

## Scam Update: New Ways They Can Get Your Money

Oregon lawyers are reporting new, more aggressive twists to the ongoing check scam epidemic. Here are the latest variations:

### Phake Phone Calls and Phake Money

Taking a cue from overseas e-mail scammers, local thieves have called lawyers' offices posing as potential clients or perhaps bar staff. While the story may vary, the goal is always the same: con the lawyer out of money. The "client" or "opposing party" presents a counterfeit check or money order. Once you deposit the funds, the "client" begins leaning on you to wire proceeds. NEVER WIRE MONEY under these circumstances. Follow the advice of the FTC ([www.ftc.gov/bcp/edu/microsites/moneymatters/scam-watch-wiring-money.shtml](http://www.ftc.gov/bcp/edu/microsites/moneymatters/scam-watch-wiring-money.shtml)). Wiring money is like handing someone cash.

**How can you spot a phake client caller?** Take the time to probe potential new clients. Be wary of inconsistencies and the failure to provide specifics. Consider verifying the client's story, at least in part. I know this involves precious time, but you may thank yourself later. Databases like Accurint ([www accurint.com](http://www accurint.com)) and Merlin Information Services ([www merlindata.com](http://www merlindata.com)) help detect fraud and verify identities.

**Be wary of giving personal information over the phone to "bar staff".** Bar associations do not normally call members to collect dues over the phone, but several scammers have tried this tack:

- Caller poses as an investigator with the state bar and threatens to arrest his victim if she does not immediately pay \$250 toward an over-

due loan.

- Caller telephones law firm saying she is "from the bar association" and the attorney's bar card is expiring or membership dues must be paid immediately.

Remember, you can always take down information, hang up, then initiate your own call to the bar association (or any other business a suspicious caller purports to represent).

### Phake Letters and Phake Money

The only difference between an e-mail scam and a scam by mail is the method used to contact the lawyer/potential fraud victim. Watch out for this type of scenario:

A "client" out of the area writes a letter asking for help collecting a debt from an Oregon-based company. The debtor company is real. The "client" may even represent that he or she was referred to you by a legitimate referral source. You bite and send out a retainer agreement sight unseen. Soon you receive a check from the alleged debtor. Your "client" instructs you to deposit the check and to wire the funds, minus all fees, to an overseas bank account. Weeks later you learn the check is counterfeit.

### Phaking Your Trust Accounts

Lawyers have long been worried about exposing or providing their IOLTA routing and bank account numbers to untrusted, unknown individuals. Here is a scenario recently reported to us:

Lawyer meets with new "client" who pres-

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ents a retainer check. Lawyer waits for check to clear before beginning work on the “client’s” case, but soon after presentation, “client’s” check bounces. Lawyer thinks: no harm was done since I did no work on the matter. The following month, lawyer discovers fake checks written on his trust account and cashed out of state. Lawyer surmises the scammer was his new “client” whose retainer check bounced the month before.

**What went wrong.** When the lawyer deposited the “client’s” retainer, he used an endorsement stamp with the name of his bank and his IOLTA account number. Using this information, the scammer created counterfeit checks. (Check images from banks are easy to find on the Internet, as are bank routing numbers. The scammer acquired the name of the bank and the lawyer’s account number from the endorsement stamp on the reverse side of his NSF check.)

**What you should do now.** The lawyer who reported this scam recommends the following:

- Stop using your endorsement stamp if it contains your account number.
- Order a new endorsement stamp that reads simply “DEPOSIT TO ACCOUNT OF PAYEE.” If you endorse checks by hand, follow the same advice.
- Know your rights (or lack thereof). The lawyer who fell victim to this scam succeeded in getting his bank to reverse the charges, but only because his account agreement was ambiguous. Subsequently, he received a change in terms informing him that the bank is not responsible for fraudulent check charges drawn on commercial accounts. (However, fraudulent *electronic* charges are covered by federal law and can be objected to by commercial account holders.)
- Consider alternative payment methods. The lawyer who was scammed no longer issues trust account checks to unknown or untrusted individuals or entities. He has chosen to use electronic bank payments to send retainer refunds or settlement checks. [Author’s note: If you decide to issue a refund via electronic payment under the circumstances described, the proceeds must be drawn from the lawyer trust account. Do not transfer funds belonging to a client from your trust account into your general account in order to issue a refund. Funds belonging to a client must be held in trust and distributed from the trust account. Similarly, settlement proceeds belong in the lawyer trust account. Settlements generally arrive in the form of a check or draft made payable to lawyer and client. Because the check or draft belongs in part to the client, the funds are properly deposited into the trust account and then distributed. Do not transfer the client’s share of the settlement from your trust account into your general account to issue a settlement distribution to the client.] If you are not comfortable using BillPay and are leery about

## Avoid Check Scams – Read These Resources!

“Check Scams Become Even More Sophisticated and Generally Have No PLF Coverage”, *In Brief*, October 2012

“Check Scams Continue to Plague Lawyers,” Beverly Michaelis, <http://oregonlawpracticemanagement.com>, February 28, 2012

“Changes to PLF Claims Made Plan [New Exclusion for Check Scams],” Jeff Crawford, *In Brief*, December 2011

“Check Scams Becoming More Sophisticated,” Sheila Blackford, *In Brief*, November 2010

“Scammers Take Aim at Lawyers: How to Avoid Becoming the Next Victim,” Helen Hierschbiel, *Oregon State Bar Bulletin*, May 2010 ([www.osbar.org](http://www.osbar.org))

“Check Scams Target Lawyers,” Kimi Nam, *In Brief*, November 2008

“Avoid a Claim” Blog, Dan Pinnington, <http://avoidclaim.com>, practicePRO

*In Brief* articles are available at [www.osbplf.org](http://www.osbplf.org).

issuing a check on your IOLTA account, purchase a cashier’s check payable to the client. Simply write a check from the trust account payable to your bank for the net amount due the client. Cover the cost of obtaining the cashier’s check with proceeds from your general account. Because the check the client receives is drawn on the bank, not on your IOLTA account, no identifying information is provided. (This may be a better alternative than BillPay, since not all individuals or entities can receive electronic payments. If the bank must issue a check through BillPay, it likely will contain your IOLTA account number.)

- Be especially wary of cashier’s checks drawn on banks from outside the United States. Some banks recommend that businesses reject such checks and require instead that overseas clients or payors wire funds.

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