

POMEROY, BETTS & POMEROY

ATTORNEYS AT LAW

SUITE 300
1995 EAST OAKLAND PARK BOULEVARD
FORT LAUDERDALE, FLORIDA 33306

LIABILITY DIVISION: (305) 563-6427
WORKMEN'S COMPENSATION DIVISION: (305) 561-4770
MIAMI TELEPHONE: 944-2616

GEORGE B. POMEROY
EUGENE N. BETTS, P.A.
GREGG J. POMEROY

STEVEN H. SIMLER
WILLIAM P. THOMAS
ROGER A. POMEROY

May 14, 1985

Hon. Sid White
Clerk, Supreme Court
Supreme Court Building
Tallahassee, FL

Re: Proposed Amendment to Integration Rule-Trust Funds
Disbursements

Dear Mr. White:

I would like to comment on the proposed amendment to the Integration Rules regarding trust fund disbursements and comment as to Section 6 as modified by the Supreme Court in the Opinion rendered April 18th, 1985, as follows.

I speak as to those attorneys who deal with Workers' Compensation claimants, or employees as we call them, wherein they have what is called a retainer contract with the client approved by the Deputy Commissioner and accordingly, receive from the insurance company a draft or check made payable to both the employee and the attorney. The attorney, under his retainer contract, has the authority to endorse a client's name and deposit said funds in his trust account and then write the employee a check for the amount received less his 10% or 20% attorney's fee approved by the court. This is usually an ongoing thing until the case is finished and the amount of the check is seldom more than \$200+. Most attorneys have in their trust account their own money ranging anywhere from \$500 to \$2-3,000. Most of these employees live from check to check and if the attorney were to deposit that check in his trust account, subject to clearance which would take approximately five bank working days, the individual employee would be deprived of that money that he or she needs to live on.

104 333
FILED
SID J. WHITE
MAY 16 1985
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

Hon. Sid White

May 14, 1985

There are two particular instances which I would like to refer to as follows:

One is where the attorney receives a check for the first time and has no funds of the client in his trust account. He does, however, have his own money in the trust account from which he can disburse to the claimant the amount due the claimant even though that particular insurance company's check had not at that point cleared. If the attorney has their money in his account, and would then stand any loss, I see no misconduct in this.

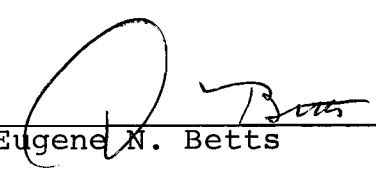
Second, where the checks have been coming over a period of time and the attorney has in his trust account a portion of his fee or fees which have not been approved as yet by the Deputy Commissioner to be transferred to his regular account, and the amount of money he has in his trust account for that particular claimant is more than enough to warrant his disbursing to the claimant periodically as the checks come in, I see no ethical wrong-doing in this.

I respectfully would like to point out the difficulty and perhaps inequity to both the employee and the lawyer if he were not permitted to do this. I submit this letter in response to the Supreme Court's request for response from the Bar and the general public.

Respectfully submitted,

EUGENE N. BETTS, P.A.

By


Eugene N. Betts

ENB:fes