

IOLTA CONSIDERATIONS

OPEN an Interest on Lawyers Trust Account (IOLTA) with an eligible financial institution prior to handling client funds. Attorneys who are Ohio-licensed title agents also must open an Interest on Trust Account (IOTA). Information on eligible financial institutions is available on the Ohio Access to Justice Foundation (OAJF) website.

REGISTER the IOLTA account (and any IOTA) on the Supreme Court of Ohio's biennial attorney registration form, as required by Prof.Cond.R. 1.15.

UPDATE any changes to trust account information via portals on the Supreme Court or OAJF websites.*

MAINTAIN the records required to be kept by Prof.Cond.R. 1.15 for seven years.

STORE those records in one location known by staff or local bar counsel.

CONSIDER CONTACTING

- The bank to determine steps deemed necessary to dispose of funds remaining in the account at death or incapacity of the account holder; or
- Probate court to determine if the court will issue an order allowing access to the account for disposition purposes.

CONTACT ODC* to obtain access to IOLTA under Gov.Bar R. V(26) if there is not an estate.

APPOINTED ATTORNEY must reconcile IOLTA records and disburse funds to clients with identifiable funds in the account.

UNIDENTIFIABLE FUNDS in an IOLTA must be turned over to the Ohio Department of Commerce Division of Unclaimed Funds (See, Board Adv. Op. 2008-3).

* Contact information is listed on the back of the brochure.

OVERWHELMED? HAVE QUESTIONS?

CONTACT:

Office of Disciplinary Counsel
614.387.9700
www.odc.ohio.gov

Board of Professional Conduct
614.387.9370
www.bpc.ohio.gov

Major Metropolitan Bar Associations
Akron: 330.253.5007
Cincinnati: 513.381.8213
Cleveland: 216.696.3525
Columbus: 614.221.4112
Dayton: 937.222.7902
Toledo: 419.242.9363
Ohio State Bar Association: 614.487.2050

Malpractice Insurance

For a comprehensive list of professional liability insurance carriers in Ohio, visit the American Bar Association's website at:
www.bit.ly/malpracticeinsurance

For Questions About IOLTA
Ohio Access to Justice Foundation
614.715.8560
www.ohiojusticefoundation.org

The Office of Disciplinary Counsel

MANAGING CLIENT FILES & TRUST ACCOUNTS



ACTION, NOT REACTION

FOR THE CURRENT PRACTITIONER

CREATE and follow a file retention and destruction policy that considers:

- your practice area;
- the types of documents and evidentiary materials you possess;
- the geographical area in which you practice; and
- potential malpractice claims.

NOTIFY clients in writing of your file retention and destruction policy.

- Best practice is within your written fee agreement.
- Follow-up letter or handout will work.
- Remind client of policy in your closing letter.
- It's never too late to notify a client or former client about your policy!

SCAN the file and store it securely when representation concludes, if this option is available.

GIVE clients the original file, including all original documents of legal significance at no charge.

DESTROY your paper or electronic version of files according to your file retention and destruction policy.

- Maintain a record of destroyed files.

TIP

Review your files regularly and separate pending matters from closed files. Keep and store the two separately.

QUESTIONS?

Discuss file maintenance and destruction with your malpractice insurer or contact one of the resources on the reverse.

FOR THOSE WINDING DOWN A PRACTICE

PURGE. If you have adhered to a file retention and destruction policy, continue to purge files in accordance with your policy.

NOTIFY CLIENTS. If you have files that predate your policy, contact clients at their last known address to advise of your retirement and their need to retrieve files before the scheduled destruction date.

RETURN FILES. Allow 60 days from date of notice for clients to retrieve their file.

RETRIEVAL can be accomplished via mail, electronic communication, or in person. Have the client sign a receipt for the file.

RELEASE IMPORTANT DOCUMENTS AND EVIDENTIARY MATERIAL TO ODC.

- Remove documents of legal significance from files that are not retrieved.
- Turn the documents of legal significance over to the Office of Disciplinary Counsel (ODC).

FILE DESTRUCTION. Destroy files not retrieved by cross-shredding or incineration.

- If you use a document destruction service, request a certificate of destruction.
- Maintain receipts from retrievals and create a list of files destroyed.

TIP

Contact ODC to have your name added to a list of attorneys whose files have been destroyed.

FOR THOSE LEFT BEHIND

CONTACT THE FOLLOWING:

SUPREME COURT OF OHIO Office of Attorney Services and provide obituary;

COURTS and opposing counsel involved in any pending cases;

CLIENTS WITH PENDING CASES: notify of attorney's unavailability and need to retrieve file;

CLIENTS WITH CLOSED CASES: notify by method that takes into consideration the age and contents of the file.

- For recently closed cases, notify by letter to last known address or electronic communication.
- For cases closed in the distant past, consider notice by publication.
- If the attorney's website is still in operation, place a notice on the website about client file disposition.
- Contact ODC to discuss disposition and listing attorney's name and client file disposition status on ODC's website.

THEN:

RETURN FILES. Allow at least 60 days from date of notice for clients to retrieve files.

RELEASE IMPORTANT DOCUMENTS and evidentiary material to ODC.

- Remove documents of legal significance from files not retrieved.
- Turn the documents of legal significance over to ODC.

DESTROY all client files not retrieved after 60 days from the notice date. Files may be destroyed by cross-shredding or incineration.

TIP

Obtain certificate of destruction for records.