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Clerk of the Supreme Court
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Tallahassee, Florida 32301

The Florida Bar
Board of Governors
Tallahassee, FL
32301-8226

The Florida Bar News
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32399

RE: Mandatory I.O.T.A.

Gentlemen:

The recent furor over mandatory participation in the Interest on Trust Account Program fails to consider the economics as they affect the bank, client and attorney.

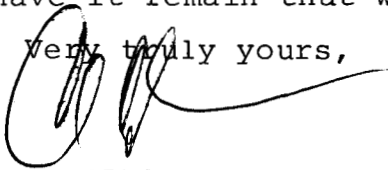
Banks will frequently give clearance on insurance checks without waiting for normal hold periods. Collection lawyers with large volumes of small transactions (deposits of \$10-\$50 checks) would probably not find a bank that would want to service the account. If the bank took such an account, the service charges would be large and ultimately passed on to the client.

The social activism aspect would often result in the interest on client's funds going directly and indirectly to interfere with their own best interest. Some examples are: landlords being tooled around by legal aid attorneys on evictions, despite the tenant being seriously in arrears, real estate purchasers' deposits earning interest for the purposes of defending criminals who may have robbed them or others; funds being used for scholarships to pump out more lawyers while a large percentage of our population doesn't like lawyers to begin with (even though they must use the services of lawyers out of necessity).

Ultimately, the issue of client's funds earning interest for social activism must be determined by the client. Notification to the client that the firm does not participate in IOTA could be a required disclosure with waiver signed by the client.

Voluntary IOTA participation should require a disclosure to the client whose funds are on deposit. Unfortunately, this seems to have been negotiated away by the Bar with the IRS.

Mandatory IOTA participation, no matter how you cut it, results in participation by clients in furthering causes they may vehemently disagree with. The Florida Bar regulates the profession in our state. The legislature and the governor determine the funding of social issues in Florida. Let's have it remain that way.

Very truly yours,


CHARLES E. BUTLER, III

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