use programs like Microsoft Word or Excel to keep trust account records, this manual system is prone to errors and miscalculations. Consider using accounting software that makes recordkeeping more efficient, accurate, and automatic.

I. General Accounting Software

General accounting software like QuickBooks, FreshBooks, Sage, and Xero is typically used to manage and track the finances of the general office. But it can also be used for trust accounting if you create proper account categories in the chart of accounts as well as other functions and reports necessary for trust accounting. Using a general accounting program to track trust transactions is much more efficient and accurate than maintaining manual records on paper or via spreadsheet, provided you set up and use the software correctly. A single entry can simultaneously generate a check, post data to the trust account journal, and post the same entry in the client's individual ledger. Reconciling your trust account with these programs takes only a few minutes and involves entering the ending balance from your financial institution statement on the reconciliation screen and marking cleared deposits and disbursements. After the program indicates the account is in balance, you can prepare a report for each individual client to see whether their individual account balances with your reconciled balance.

Legal-Specific Accounting Software

Another option is to use legal-specific software built for trust accounting. These programs have features that associate each trust transaction with a specific client matter. They allow you to generate individual client ledger reports, trust journal reports, and other reports. They also have safeguards to prevent you

from overdrawing the trust account while allowing you to perform three-way reconciliation. Most law practice management software has a built-in trust accounting program that allows you to manage your trust account. Some programs such as CosmoLex or Caret have additional features and safeguards that comply with specific trust accounting concepts. Others integrate with a general accounting program such as Quickbooks.

(See samples of reports from QuickBooks®, Quicken®, and CosmoLex® in the Appendix.)

Sample Client Ledger Card

The sample client ledger card below reflects various transactions for the client John Jones. This ledger card has three categories.

The first category is "Costs Advanced" in the middle of the card. This category is used to track money that a lawyer advances to pay for costs on behalf of a client related to their matter. The "Costs Advanced" category has three columns. The column labeled "Advanced" is used when funds have been advanced. The "Received" column is used when the costs advanced have been paid from the trust account and received by the lawyer. The "Balance" column reflects the amount remaining after the costs advanced and received have been calculated.

The second category is "Fees." This category is fees earned by the lawyer for legal services provided. The "Fees" category also has three columns. The "Charged" column signifies the amount of legal fees the client owes the lawyer. The "Received" column indicates the amount of fees that have been paid to and received by the lawyer from the trust account. The "AR (Accounts Receivable) Balance" column should be self-explanatory.

The final category is called "Trust." This category is used to track money deposited into or withdrawn from the trust account. The "Disbursed" column in this category tracks money that has been withdrawn and disbursed from the trust account to pay the lawyer fees, pay case-related expenses, or reimburse the lawyer for costs advanced. The "Received" column tracks funds deposited in the trust account, such as a retainer or settlement check. The "Balance" column reflects the funds remaining in the trust account after crediting all disbursements and receipts.

Here is a step-by-step description of each transaction listed in the sample client ledger card below.

On January 4, 20XX, lawyer Roberta Long receives a retainer from client Jones in the amount of \$1,000 on his personal check #110. This check is deposited into the trust account, so it is recorded in the "Received" column of the "Trust" category.

On January 14, 20XX, lawyer Long files a Petition of Dissolution on behalf of client Jones. She uses her business credit card to pay Jones's eCourt filing fee of \$200. This amount is posted to the ledger in the "Costs Advanced" category. It is recorded in the "Advanced" column because lawyer Long is using her own money to advance costs on behalf of the client for their matter. The balance for "Costs Advanced" is now \$200. Notice that the balance in "Trust" is still \$1,000 because no money has been moved out of the trust account yet.

That same day, lawyer Long writes check #5024 from the trust account in the amount of \$200 to reimburse herself for the eCourt filing fee. This transaction is recorded in the "Received" column of the "Costs Advanced" category. Having received \$200, the "Balance" column is now zero. This transaction is also recorded in the "Disbursed" column of the "Trust" category because lawyer Long uses the client's funds in the trust account to reimburse herself for the filing fee. The "Trust" balance is now \$800 after the \$200 disbursement.

On January 15, 20XX, lawyer Long writes check #5025 from the trust account for \$20 to pay the Sheriff's office for service of process. This disbursement from the trust account is recorded in the "Disbursed" column of the "Trust" category, and the balance is now \$780. Notice that because lawyer Long does not advance this \$20 cost but instead pays for it directly from the trust account using a trust check, no entries are recorded in the "Costs Advanced" category.

On January 21, 20XX, incoming documents are scanned for client Jones. This \$5 expense is recorded in the "Costs Advanced" category, reflecting a balance due of \$5. No funds are disbursed out of client Jones's trust account to cover this cost, so the "Trust" balance does not change but remains at \$780.

On January 31, 20XX, lawyer Long sends a billing statement to client Jones for legal fees in the amount of \$500. This amount is recorded in the "Fees" category under the "Charged" column. The balance in "Fees" is now \$500. In her billing statement, she also itemizes the balance in the "Costs Advanced" section up to this date, which includes only the \$5 fee for scanning. She then writes check #5026 from the trust account in the amount of \$505 to pay herself for legal fees and costs advanced. This

is recorded in the "Disbursed" column in the "Trust" category. After the disbursement, the balance of the trust account is now \$275. Lawyer Long then deposits check #5026 into her office account, and this transaction is recorded in the "Received" column of the "Costs Advanced" category as well as the "Received" column of the "Fees" category. The effect is to credit client Jones's account with the money transferred from trust, leaving Jones's balance owed for fees and costs at \$0.

On February 4, 20XX, a delivery fee is incurred on behalf of client Jones. This expense is posted to the "Advanced" column of the "Costs Advanced" category, which then reflects a balance due of \$5. As with the scanning fee posted on January 21, no funds are disbursed out of the Jones trust account, so the balance remains at \$275.

