

## Trust Accounts - Cashing Check Made Out To Your Client

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I've never had to deal with this before, but I anticipate getting a settlement check in a case where the opposing party is a corporation that is large and inflexible with rules that make no sense. Because of this, I expect that they will make the settlement check out to my client instead of my firm, despite being instructed not to multiple times by me, the ALJ, etc.

Question: If the check is indeed made out to my client, can I cash the check in my lawyer trust account? If I hand the check over to the client, you can just about guess the chance of me getting my contingency fee.

If I can cash the check made out to the client, do I have to endorse it in any special way?

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I think the way to handle this is to endorse it for deposit only to your trust account. Have the client sign the endorsement and then deposit it. At the same time he endorses it, give him a breakdown of exactly what he will get and what you will get once the check clears and have him sign it.

Andy Simpson, U.S. Virgin Islands

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Your mileage may vary (this has been discussed several times, and people have differing experiences).

I routinely deposit checks made out to clients only. I endorse them as follows and deposit (not "cash") them into the client trust account:

For Deposit Only  
Capital Bank  
Client Trust Account 12349876  
FBO PUBLIC John Q.

I just use the laser printer to print the endorsement on. In 5+ years, I have had one check that was problematic, and the bank accepted it, but the insurance company rejected it because it didn't have the client's signature, and it was made out to both of us. I've never had a problem otherwise.

My bank is not a large, inflexible "Too Big To Fail" bank, FWIW.

Richard J. Rutledge, Jr., North Carolina

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If the ALJ instructed them to make it out to your firm, you may consider refusing to accept it and cite the ALJ's instructions and the potential for sanctions/contempt if they do not comply.

Ryan Phillips, South Carolina

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Definitely do not cash it until your client signs.

We always ask that the payor write it out to "IN PACTA in trust for \_\_\_\_\_"

Sometimes they'll do IN PACTA and \_\_\_\_\_.

Other times just IN PACTA.

But there is a bar opinion (if not ABA then Washington state) that I believe I've come across on this (prohibiting cashing checks made out to your client without their signature). You're going to have to ask your client to sign it so that you can deposit it into your trust with his/her permission. Plus no way should the bank let you deposit this anyway.

Noah Davis

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I have always been able to get check made to Client and me or trust account, so both of us have to endorse. You make get bank to clear the check, but only because they are dense. I'd call client to come in to get his check. Have check for his share ready and check you receive endorsed Pay To Chen ready for his sig. If signed hightail to bank to deposit.

Ain't bulletproof but should work with fairly reasonable client.

John Page, Florida

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1. Does your fee agreement have appropriate power of attorney language in it? If so, you may be able to ethically deposit it in your trust account.
2. This about your bank as well as anything else. How restrictive are they? Will it raise a question? Do you need to present it in person with your fee agreement?
3. My personal injury friends commonly have a POA in their agreement, and don't require client signature for deposit, at least here. Your rules and jurisdiction and more importantly, your bank may differ.

Darrell G. Stewart, Texas

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I had a similar situation last year, with the same concerns you've got. Even though the retainer agreement gave us authority to negotiate settlement checks, our bank would not allow us to deposit the check on that basis because the retainer agreement was not notarized. Powers of attorney are ordinarily notarized, of course. (By the way, do any of you folks ordinarily have a notary witness the execution of retainer agreements?) So we resolved the situation by having the client execute a separate power of attorney, giving us the authority to do banking transactions for her. Our bank accepted that solution.

Nathan J. Wagner, California

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I don't do much claimant's work, but years ago had a 7 figure check made out to my client, rather than both of us. I had the client sign a power of attorney, authorizing me to sign the check and deposit it into my trust account.

The bank balked at first, but when I threatened to close our business account and trust account, they saw the light.

The power of attorney covers you, IMHO.

Mark J. Astarita, New Jersey

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