

DISHONORED PAYMENT NOTIFICATION (OVERDRAFT NOTICES)

Supreme Court Rule 20:1.15(h)

(h) Dishonored payment notification (Overdraft notices). All draft trust accounts, and any draft fiduciary account that is not subject to an alternative protection under sub. (k)(10), are subject to the following provisions on dishonored payment notification:

(1) **Overdraft reporting agreement.** A lawyer shall maintain draft trust and fiduciary accounts only in a financial institution that has agreed to provide an overdraft report to the office of lawyer regulation under par. (2). A lawyer or law firm shall notify the financial institution at the time a trust account or fiduciary account is established that the account is subject to this subsection.

(2) **Overdraft report.** In the event any properly payable instrument or electronic transaction is presented against or made from a lawyer trust or fiduciary account containing insufficient funds, whether or not the instrument or electronic transaction is honored, the financial institution shall report the overdraft to the office of lawyer regulation.

(3) **Content of report.** All reports made by a financial institution under this subsection shall be substantially in the following form:

a. In the case of a dishonored instrument or electronic transaction, the report shall be identical to an overdraft notice customarily forwarded to the depositor or investor, accompanied by the dishonored instrument or electronic transaction, if a copy is normally provided to the depositor or investor.

b. In the case of instruments or electronic transactions that are presented against insufficient funds and are honored, the report shall identify the financial institution involved, the lawyer or law firm, the account, the date on which the instrument or electronic transaction is paid, and the amount of overdraft created by the payment.

(4) **Timing of report.** A report made under this subsection shall be made simultaneously with the overdraft notice given to the depositor or investor.

(5) **Confidentiality of report.** A report made by a financial institution under this subsection shall be subject to SCR 22.40, Confidentiality.

(6) **Withdrawal of report by financial institution.** The office of lawyer regulation shall hold each overdraft report for 10 business days to enable the financial institution to withdraw a report provided by inadvertence or mistake. The deposit of additional funds by the lawyer or law firm shall not constitute reason for withdrawing an overdraft report.

(7) **Lawyer compliance.** Every lawyer shall comply with the reporting and production requirements of this subsection, including filing of an overdraft notification agreement for each IOLTA account, each draft-type trust account and each draft-type fiduciary account that is not subject to an alternative protection under sub. (k)(10).

(8) **Service charges.** A financial institution may charge a lawyer or law firm for the reasonable costs of producing the reports and records required by this rule.

(9) **Immunity of financial institution.** This subsection does not create a claim against a financial institution or its officers, directors, employees, or agents for failure to provide a trust account overdraft report or for compliance with this subsection.