

# IOLTA CONSIDERATIONS

**OPEN** an Interest on Lawyers Trust Account (IOLTA) with an eligible financial institution prior to handling client funds. Attorneys who are Ohio-licensed title agents also must open an Interest on Trust Account (IOTA). Information on eligible financial institutions is available on the Ohio Access to Justice Foundation (OAJF) website.

**REGISTER** the IOLTA account (and any IOTA) on the Supreme Court of Ohio's biennial attorney registration form, as required by Prof.Cond.R. 1.15.

**UPDATE** any changes to trust account information via portals on the Supreme Court or OAJF websites.\*

**MAINTAIN** the records required to be kept by Prof.Cond.R. 1.15 for seven years.

**STORE** those records in one location known by staff or local bar counsel.

## CONSIDER CONTACTING

- The bank to determine steps deemed necessary to dispose of funds remaining in the account at death or incapacity of the account holder; or
- Probate court to determine if the court will issue an order allowing access to the account for disposition purposes.

**CONTACT ODC\*** to obtain access to IOLTA under Gov.Bar R. V(26) if there is not an estate.

**APPOINTED ATTORNEY** must reconcile IOLTA records and disburse funds to clients with identifiable funds in the account.

**UNIDENTIFIABLE FUNDS** in an IOLTA must be turned over to the Ohio Department of Commerce Division of Unclaimed Funds (See, Board Adv. Op. 2008-3).

\* Contact information is listed on the back of the brochure.

## OVERWHELMED? HAVE QUESTIONS?

### CONTACT:

Office of Disciplinary Counsel  
614.387.9700  
[www.odc.ohio.gov](http://www.odc.ohio.gov)

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Board of Professional Conduct  
614.387.9370  
[www.bpc.ohio.gov](http://www.bpc.ohio.gov)

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Major Metropolitan Bar Associations  
Akron: 330.253.5007  
Cincinnati: 513.381.8213  
Cleveland: 216.696.3525  
Columbus: 614.221.4112  
Dayton: 937.222.7902  
Toledo: 419.242.9363  
Ohio State Bar Association: 614.487.2050

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### Malpractice Insurance

For a comprehensive list of professional liability insurance carriers in Ohio, visit the American Bar Association's website at:  
[www.bit.ly/malpracticeinsurance](http://www.bit.ly/malpracticeinsurance)

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For Questions About IOLTA  
Ohio Access to Justice Foundation  
614.715.8560  
[www.ohiojusticefoundation.org](http://www.ohiojusticefoundation.org)

The Office of Disciplinary Counsel

# MANAGING CLIENT FILES & TRUST ACCOUNTS



## ACTION, NOT REACTION

## FOR THE CURRENT PRACTITIONER

**CREATE** and follow a file retention and destruction policy that considers:

- your practice area;
- the types of documents and evidentiary materials you possess;
- the geographical area in which you practice; and
- potential malpractice claims.

**NOTIFY** clients in writing of your file retention and destruction policy.

- Best practice is within your written fee agreement.
- Follow-up letter or handout will work.
- Remind client of policy in your closing letter.
- It's never too late to notify a client or former client about your policy!

**SCAN** the file and store it securely when representation concludes, if this option is available.

**GIVE** clients the original file, including all original documents of legal significance at no charge.

**DESTROY** your paper or electronic version of files according to your file retention and destruction policy.

- Maintain a record of destroyed files.

### TIP

Review your files regularly and separate pending matters from closed files. Keep and store the two separately.

### QUESTIONS?

Discuss file maintenance and destruction with your malpractice insurer or contact one of the resources on the reverse.

## FOR THOSE WINDING DOWN A PRACTICE

**PURGE.** If you have adhered to a file retention and destruction policy, continue to purge files in accordance with your policy.

**NOTIFY CLIENTS.** If you have files that predate your policy, contact clients at their last known address to advise of your retirement and their need to retrieve files before the scheduled destruction date.

**RETURN FILES.** Allow 60 days from date of notice for clients to retrieve their file.

**RETRIEVAL** can be accomplished via mail, electronic communication, or in person. Have the client sign a receipt for the file.

### RELEASE IMPORTANT DOCUMENTS AND EVIDENTIARY MATERIAL TO ODC.

- Remove documents of legal significance from files that are not retrieved.
- Turn the documents of legal significance over to the Office of Disciplinary Counsel (ODC).

**FILE DESTRUCTION.** Destroy files not retrieved by cross-shredding or incineration.

- If you use a document destruction service, request a certificate of destruction.
- Maintain receipts from retrievals and create a list of files destroyed.

### TIP

Contact ODC to have your name added to a list of attorneys whose files have been destroyed.

## FOR THOSE LEFT BEHIND

### CONTACT THE FOLLOWING:

**SUPREME COURT OF OHIO** Office of Attorney Services and provide obituary;

**COURTS** and opposing counsel involved in any pending cases;

**CLIENTS WITH PENDING CASES:** notify of attorney's unavailability and need to retrieve file;

**CLIENTS WITH CLOSED CASES:** notify by method that takes into consideration the age and contents of the file.

- For recently closed cases, notify by letter to last known address or electronic communication.
- For cases closed in the distant past, consider notice by publication.
- If the attorney's website is still in operation, place a notice on the website about client file disposition.
- Contact ODC to discuss disposition and listing attorney's name and client file disposition status on ODC's website.

### THEN:

**RETURN FILES.** Allow at least 60 days from date of notice for clients to retrieve files.

**RELEASE IMPORTANT DOCUMENTS** and evidentiary material to ODC.

- Remove documents of legal significance from files not retrieved.
- Turn the documents of legal significance over to ODC.

**DESTROY** all client files not retrieved after 60 days from the notice date. Files may be destroyed by cross-shredding or incineration.

### TIP

Obtain certificate of destruction for records.