On February 29, 20XX, lawyer Long sends another billing statement to client Jones for legal fees totaling \$300. She then writes check #5030 in the amount of \$275 to pay for her fees. Notice that her fees are \$300 but the check is only for \$275, which is the balance remaining in client Jones' trust account. Client Jones now has insufficient funds in his trust account to pay lawyer Long in full. Jones now owes lawyer Long \$25 in unpaid legal fees and \$5 in costs advanced (for the delivery fee on February 4) totaling \$30. When lawyer Long deposits check #5030 from Jones's trust account into the office account (the third entry on February 29), she applies the available \$275 to costs first, zeroing out the \$5 balance, then to her fees of \$300, leaving a balance due of \$30 in the "Fees" category. Client Jones's balance owed is then \$30 in the "AR (accounts receivable) Bal." column of the "Fees" category. (When trust funds cannot cover both fees and costs, as they are, the available trust balance is always applied to costs first, then to attorney fees.)

SAMPLE CLIENT LEDGER CARD

	Balance	1,000.00	1,000.00	800.00	780.00	780.00	780.00	275.00	275.00	275.00	275.00	0.00	0.00
TRUST	Received	1,000.00											
	Disbursed			200.00	20.00			505.00				275.00	
	AR Bal.						500.00		0.00		300.00		30.00
FEES	Received								500.00				270.00
	Charged						500.00					300.00	
CED	Balance		200.00	0.00		2.00			0.00	2.00			0.00
COST ADVANCED	Received			200.00					2.00				2.00
Ö	Advance		200.00			5.00				5.00			
Q 2	CK. NO.	110		5024	5025			5026	5026			5030	5030
	MEMO	Retainer	eFiling Fee	eFiling Fee	Service Fee	Scanning Fee	Statement Sent	Fees & Costs	A.R.	Delivery Fee	Statement Sent	Fees & Costs	
L	NAME	Jones, John	Office	Costs – Roberta	Sheriff	Office	Fees – Roberta Long	Roberta Long	Dep. To Office Acct.	Office	Fees – Roberta Long	Roberta Long	Dep. To Office. Acct.
L F	DAIE	1/04/XX	1/14/XX	1/14/XX	1/15/XX	1/21/XX	1/31/XX	1/31/XX	1/31/XX	2/04/XX	2/29/XX	2/29/XX	2/29/XX

ENTERING TRANSACTIONS ACROSS ALL TRUST RECORDS

Each transaction related to the trust account must be associated with a client and entered across all relevant trust records. For example, on a duplicate deposit slip, list each check or cash amount separately. For each entry made, identify the client and matter, if necessary. In the sample duplicate deposit slip shown here, client Brown is shown as having remitted \$500 in cash, and three checks are listed: one for client Smith from States Insurance (\$30,000), one from client Jones for \$1,000, and one from client Martin for \$250.

SAMPLE DUPLICATE DEPOSIT SLIP

DATE 3/04/XX	DOLLARS	CENTS
CURRENCY: 1. Brown	500	
COIN		
CHECKS: 1. States Insurance/Smith	30,000	
2. Jones	1,000	
3. Martin	250	
4.		
5.		
TOTAL	31,750	

This sample duplicate deposit slip shows the client names for accounting purposes. If you deposit cash, write the amount of cash from each client on the duplicate deposit slip. Your bank deposit slip should reflect the total cash deposited. Photocopy or scan each client check and attach it to the duplicate deposit slip or the deposit receipt the bank provides for the law firm records.

When you make a deposit, enter the amount in the "Trust Account Journal." Using the example above, these entries should be made to the Trust Account Journal for clients Brown, Smith, Jones, and Martin, as shown below.

TRUST ACCOUNT JOURNAL

Date	Client	Source/ Payee	Receipts	Disburse- ments	Description	Balance
3/04/XX	Brown	Brown	500.00		Retainer	500.00
3/04/XX	Smith	States Ins.	30,000.00		Settlement	30,500.00
3/04/XX	Jones	Jones	1,000.00		Retainer	31,500.00
3/04/XX	Martin	Martin	250.00		Retainer	31,750.00

You must enter these same amounts on the individual client ledger cards for clients Brown, Smith, Jones, and Martin as shown in the samples below.

NAME: Brown, Chris	MATTER: Corporate	FILE NO. <u>674</u>
ADDRESS: 789 Your Street, Ar	nywhere, OR 97000	PHONE: 503-123-4567
		LAWYER: Roberta Long

DA	3/04/XX			
NA	NAME			
ME	Retainer			
CK.	CK. NO.			
	ADVANCE			
COST ADVANCED	RECEIVE			
	BALANCE			
	CHARGE			
FEES	RECEIVE			
	AR. BALANCE			
	DISBURSE			
TRUST	RECEIVE	500.00		
	BALANCE	500.00		

NAME: Smith, Jamie	MATTER: Corporate	FILE NO. 675
ADDDECC 1/6/1 SW First	Anywhoro OR 97000	DUONE 502 649 0764
ADDRESS: 1464 SW First,	Anywhere, Ok 97000	PHONE: <u>503-648-9764</u>
		LAWYER: _Roberta Long

DA	3/04/XX			
NA	NAME			
ME	Settlement			
CK.	CK. NO.			
	ADVANCE			
COST ADVANCED	RECEIVE			
	BALANCE			
	CHARGE			
FEES	RECEIVE			
	AR. BALANCE			
	DISBURSE			
TRUST	RECEIVE	30,000.00		
	BALANCE	30,000.00		

NAME: Jones, John	MATTER: Dissolution	FILE NO. <u>673</u>
ADDRESS: 123 Main Street,	Anywhere, Oregon 97000	PHONE: _503-999-0000
		LAWYER: Roberta Long

DA	DATE				
NA	NAME				
ME	Retainer				
CK.	CK. NO.				
	ADVANCE				
COST ADVANCED	RECEIVE				
	BALANCE				
	CHARGE				
FEES	RECEIVE				
	AR. BALANCE				
	DISBURSE				
TRUST	RECEIVE	1,000.00			
	BALANCE	1,000.00			

NAME: Martin, Mark	MATTER: Real Estate	FILE NO. <u>672</u>
ADDRESS: 7436 Elmwood, A	nywhere, OR 97000	PHONE: <u>503-246-9878</u>
		LAWYER: Roberta Long

DA	3/04/XX			
NA	NAME			
ME	Retainer			
CK.	CK. NO.			
	ADVANCE			
COST ADVANCED	RECEIVE			
	BALANCE			
	CHARGE			
FEES	RECEIVE			
	AR. BALANCE			
	DISBURSE			
TRUST	RECEIVE	250.00		
	BALANCE	250.00		

To disburse funds from the trust account, prepare a check (see sample below) and fill in the "For" or "Memo" line on the bottom left of the check. This should include the client's name and the reason for the disbursement.

