

Popular Threads on Solosez

Old Trust Balances

JURISDICTION IS CALIFORNIA (but I'm interested to hear from everyone).

I have a few old balances in my trust account from clients that retained me and never exhausted the trust deposit. I'm curious to know what the collective does with old trust balances when it is apparent that the client no longer needs your services. Do you just let the money sit? Do you send a letter to the client asking if they want the money returned? Do you just send a check to the client with a note explaining that you're returning the deposit and asking that the client contact you if s/he need your services further?

I've looked at the California State Bar Trust Accounting Handbook, but it appears to be silent on this issue. Your thoughts and comments would be appreciated.

I typically just leave it there unless the client asks that it be returned.

Shell Bleiweiss, Illinois

Thanks for the reminder to establish a policy in my Billing Policies...

"If a trust account balance remains after a matter is resolved and closed, and if the attorney has reason to believe you may have occasion to engage the attorney's services at some time in the future, the balance of your retainer will remain in trust until such time as you reëngage the firm, or you request a refund of the balance. Any interest earned on the balance held in trust will, of course, be subject to the standard rules regarding interest on lawyers' trust accounts (IOLTA), as described above.

"While the firm may, in its sole discretion, send you occasional reminders of the availability of this prepayment for services, your final statement will reflect any trust balance outstanding, and this will serve as your primary notice of the outstanding balance."

Richard J. Rutledge, Jr., North Carolina

Wow, why would you want to keep it until they ask for it to be returned? That just seems to add complication and risk. The money sits there and the interest kicks to the IOLTA committee, so I don't see any upside to that at all. On the few occasions when I had trust money remaining, I immediately sent it back to the client. The last thing I would want is for somebody to claim that I was keeping their trust money when I wasn't doing any work for them. If I were a client, it would tick me off that I have to request that you send it back to me. Sending it quickly and on your own sends a much better message - you can trust me, and see I'm not just looking to take all your money - and is more likely to make them come back.

IMHO.

Mitchell J. Matorin, Massachusetts

If a new client hired you for a specific, single piece of work and it was clearly over I would agree with you.

But at least in my field things are seldom that clear. Say a suit settles; it is common for questions to later arise such as what does this paragraph mean? I want to change who gets notices, how do I do it? Or the other side contacts you because they believe that your client hasn't done something they were supposed to do under the settlement. Just one example, but I find that most of my matters don't have black and white end points.

Shell Bleiweiss, Illinois

I return it with the final bill/statement at the conclusion of the matter. If the client has another matter pending I would then transfer the balance to that matter so I can close the completed one in the computer.

I think the ethics rules for all states would require its prompt return.

Phil A. Taylor, Massachusetts

I, too, return any remaining trust money upon conclusion of the case. I send a check with my file closing letter. Nice, clean, done.

Marian Palma Cardona, Missouri

This is what I do also. I certainly don't want the responsibility of tracking their money until years later when it becomes apparent they don't need more work and now I can't find them. I have had a client who was sent a refund check disappear - it is a pain.

Veronica M. Schnidrig, Oregon