

Trust Accounts

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Trust Accounts

Agenda

- What is a Rule 1.14?
- Rules, Guidelines & Laws
- IOLTA vs. Interest-Bearing Accounts
- How it Affects Law Firms
- Minimum Required Recordkeeping
- War Stories
- Do's & Don'ts
- Watch Out For

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What is Rule 1.14?

- Rule 1.14 was created to protect funds that do not belong to the lawyer. When a lawyer holds funds that belong to a client or third party, these funds must be protected from the lawyer's creditors or personal financial problems.
- Acting as a fiduciary, lawyers are required to treat the property of others with the highest standards of accountability.
- Rule 1.14 details a lawyer's duties to clients and third persons when acting in this fiduciary capacity.
- Although Rule 1.14 also mentions the duty to safeguard "other property", the purpose here is to discuss safeguarding funds and not personal property. The obligation to keep the property of others in a separate trust account in accordance with Rule 1.14 is absolute.

Source: A Lawyer's Guide to Client Trust Accounts

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The Safekeeping of Property

- a) A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a trust or escrow account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client 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.

Source: A Lawyer's Guide to Client Trust Accounts

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The Safekeeping of Property

- b) 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.**

Source: A Lawyer's Guide to Client Trust Accounts

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The Safekeeping of Property

- c) During representation, a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest. All funds in a trust or escrow account shall be disbursed only to those persons entitled to receive them by virtue of the representation or by law. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately.**

Source: A Lawyer's Guide to Client Trust Accounts

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