Roberta Long		
Lawyer Trust Account		
123 Main		
Anywhere, OR 97000	<u>March 18</u> , 20XX	
Pay to the Order of Smith Court Reporting		\$ 200.00
Two Hundred and 00/100ths		Dollars
Memo Jones / Court Reporter		

Once the check has been written, make the entry noted in bold in the Trust Account Journal like the sample below.

Date	Client	Source/ Payee	Receipts	Disburse- ments	Description	Balance
3/04/XX	Brown	Brown	500.00		Retainer	500.00
3/04/XX	Smith	States Ins. Co.	30,000.00		Settlement	30,500.00
3/04/XX	Jones	Jones	1,000.00		Retainer	31,500.00
3/04/XX	Martin	Martin	250.00		Retainer	31,750.00
3/14/XX	Jones	Roberta Long		30.00	AR Balance	31,720.00
3/18/XX	Jones	Smith Court Reporting		200.00	Court Reporter	31,520.00
TOTALS			31,750.00	230.00		31,520.00

You must also make the entry on client Jones' client ledger card. The \$1,000 retainer paid on March 4, 20XX is noted in italics, and the \$200 court reporting fee paid on March 18, 20XX, is noted in bold. Also included is a disbursement to lawyer Long's office account on March 14, 20XX, to pay off Jones' outstanding accounts receivable balance of \$30.00.



See the PLF Practice Aid "Client Ledger Card and Trust Journal" for a sample ledger card and trust journal. Go to the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

PERFORMING THREE-WAY RECONCILIATION

Reconcile the trust account with your bank statements each month without fail If someone makes an error, it is easily discovered and corrected if the account is reconciled monthly. If you don't reconcile the trust account for many months, it may be almost impossible to find and correct any errors, and an ongoing error will eventually lead to an overdraft. An undiscovered and uncorrected error indicates that you are not properly maintaining and safeguarding client funds.

To reconcile a trust account, you need the balances from these different documents:

- 1. all individual client ledgers;
- 2. your trust journal; and
- 3. the trust account bank statement. Unless you have accounting software that can perform the reconciliation automatically, you will need to reconcile manually.



You may use a reconciliation form like the sample Trust Account Reconciliation practice aid available on the PLF website, osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

It has an easy format to follow for reconciling a trust account.

The amounts in parts one, two, and three of the sample reconciliation form must be identical. If a discrepancy exists between any of the figures, it must be resolved before the account is considered in balance. Finding the error can be challenging, but being off even one penny means the account does not balance.

Each month, the trust balances for each client must be added together. Use the bank statement to reconcile the trust journal. Compare the bank statement list of deposits and disbursements with the trust journal records. Mark all deposits and disbursements shown on both. Then, using a reconciliation form (usually on the back of the bank statement), subtract from the bank statement balance any checks that have not cleared the bank, and add any deposits not shown on the bank statement. This balance should equal the amount in the trust journal. It should also equal the total of all individual client ledger card balances.

If you maintain a checkbook register in lieu of a trust journal, reconcile the checkbook register to your bank statement and perform the steps described above. If you use

an accounting program, run the reconciliation feature and check off disbursements and deposits that have cleared the bank. Run a report showing each client's trust balance and compare it to your reconciliation.

Below is a step-by-step example of how to reconcile your trust account. The samples are from a manual accounting system that requires entries to be duplicated in the trust journal. Many lawyers now use accounting software, whether general accounting software or other programs like legal practice management software or timekeeping and billing software that include trust accounting features. However, walking through the manual process can be helpful in understanding how to properly perform a three-way reconciliation. The first three samples below are client ledger cards documenting all the receipts and disbursements for three clients – Adams, Barnes and Cobb – for one month.

					CLIENT LED	GER CARD						
NAME:	Adams, Arnie			MATTER:	Dissolution			FILE NO.	17901			
ADDRESS:	123 1st Street, Tiga	ard, OR 97224		PHONE:	503-675-0	000		ATTORNEY	Mary Fields			
DATE	NAME	мемо	CK.	COSTS A	DVANCED			FEES			TRUST	
			NO.	Advance	Rec.	Balance	Charged	Rec.	AR Bal.	Disburse	Rec.	Balance
Sept. 1	Adams, Arnie	Retainer	110								7,500.00	7,500.00
Sept. 5	Office	E-Filing Fee		200.00		200.00						7,500.00
Sept. 5	Sheriff	Service Fee		20.00		220.00						7,500.00
Sept. 6	Office	Copying		5.00		225.00						7,500.00
Sept. 15	Parenting LLC	Caseworker		75.00		300.00						7,500.00
Sept. 29	Fees Fields	Stmt sent					875.00		875.00			7,500.00
Sept. 29	Mary Fields	Fees + costs	2010							1,175.00		6,325.00
Sept. 29	Dep to Office	AR + CA	2010		300.00	0.00		875.00	0.00			6,325.00

					CLIENT LE	DGER CARD						
NAME:	Barnes, Betty			MATTER:	Dissolution			FILE NO.	17902			
ADDRESS:	520 Main Street, La	ike Oswego, Orego	n 973	PHONE:	503-795-11	11		ATTORNEY	Mary Fields			
DATE	NAME	мемо	CK.	COSTS A	DVANCED			FEES			TRUST	
			NO.	Advance	Rec.	Balance	Charged	Rec.	AR Bal.	Disbursed	Rec.	Balance
Sept. 6	Barnes, Betty	Retainer	1525								7,500.00	7,500.00
Sept. 8	Office	E-Filing Fee		200.00		200.00						
Sept. 8	Ready Process	Service Fee		20.00		220.00						
Sept. 11	Office	Copying		5.00		225.00						
Sept. 29	Fees- Mary Fields	Statement Sent					775.00		775.00			
Sept. 29	Mary Fields	Fees + costs	2011							1,000.00		6,500.00
Sept. 29	Deposit to business account	AR and CA	2011		225.00	-		775.00	-			

