Supreme Court

In re Amendment to Article IV, Rule 2 :
of the Supreme Court Rules :
(Trust Account Overdraft Notification). :

O R D E R

Article IV, Rule 2 of the Supreme Court Rules is hereby amended as follows:

"**Rule 2. Trust account overdraft notification**.

~~(1)~~(a) Lawyers and law firms who practice law in this state shall deposit all funds held in trust in accordance with Rule 1.15 of the Rules of Professional Conduct (Article V of the Supreme Court Rules) in accounts clearly identified as "trust," "client" or "escrow" accounts, collectively referred to herein as "trust accounts," and shall take all steps necessary to inform the depository institution in which the trust accounts are deposited of the purpose and identity of such accounts. For the purposes of this Rule 2, trust accounts shall not include funds held by a lawyer as trustee under an inter vivos or testamentary trust, guardian, executor, receiver or similar fiduciary capacity. Trust accounts shall be maintained only in financial institutions approved by this Court ~~or this Court's Disciplinary Board~~. The names of financial institutions in which such trust accounts are maintained and identification numbers of each such account shall be recorded on the annual lawyer registration form filed with this Court. Trust accounts, and the maintenance thereof, shall be subject to the following additional provisions.

(b) A financial institution shall be approved as a depository for trust accounts if it shall file with this Court ~~or this Court's Disciplinary Board~~ an agreement, in a form provided by the Court ~~or Disciplinary Board~~, to report to the Disciplinary Board in the event any properly payable instrument is presented against a trust account containing insufficient funds, irrespective of whether the instrument is honored. This Court ~~or Disciplinary Board~~ shall establish rules governing approval and termination of approved status for financial institutions, and shall annually publish a list of approved financial institutions. No trust account shall be maintained in any financial institution which does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be cancelled except upon thirty (30) days' notice in writing to this Court ~~or Disciplinary Board~~. Every financial institution so approved shall, within thirty (30) days of any change in the facts set forth in the approved agreement, file a change of circumstances statement prescribed by the Clerk of the Supreme Court describing such change. Every financial institution so approved shall, every year between December first and December thirty-first, file a completed annual renewal statement prescribed by the Clerk of the Supreme Court.

(c) The overdraft notification agreement shall provide that all reports made by financial institutions shall be in the following format:

(1) In the case of dishonored instrument, the report shall be identical to the overdraft notice furnished to the depositor, and shall include:

(i) A copy of the dishonored instrument;

(ii) The name of the financial institution;

(iii) The name and address of the attorney or law firm;

(iv) The account number;

(v) The date of presentation for payment;

(vi) The amount of the dishonored instrument; and

(vii) The account balance at the time of presentment.;

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall ~~be in similar form as in the case of a dishonored instrument and shall also include the date of presentation of the instrument for payment, as well as the amount of the overdraft created thereby~~ include:

(i) A copy of the paid instrument;

(ii) The name of the financial institution;

(iii) The name and address of the attorney or law firm;

(iv) The account number;

(v) The date of presentation for payment;

(vi) The date paid;

(vii) The amount of the instrument paid; and

(viii) The amount of the overdraft created thereby.

Such reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any, to depositors. If an instrument presented against insufficient funds is honored, then the report shall be made within five (5) banking days of the date of presentation for payment against insufficient funds.

* * *"

Entered as an Order of this Court this ***3rd*** day of ***November 2025***.

/s/

Suttell, C. J.

/s/

Goldberg, J.

/s/

Robinson, J.

/s/

Lynch Prata, J.

/s/

Long, J.