

**BAR ASSOCIATION OF ERIE COUNTY
COMMITTEE ON PROFESSIONAL ETHICS**

Opinion xx1 - 1/15/04

Topic: Funds belonging to a
missing client.

Digest: Preserving Identity of
Funds and Property of
Others; Fiduciary
Responsibilities; Missing
Clients

Code: DR 9-102 F. [§1200.46]

QUESTION

What is a lawyer to do with a small sum of missing clients funds and there was no action?

OPINION

DR 9 - 102 F. prescribes

Whenever any sum of money is payable to a client and the lawyer is unable to locate the client, the lawyer shall apply to the court in which the action was brought if in the unified court system, or, if no action was commenced in the unified court system, to the Supreme Court in the county in which the lawyer maintains an office for the practice of law, for an order directing payment to the lawyer of any fees and disbursements that are owed by the client and the balance, if any, to the Lawyers' Fund for Client Protection for safeguarding and disbursement of Successor Signatories.

The solution is that the LAWYERS FUND for CLIENT PROTECTION will accept sums of up to ONE THOUSAND (\$1,000) DOLLARS from a lawyer with a missing client, without an order. Otherwise, the rule is instructional.

CONCLUSION

The lawyer should forward his trust check to the Lawyers Fund for Client Protection, 119 Washington Street, Albany, New York 14210.