					CLIENT LED	GER CARD							
NAME:	Cobb, Calvin and Ka	ite		MATTER:	Adoption			FILE NO.	17903				
ADDRESS:	8114 Marylhurst, Wes	st Linn, Oregon 97	210	PHONE:	503-695-21	21		ATTORNEY	Mary Fields				
DATE	NAME	MEMO		COSTS A	DVANCED			FEES			TRUST		
			ск.										
			NO.	Advance	Rec.	Balance	Charged	Rec.	AR Bal.	Disbursed	Rec.	Balance	
Sept. 8	Cobb, Calvin	Retainer	201								5,000.00	5,000.00	
Sept. 11	Office	E-Filing Fee		175.00		175.00							
Sept. 11	Ready Process	Service Fee		105.00		280.00							
Sept. 11	Office	Copying		5.00		285.00							
Sept. 12	Fees- Mary Fields	Statement Sent					500.00		500.00				
Sept. 29	Mary Fields	Fees + costs	2012							785.00		4,215.00	
Sept. 29	Deposit to business account	AR and CA	2012		285.00	-		500.00	-				

The sample below is the combined trust journal for all clients. Remember that in addition to adding specific transactions to each individual client ledger, you also need to be tracking all receipts and disbursements in the trust journal so that you have an ongoing record of what is in your trust account overall, not just for each individual client.

MARY FIELDS LAWYER TRUST ACCOUNT RECEIPTS AND DISBURSEMENTS JOURNAL

DATE	MATTER / CLIENT REFERENCE	RECEIPTS	DISBURSEMENTS	BALANCE
Aug. 31	Balance			\$0.00
Sept. 1	Arnie Adams - retainer paid	\$7,500.00		\$7,500.00
Sept. 6	Betty Barnes - retainer paid	\$7,500.00		\$15,000.00
Sept. 8	Calvin and Kate Cobb - retainer paid	\$5,000.00		\$20,000.00
Sept. 29	Fees and costs - Arnie Adams		\$1,175.00	\$18,825.00
Sept. 29	Fees and costs - Betty Barnes		\$1,000.00	\$17,825.00
Sept. 29	Fees and costs - Calvin and Kate Cobb		\$785.00	\$17,040.00

The trust journal only tracks receipts, disbursements, and the balance of the trust account. At the end of each month, you must reconcile the trust account by making sure that the total of all of the balances for each client ledger card matches the balance specified in the trust journal and also matches your trust account bank statement balance. Although no sample is provided here, you must be using your trust account bank statement as part of the monthly reconciliation. The sample below is a trust account reconciliation sheet:

TRUST ACCOUNT RECONCILIATION SHEET						
For the Month Ended <u>September 30</u>						
Lawyer Individual Trust A	Account Ledger Balances	Amounts				
Client	Adams, Arnie	\$6,325.00				
Client	Barnes, Betty	\$6,500.00				
Client	Cobb, Calvin and Kate	\$4,215.00				
Client						
Client						
Attorney Funds for E	Bank Charges (if any)	\$0.00				
1. Total Lawyer Individual Trus	t Account Ledger Balances	\$17,040.00				
2. Lawyer Trust Account Jour	nal Balance	\$17,040.00				
Bank Statement Balance		\$17,040.00				
Less C	\$0.00					
	\$0.00					
3. Reconciled Bank Stateme	\$17,040.00					

*Amounts 1, 2, and 3 above must be identical to each other for the trust account to balance.

STEP 1

The first step is to reconcile the total lawyer individual trust account ledger balances (amount #1) with the lawyer trust account journal balance (amount #2). The purpose of this step is to make sure that the entries in your individual client ledgers match the entries in your trust account journal. If those two balances match, you are ready to move on to the next step. If those two balances do not match, that means there is a mistake. Go back through each entry in your client ledgers and trust account journal and find the error. If you need assistance, contact a bookkeeper or accountant. Once amounts #1 and #2 match, move to the next step.

STEP 2

Include the balance of the trust account as of the last day covered by the bank statement in the "Bank Statement Balance" row. Generally, the bank statement may be missing some outstanding disbursements or in-transit deposits. To find out which transactions have not yet been posted to your bank statement, compare each entry on the bank statement with the corresponding entry in your trust account journal. If the entry in the trust account journal matches the entry on the bank statement, mark off the entry in the trust account journal to show the money has cleared the bank. Likewise, mark off the entry on the bank statement to show you have verified it against the trust account journal.

STEP 3

After comparing each entry on the bank statement with the corresponding entry in your trust account journal, unmarked entries mean they haven't been debited or credited by the bank and need to be placed in either the "Less Outstanding Disbursements" or "Plus In-Transit Deposits" category. Next, subtract any outstanding disbursements and add any in-transit deposits to the "Bank Statement Balance" and put the amount in the category titled "Reconciled Bank Statement Balance," (amount #3). If amounts #1 (Total Lawyer Individual Trust Account Ledger Balances), #2 (Lawyer Trust Account Journal Balance), and #3 (Reconciled Bank Statement Balance) match, then your trust account is reconciled.

CLOSING THE TRUST ACCOUNT



A checklist describing the steps involved in closing a lawyer trust account is available on the PLF website at osbplf.org > Services > CLEs & Resources > Practice Aids > search by category or by document name.

You do not have to report the closure of a trust account to the bar between annual certifications.

DEATH OF SOLE SIGNATORY ON THE TRUST ACCOUNT

When the sole signatory on a trust account dies, the court may take jurisdiction and appoint one or more lawyers in good standing with the OSB to act as custodians of the affected law practice. ORS 9.705-9.755. This process is slow and can be expensive. A better practice is for solo practitioners to plan ahead for the unexpected by selecting an "assisting attorney."



This process is described in the PLF handbook, Planning for the Unexpected, available on the PLF website, osbplf.org.

If you would like assistance with this process, call the PLF to speak with a practice management attorney.

