

Carrie Janto - Fwd: Attention: Julie Rich, Supreme Court Commissioner

From: Julie Rich
To: Carrie Janto
Date: 4/5/2007 8:58 AM
Subject: Fwd: Attention: Julie Rich, Supreme Court Commissioner

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>>> "Linda Zastrow" <Heidi@hoeperlaw.com> 4/4/2007 5:09 pm >>>

April 4, 2007

Dear Chief Justice and Justices:

I am writing this letter in support of the proposed amendments to the Trust Account Rules. I am a solo practitioner in Fond du Lac County practicing as a general practitioner. The existing trust account rules have had a very unfortunate impact on small firms and solo practitioners. My firm's experience is that we have increased the time commitment for ourselves and our staff with no recognizable benefit to our clients. Many of the problems encountered with the currently existing rules are relieved by the petition currently before the court.

Currently, criminal lawyers are allowed to deposit "flat fees" to their general business account even though they are by definition unearned fees. Family lawyers or other lawyers who bill on an hourly basis against an advance fee are not allowed to deposit their advanced fees to their general business account. Thus, the hourly fee based lawyer is required to do much more to account for and manage an unearned fee than a "flat fee" lawyer. The petition will allow all lawyers who bill fees in advance to be treated the same: they may deposit advanced fees into their general business account, provided that they give the client notice of their intention to do so. A unique provision of the petition is the provision that insures that all clients of Wisconsin lawyers will be assured of reimbursement of their advanced fees in the event of lawyer conversion of unearned advances. The Client Security Fund, which is funded by Wisconsin lawyers, will insure all clients against loss from the acts of a dishonest lawyer.

It is said that no person may pay an advance fee to a lawyer in the State of Wisconsin by credit card. Often in a divorce a client does not have sufficient funds to pay a cash advance. This has a particularly negative effect on domestic violence victims and others who have been denied access to funds in a relationship or marriage. This is also true for many clients in criminal cases. The trust account amendments provide two workable solutions to this problem.

For those lawyers who opt to do so, the option of taking credit card advances to the general business account will be available upon approval of this petition. For those lawyers who wish to continue to operate from a trust account, the option of creating a separate account for credit card advances is included in the petition.

The petition eliminates some of the problems in the existing rules which allow clients an infinite period of time to object, in a very general way, to the lawyer's fees and by doing so, require a return of the disputed fee to trust. The petition provides for a 30-day period for the client to object to the fees, and requires that objections be specific.

Very truly yours,

Peter John Hooper
State Bar No. 01014644