



Supreme Court of Wisconsin

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CLERK OF SUPREME COURT
OF WISCONSIN

February 2, 2010

Honorable Chief Justice and Justices
Of the Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701-1688

Re: Supreme Court Rule Petition 06-04 In the matter of review of amendments to SCR 20:1.15 Safekeeping Property; SCR 20:1.0 Definitions; SCR 21.16 Discipline; and SCR 12.04 Wisconsin Lawyers' Fund for Client Protection

Dear Chief Justice and Justices:

The 2007 amendments to the trust account rule, in particular the advanced fee alternative and credit card trust account provisions, have been well-received and very helpful. OLR believes these provisions accomplish their intended purposes. The chart below shows data for grievances and dispositions potentially affected by the 2007 amendments. This data reveals a general downward trend in fee-related allegations and evidences no particular problems resulting from the amendments.

<u>Grievance Category</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Failure to Return Property	69	67	46	50
Unreasonable Fees	124	117	104	106
Trust Account Violations	87	86	71	48
TA Overdraft Reports	83	96	69	104

<u>Disposition Category</u>				
TA Overdraft Diversions	7	5	13	4
TA Overdraft Advisories	33	30	18	23
Advisories for Fund Availability	13	8	5	5

In public presentations, OLR has observed that some lawyers choose the advanced fee alternative, and some do not. Ability to choose, however, is good. OLR also observes some non-compliance with fee agreement notice requirements; this despite good work by the State Bar making forms available. OLR does not believe this implicates policy. Where there is noncompliance, the investigation and disposition of the fee issues has become more efficient.

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Over the past three years, and during a recent meeting with the Trust Account Working Group, OLR has become aware of some technical criticisms of the advanced fee alternative and credit card provisions. These are raised in the Trust Account Working Group submission. Despite these concerns, OLR believes the two provisions should continue. With regard to the second notice required by the advanced fee alternative rule, OLR considers this a necessary predicate to the 30-day limitation for raising a fee dispute. With regard to receiving earned fees through the credit card trust account, OLR believes an accommodation would be appropriate.

OLR will obtain copies of other submissions and remain available to serve the Court.

Respectfully,



Keith L. Sellen
Director