The foregoing is typical of the procedures to maintain proper trust account records. For practical assistance with trust accounting issues, legal professionals and staff are encouraged to call the practice management attorneys at the Professional Liability Fund at 503.639.6911 or 1.800.452.1639, for free and confidential help with trust accounts. Questions relating to a legal professional's ethical obligations under the Oregon Rules of Professional Conduct should be directed to the General Counsel of the Oregon State Bar at 503.620.0222 or 1.800.452.8260.

Frequently Asked Questions



Q. When must I set up a lawyer trust account?

A. ORPC 1.15-1(a) states that a lawyer shall hold property of clients or third persons in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses, escrow, and other funds held for another, shall be kept in a separate "Lawyer Trust Account."

Q. Where should I set up a trust account?

A. Lawyers must open a trust account in the jurisdiction where their office is located. ORPC 1.15- 1(a). The financial institution must be authorized by law to transact business in the state where the account is maintained; must be insured by the Federal Deposit Insurance Corporation or an analogous federal government agency; must have contracted with the Oregon Law Foundation (OLF) to report and remit interest earned on IOLTA accounts; and must have signed an overdraft notification agreement with the Oregon State Bar.

Q. Must I notify the OSB, the OLF, or PLF when I set up or close a trust account?

A. Lawyers opening a new IOLTA account are no longer required to complete a "Notice of Enrollment" form and submit it to the OLF within 30 days of establishing the account. Lawyers also do not have to notify the OSB, OLF, or PLF when they open or close a trust account. You will simply report whatever trust accounts you have open in Oregon in your Annual IOLTA Certification reporting to the OSB.

Q. Why must I complete an Annual IOLTA Certification?

A. Every active member of the Oregon State Bar must annually certify to the OSB whether the member maintains any lawyer trust accounts in Oregon. ORS 9.675. The member must disclose the financial institution in which each account is held and the account number for each account. If you do not maintain lawyer trust accounts in Oregon for the purpose of holding client funds or the funds of third parties pursuant to ORPC 1.15-1 and ORPC 1.15-2, you must specify that either your office is in another jurisdiction and those accounts are not in Oregon (option 2) or you do not hold client funds or the funds of third parties or maintain any lawyer trust accounts (option 3).



For more information about the annual certification requirements, please see the bar website at www.osbar.org/IOLTA/faq.html.

Q. When can I disburse funds from my trust account?

A. Wait a prudent amount of time for the funds to clear. The time period depends on what was deposited and your financial institution's requirements regarding collected funds. Funds may be deposited in different forms, such as checks, drafts, money orders, cashier's checks, and electronic transfers, among others. Each financial institution has its own schedule for funds availability and disbursement based on regulations and internal banking procedures. Discuss this with the financial institution handling your trust account. For example, a check is not deemed "cleared" until it is honored and collected by the issuing bank, even if your bank has a policy of making funds available in a shorter period.

For checks, if it is an ordinary transaction with an established client or known third party, wait three banking days for locally written checks, five banking days for checks written within Oregon but outside your local area, and ten or more banking days for out-of-state checks. Note that checks for \$5,000 and over may be held by banks for seven banking days, whether drawn on a local, in-state, or out-of-state bank, so allow sufficient time for these checks.

To avoid the growing problem of check scams, wait at least ten banking days before disbursing funds in the following circumstances: (1) the transaction is with a new client or a client you are unsure about; (2) the check is very large (especially compared with the extent of legal services provided, if the check is a retainer); (3) the check is from an unknown third party; or (4) any aspect of the transaction

raises (or should raise) your suspicions. Remember that drafts or other instruments may take longer than ten days to process. To verify that funds have been collected, ask your bank to contact the issuing bank.

For further discussion of banking rules, check scams, and the time that may be necessary for funds to clear, see Amber Hollister, "Settlements and Scams: Consider the Scope, Be Aware of the Risks," Oregon State Bar Bulletin (January 2020), and Rachel Edwards, "Check Washing: Don't Get Hung Out to Dry By This Reemerging Scam," PLF inPractice (May 1, 2023).

Q. What do I do if I send a client or third party a check from my trust account and it is lost?

A. Ask the client or third party to look again to verify that the check has been lost. If they still cannot find it, contact your bank immediately and request that they place a stop-payment order on the check. Verify the length of the stop-payment order and whether you need to request an extension upon expiration. Most stop-payments last 6 to 12 months. Then write a replacement check, but verify whether your bank has fraud protections in place through programs like Positive Pay, to prevent duplicate deposits if the lost check is eventually found. Some banks will allow you to request an account memo instructing the bank not to cash the lost check.

Q. My trust account has had an outstanding check for a while. What should I do about it?

A. If the money cannot be returned to the client, you must comply with ORS 98.302-98.436 (Uniform Disposition of Unclaimed Property Act). Effective January 1, 2021, unclaimed funds held in lawyer trust accounts must be reported to the Oregon State Treasury but paid over to the Oregon State Bar with a copy of the Oregon State Treasury report.



Go to the Oregon State Bar website at www.osbar.org > For Members > OSB Resources > Unclaimed Client Funds for more information about the process.

In no circumstance may you take unclaimed funds for your own purposes. OSB Legal Ethics Op No 2005-48.

Funds held by a fiduciary are considered abandoned if the owner has not accepted payment of the funds, corresponded in writing about the funds, or otherwise indicated an interest in the funds within two years after the funds are payable or distributable to the owner. ORS 98.332. Funds deemed abandoned as of June 30 of each year are to be reported to the Oregon State Treasury electronically during the month of October that same year, although earlier reporting may be allowed upon written request.

Q. Can I have more than one trust account?

A. Yes. There is no limit on the number of trust accounts you can have at any one time. Generally speaking, a lawyer or law firm needs only one IOLTA to handle monies received in trust that are either nominal in amount or held for a short period of time. Lawyers who represent clients in more than one jurisdiction may have to establish multiple IOLTAs. In addition, client funds that can earn "net interest" must be deposited in a separate trust account in which interest accrues for the client's benefit. This must be a separate account for each client or client matter, or in a pooled interest-bearing lawyer trust account with sub-accounting that provides for computation of interest earned by each client's funds and payment to clients of interest earned net a prorated share of any bank service charges. ORPC 1.15-2(c). If you have multiple trust accounts, be cautious and make sure that you are carefully monitoring all accounts. The more accounts you have open, the more difficult it will be to keep track of and reconcile them, and the more likely that mistakes and possibly overdrafts will occur.

