

Is your law firm making these common trust account mistakes?

Managing your trust account can be one of the most challenging and confusing aspects of practicing law. Not only are you worried about the general responsibility that accompanies a trust account, but you must also constantly ensure that your office practices comply with the rules and regulations of your state. Unfortunately, many attorneys consistently utilize or manage client trust accounts incorrectly. The following are some of the most common trust account mistakes, as identified by the [ABA](#) and other professional industry organizations. Review them to make sure your law office isn't headed down a road of troubles.

It's a trust account, not a business reserve

Consider this scenario. The Law Office of Jones and Jones receives a settlement check in the amount of \$50,000 in relation to a personal injury case, which Mr. Jones deposits into the client trust account. The funds are to be used for the payment of medical fees and legal fees, with the remainder being paid to the client. Attorney Jones is waiting for two finalized medical bills and he has been told by the doctor's office that they will not be available for at least two weeks. The law office is having some financial difficulty and Attorney Jones realizes that he may not be able to pay some overdue bills. He also knows that he has a large payment coming in from a business client on Monday. Assuming that he can repay the funds to the trust account once the large payment is received, Attorney Jones removes \$10,000 from the account for office expenses. On Tuesday, he deposits \$10,000 back into the trust account.

See any problems here? Was there any harm done? He repaid the funds and the client never even knew the difference. Well, it is exactly that type of

thinking that gets so many attorneys in trouble each year. Your client trust account is there to hold client and third-party funds and/ or property. It is not meant as a reserve bank account for you to dip into when your law office is having a slow month. Even if you have every intention of giving it back, or you justify that you will intentionally earn the funds anyway, “borrowing” money from your trust account can have serious consequences.

Keep the money separate

Trust account funds are supposed to stay completely separate and apart from your law firm operating funds. According to the [ABA](#), many lawyers make the mistake of allowing their business funds to become commingled with funds that should be safely set aside in a client trust account. While this may happen purposely, there are also a number of ways that this problem can happen unintentionally, including:

- Trust account not properly set up – Proper trust accounting starts from the moment the account is opened. If you fail to follow the rules of your state, you can easily end up with an account that is inappropriately connected to your operating account
- Depositing a client or settlement check in wrong account – It is imperative that client and settlement checks be deposited into the correct account. Settlement checks are generally deposited into the trust account until all required payouts are made. Accidentally placing the funds into your operating account can result in commingled funds.
- Not removing third-party payouts – Third party payouts should be made in a timely manner. Holding them in the account for an unreasonable amount of time creates a situation where the third party’s funds are being improperly held in the trust account.

You’ve got to keep records

The proper maintenance of a trust account requires that you maintain proper records of all funds within it. This includes records of all money

deposited into the account and all payouts from the account. Many lawyers forget to keep these records. They may throw away deposit slips or neglect to properly record checks written on the account. If there are funds from numerous clients in the account, further record keeping is required to ensure that each client's funds are properly accounted for. That means that each client's funds need to be properly reconciled, along with the account as a whole. Failure to keep proper records can land you in hot water with your state bar, not to mention a potentially disgruntled client.

Misusing the account

Some attorneys choose to intentionally misuse their client trust account in order to benefit themselves or provide the client with improper benefits. This may entail theft of trust account funds to pay personal debts or finance an addiction. Attorneys may also attempt to hide assets within their trust account, in an effort to avoid IRS levies. Another example is the practice of depositing client funds into the trust account for the purpose of avoiding IRS liability. Each of these scenarios exemplify improper misuse of the trust account and could lead to a serious ethical violation, along with criminal charges.

Choosing the wrong signatory

It's not uncommon for law firm management to provide a designated administrative assistant with access to firm banking accounts. This person may be authorized to speak with the bank about the account and may even be listed as a signatory for making withdrawals and writing checks. While this may be a practical option for regular firm accounts, it may not be the best option for the trust account. Designating the wrong person as signatory can lead to a world of problems for you and your practice. Should that person steal money from the account, you and your firm will ultimately be held responsible. It's important to be very careful when designating a signatory for your trust account. It's just as important to regularly review

the actions of the signatory to identify any potential issues as quickly as possible and to respond appropriately.

Correct management of your trust account is a must for running a successful law practice. If you are making any of these common mistakes, take the necessary steps to clean them up immediately. Then, check out all of the ways that TimeSolv time tracking and legal billing system can assist with your trust accounting needs. Click [here](#) for a free, no-obligation 30-day trial.

About Erika Winston:

Erika Winston is a freelance writer with a passion for law. Through her business, The Legal Writing Studio, she helps legal professionals deliver effective written messages. Erika is a regular contributor to [TimeSolv](#) and a variety of other publications.