

FORMAL OPINION 118

QUESTION: What is the proper disposition of a client's unused funds remaining in a lawyer's trust fund after termination of representation when every reasonable effort has been made to locate the client and refund the funds?

ANSWER: While this situation is not uncommon, it is troublesome, particularly in that the amounts sought to be refunded are typically only a few dollars, representing refunds on unused filing fees or what remains unspent of money deposited for future expenses.

The lawyer's duty to safeguard all clients' funds in his possession continues after the representation of the client has ended. The lawyer's duty, after all reasonable effort to find the client and refund the funds are in vain, is a matter of Missouri law, which currently is stated in RSMO 447.500- 447.585, Uniform Disposition of Unclaimed Property. All such unclaimed funds, including any interest, are presumed abandoned property after seven years (447.530) and shall be reported to the director of the Missouri Department of Economic Development under the provisions of 447.539 and the director shall cause notice to be published at least once each week for two successive weeks in a newspaper of general circulation (447.541). The lawyer at the time of filing such report shall pay the funds to the Missouri State Treasurer, retaining the reasonable costs of compliance with Sections 445.500-447.585 (447.543).

Adopted October 21, 1988.