Q. What is "net interest?"

- **A.** ORPC 1.15-2(d) provides: "In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:
 - 1. the amount of the funds to be deposited:
 - the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
 - the rates of interest at financial institutions where the funds are to be deposited;
 - 4. the cost of establishing and administering a separate interest-bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;

- 5. the capability of financial institutions, the lawyer, or the law firm to calculate and pay income to individual clients; and
- any other circumstances that affect the ability of the client's funds to earn a net return for the client"

Q. Can I set up a lawyer trust account for a client outside of Oregon?

A. In Oregon, trust funds must be deposited in a trust account in the jurisdiction in which the lawyer's office is situated. See ORPC 1.15-1(a). Lawyer trust accounts must conform to the rules in the jurisdictions in which the accounts are maintained. Any inconsistencies between the rules of the jurisdictions will be resolved by the provision in ORPC 8.5(b).

Q. Can a client waive the right to interest?

A. Yes. Clients have no choice regarding the placement of funds into IOLTA accounts, and only those funds that cannot earn net interest are to be placed in an IOLTA account. ORPC 1.15-2(c) mandates that client funds that can earn net interest shall be placed in an interest-bearing trust account for the client's benefit, and the net interest earned by funds in such an account shall be held in trust as property of the client. But nothing prohibits clients from waiving the right to interest earned on funds held in a separate interest-bearing account and authorizing payment of the interest to the Oregon Law Foundation. There may be tax implications in the client's waiver of interest income and the corollary charitable contribution. The legal professional should inform the client of that possibility and recommend that they seek independent tax advice before deciding how to proceed. There may also be a self-interest conflict for the legal professional in giving such advice. See OSB Legal Ethics Op No 2005-117 for more information.

Q. Which banks offer the best interest rates on IOLTA accounts?

A: Where you bank matters!



Put your lawyer trust account funds in one of the Leadership Banks identified on the Oregon Law Foundation website, https://oregonlawfoundation.org, because those banks will maximize the rate of return on IOLTA accounts.

Q. Am I required to monitor my trust account?

A. Yes. You must review your IOLTA account at reasonable intervals to determine whether circumstances have changed and a particular client did or can earn net interest. ORPC 1.15-2(e).

Q. What if a client earned or could earn net interest?

A. If a particular client's funds either earned or could earn net interest, transfer the funds into an appropriate interest-bearing account and request a refund in writing from the Oregon Law Foundation for any interest that may have been remitted to the OLF. ORPC 1.15-2(f). Review ORPC 1.15-2(f) (1) and (2) for further details.

Q. Can I pay client costs directly out of the trust account?

A. Yes, as long as the client has money in the trust account to cover the costs. If funds deposited on behalf of a client have not yet cleared, you must either wait until they clear or pay the costs out of your general account and reimburse the general account when the funds have cleared.

Q. Must I keep a minimum balance in my trust account?

A. Only if the bank requires a minimum balance. Most banks do not. If a minimum balance is required, deposit only enough money to meet the bank's requirement. See ORPC 1.15-1(b).

Q. What if the bank takes check-printing charges from the trust account?

A. You can deposit your own money into the trust account to cover check-printing charges or other service charges. ORPC 1.15-1(b) permits lawyers to deposit their own funds into the lawyer trust account to pay bank service charges or meet minimum balance requirements in amounts necessary for those purposes.

Q. What if I have an overdraft on the trust account?

A. ORPC 1.15-2(I) states, "Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing The lawyer shall include a full explanation of the cause of the overdraft." See ORPC 1.15(2)(i) for further details.

Q. Do I have a duty to report any accounting mistakes made on my trust account other than an overdraft?

A. No. There is no duty to report mistakes to the bar other than an overdraft. But if you discover a mistake has been made, even if you can fix the mistake, you should consider contacting a bookkeeper or accountant to ensure that you understand

the cause of the mistake and can prevent it from happening again. The practice management attorneys are also available to provide advice on best practices for accounting and general office systems and procedures.

Q. What do I do when a client overpays a bill?

A. You must deposit the entire client payment to the trust account. Only the amount currently due to the legal professional or law firm can be disbursed from the trust account in payment of the client's bill. Contact the client and get instructions on whether you should refund the overpayment or leave the money in the trust account for future costs or attorneys' fees.

Q. How long must I wait to withdraw funds from the trust account once I have done work for a client?

A. Generally, you may withdraw funds from a trust account when earned and invoiced unless you expect the client to dispute the amount due. ORPC 1.15-1(e). However, until the bill is received, the client will be unaware of the amount of the bill. You may want to wait a reasonable period – such as 30 days – after invoicing the client before withdrawing earned funds. OSB Legal Ethics Op No 2005-149.

Q. What happens when a sole signatory on a trust account dies?

A. When the sole signatory on a trust account dies, the court may take jurisdiction and appoint one or more lawyers in good standing with the OSB to act as custodian of the affected law practice. ORS 9.705-9.755. This process is slow and can be expensive. A better practice is for solo practitioners to plan ahead for the unexpected by selecting an "assisting attorney." This process is described in the PLF handbook, *Planning for the Unexpected*, which is available on the PLF website, *www.osbplf.org*. If you would like assistance, call the PLF to speak with a practice management attorney.

Q. How long must I keep trust account records?

A. ORPC 1.15-1(a) states, "Complete records of [trust] account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation."

Q. What are complete trust account records?

A. ORPC 1.15-1(a) does not define what constitutes complete records. The ABA Model Rules for Client Trust Account Records advises retaining the following: receipts and disbursement journals containing a detailed record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement; ledger records for each separate client or third person; copies

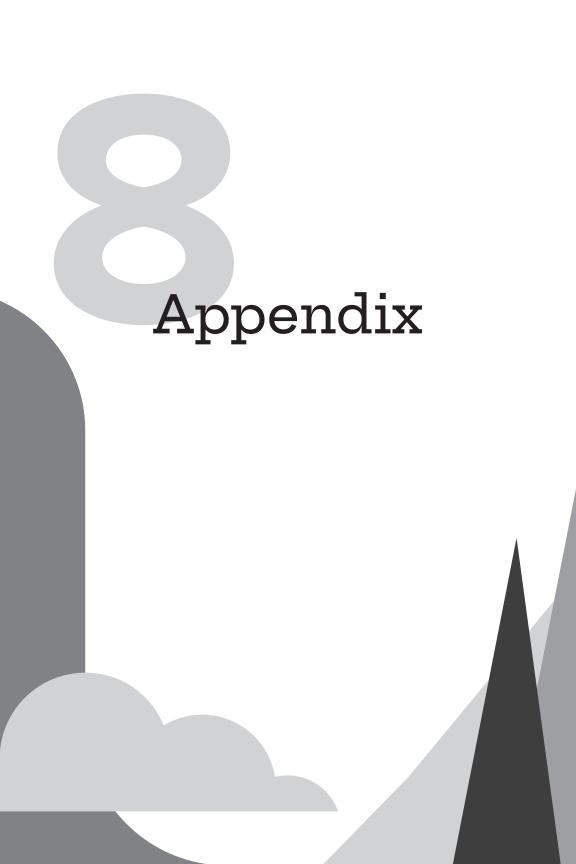
of retainers and fee agreements; copies of accountings to clients or third parties; copies of bills for legal fees and costs given to each client; copies of records showing disbursements on behalf of clients; the physical or electronic equivalent of checkbook registers, bank statements, deposit records, and canceled checks; copies of trial balances and reconciliations of the lawyer trust accounts; and copies of those portions of client files reasonably related to lawyer trust account transactions.

Q. Where can I get additional help with trust accounting or IOLTA requirements?

A. Visit the OLF website at https://oregonlawfoundation.org > IOLTA > For Lawyers, or call the OLF Administrator at 503.447.3353.

For assistance with setting up a system for trust accounting, call the practice management attorneys at the PLF at 503.639.6911 or 1.800.452.1639, or visit the PLF website, *osbplf.org*. For assistance with reconciling your trust account, contact a local bookkeeper or accountant.







THE FOLLOWING IS A LIST OF RESOURCES YOU MAY FIND HELPFUL DURING YOUR PRACTICE



SAMPLE TRUST ACCOUNT JOURNAL REPORT USING QUICKBOOKS®

(QuickBooks® replica report reflecting a trust account journal.

Actual reports generated in this program will differ in format and detail.)

11:42 a.m. 02/29/20XX Cash Basis

Туре	Date	Num	Memo	Paid Amount	Balance
Client Trust Accounts	i				
David Jones					
Deposit	1/13/20XX		Deposit	3,000.00	3,000.00
Check	1/25/20XX	0001	Filing Fee	-250.00	2,750.00
Total David Jones				2,750.00	2,750.00
Harold Anderson					
Deposit	1/13/20XX		Deposit	5,000.00	5,000.00
Total Harold Andersor	1			5,000.00	5,000.00
Sharon Brown					
Deposit	1/27/20XX		Deposit	2,500.00	2,500.00
Check	2/11/20XX	0002	Medical Report	-300.00	2,200.00
Total Sharon Brown				2,200.00	2,200.00
Total Client Trust Acco	ounts			9,950.00	9,950.00
TOTAL					9,950.00

SAMPLE TRUST ACCOUNT JOURNAL REPORT USING QUICKEN®

(Quicken® replica report reflecting a trust account journal.

Actual reports generated in this program will differ in format and detail.)

Trust Account by Client

03/01/XX through 03/31/XX

	Date	Num	Description	Category	Paid Amount
David Jones					
	3/1/20XX		Deposit	Retainer	3,000.00
	3/14/20XX	0001	eFiling	Cost - Filing Fee	-250.00
					2,750.00
Harold Anderson					
	3/2/20XX		Deposit	Retainer	5,000.00
					5,000.00
Sharon Brown					
	3/4/20XX		Deposit	Retainer	2,500.00
	3/22/20XX	0002	Check	Cost - Medical Re	port -300.00
					2,200.00
OVERALL TOTAL					9,950.00

APPENDIX 85

SAMPLE CLIENT LEDGER REPORT USING COSMOLEX®

(CosmoLex® replica report reflecting a client's ledger card.

Actual reports generated in this program will differ in format and detail.)

Justice Law Firm, LLC CLIENT'S TRUST LEDGER Date Range: 01/01/2022 - 12/31/2022

Total			· ·		\$25,600.00	(\$1,450.00)	
12/08/2022	Bank of America - JLF Trust Account	Collins, Jim	EFT/eCheck		\$1,500.00		\$42,620.35
11/10/2022	Bank of America - JLF Trust Account		Credit Card		\$1,000.00		\$41,120.35
11/10/2022	Bank of America - JLF Trust Account	Collins, Jim	Credit Card		\$100.00		\$40,120.35
			Justice Law CLIENT'S TRUS Date Range: 01/01/20	ST LEDGER			
CosmoLex			Page 1 o	12		Thursday, July 6	i, 2023 12:44 PM
10/13/2022	Bank of America - JLF Trust Account	Collins, Jim	Check		\$10,000.00		\$40,020.35
10/04/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$30,020.35
10/03/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Check		\$1,000.00		\$29,020.35
08/10/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$28,020.35
08/10/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$27,020.35
06/07/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$26,020.35
06/06/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card	memo	\$1,000.00		\$25,020.35
05/11/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Internal Operation / #Void Adjustment Out	Orig Date: 3/30/2022, Amount: 1,000.00,		(\$1,000.00)	\$24,020.35
03/30/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$25,020.35
03/29/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$24,020.35
03/29/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$23,020.35
03/17/2022	Bank of America - JLF Trust Account	Justice Law Firm	Bank Transfer	Trust to General Invoice Payment		(\$450.00)	\$22,020.35
02/17/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$22,470.35
02/17/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$21,470.35
01/11/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$20,470.35
01/11/2022	Bank of America - JLF Trust Account	Collins, Jim-Family Law	Credit Card		\$1,000.00		\$19,470.35
Date	Bank	Payee/Payor	Method	Memo	Deposit	Withdrawal	Balance
Beginning Balance:	18,470.35						
		amily Law / Client #U123 / F	-lie #U123-UU4				
Account:	Callian Ear E	amily Law / Client #0123 / F	TI- #0122 004				

SunTrust Bank-SunTrust Bank Cost Account

HSBC-HSBC Trust Account

Total

Bank of America-JLF Trust Account

Balance

\$0.00

\$0.00

\$42,620,35

\$42,620.35

SAMPLE TRUST ACCOUNT JOURNAL REPORT USING COSMOLEX®

(CosmoLex® replica report reflecting a trust account journal. Actual reports generated in this program will differ in format and detail.)

Justice Law Firm, LLC TRUST JOURNAL Date Range: 01/01/2023 - 12/31/2023

Balance

\$1,069,569.38 \$1,058,852.80 \$1,057,852.80 \$1,057,852.80 \$1,057,832.80 \$1,066,827.16

Bank	Banko	Bank of America-JLF Trust Account	ount			
Account #	1234					
Date	Payee/Payor	Method	Client-Matter	Memo	Deposit	Withdrawal
Beginning Balance	ioe					
02/07/2023	Justice Law Firm	Bank Transfer	Verizon-Consultation / Client #0091 / Trust to General Transfer File #0091-001	Trust to General Transfer		(\$4,636.79)
02/07/2023	Justice Law Firm	Bank Transfer	Walker, Lillian JEstate / Client #0081 Trust to General Transfer / File #0081-001	Trust to General Transfer		(\$706.58)
02/07/2023	Justice Law Firm	Bank Transfer	Wright, James-Criminal / Client #0043 Trust to General Transfer / File #0043-001	Trust to General Transfer		(\$1,000.00)
02/07/2023	Justice Law Firm	Bank Transfer	Adams, Jim-OD test 2 / Client #0199 / Trust to General Transfer File #0199-001	Trust to General Transfer		(\$220.00)
02/07/2023	Justice Law Firm	Bank Transfer	Taylor, Susan-Contract / Client #0044 Trust to General Transfer / File #0044-001	Trust to General Transfer		(\$805.64)
02/07/2023	Justice Law Firm	Bank Transfer	LB Co-Litigation / Client #0080 / File #0080-005	Trust to General Transfer		(\$70.00)
02/23/2023	Justice Law Firm	Check	Collins, Jim-Family Law / Client #0123 Trust to General Invoice Payment / File #0123-004	Trust to General Invoice Payment		(\$380.00)
04/10/2023	Justice Law Firm	Check	Collins, Jim-Family Law / Cilent #0123 Trust to General Invoice Payment / File #0123-004	Trust to General Invoice Payment		(\$200.00)
Total						(\$8,029.01)

\$1,056,367.16

APPENDIX 87

SAMPLE THREE-WAY RECONCILIATION REPORT USING COSMOLEX®

(CosmoLex® replica report reflecting a three-way reconciliation.

Actual reports generated in this program will differ in format and detail.)

Justice Law Firm, LLC THREE-WAY RECONCILIATION

Statement Date: 12/31/2020

Bank Name: Bank of America Reconciliation Status: Reconciled

Bank Account Name: JLF Trust Account Reconciled By:
Bank Account #: 1234 Reconciliation Date:

Beginning Statement Balance: 12/01/2020 \$261,142.42 Cleared Deposits: \$1,000.00 Cleared Payments: (\$33,226.68) 12/31/2020 **Ending Statement Balance:** \$228,915.74 **Uncleared Deposits:** \$0.00 **Uncleared Payments:** \$0.00 Bank Errors (Cumulative to date): \$400.00 Reconciled Bank Balance: 12/31/2020 \$229,315,74 Book Balance: 12/31/2020 \$229,315.74 Trust Listing Total: 12/31/2020 \$229,315.74

Ledger Card Balances:

CLIENT NO.	CLIENT	MATTER NO.	MATTER NAME	ATTORNEY	LEDGER BALANCE
0120	Browns, Pedro T.	0120-001	Real Estate – Buyer	Susan Mills	\$5,830.83
0123	Collins, Jim	0123-004	Family Law	Erica Birstler	\$7,137.85
0123	Collins, Jim	0123-003	Litigation	Susan Mills	\$137,326.00
0076	Figueroa, Ashley W.	0076-001	Environmental	Susan Mills	\$1,250.38
0073	Gomez, Michael B.	0073-001	Refinance	Susan Mills	\$1,800.00
0066	Jara, Michael E.	0066-001	Divorce	Susan Mills	\$7,270.70
0047	Johnson, Marcus	0047-001	Corporate	Susan Mills	\$2,096.00
0078	Laughlin, Max C.	0078-001	Consultation	Susan Mills	\$1,854.14
0080	LB Co	0080-005	Litigation	Susan Mills	\$300.00
0062	Looney, Jerry M.	0062-001	Contract	Susan Mills	\$1,487.75
0095	Lowe, Anthony P.	0095-001	Real Estate – Seller	Susan Mills	\$359.50
0077	McCoy, Sadye D.	0077-001	Divorce	Susan Mills	\$3,700.00
0052	Robert C. Stewart	0052-001	Family Law	Susan Mills	\$10,800.00
0039	Robinson, Bill	0039-001	Criminal	Susan Mills	\$4,040.00
0038	Smith, Susan	0038-002	Child Support	Susan Mills	\$3,154.86
0038	Smith, Susan	0038-001	Divorce	Susan Mills	\$6,177.73
0091	Verizon	0091-001	Consultation	Susan Mills	\$30,730.00
0091	Verizon	0091-002	Real Estate – Buyer	Susan Mills	\$2,000.00
0081	Walker, Lillian J.	0081-001	Estate	Susan Mills	\$1,000.00
0043	Wright, James	0043-001	Criminal	Susan Mills	\$1,000.00



APPENDIX 89

