

Frequently Asked Questions

How can I prove my loss?

The best way to prove a loss is to provide copies of cancelled checks or receipts showing payment of fees or receipt of other money by the lawyer on the client's behalf, a written fee agreement, correspondence with the lawyer, and any other papers showing how much money the lawyer received and, in cases involving unearned fees, what work was done (or not done) by the lawyer.

How much can I recover?

The amount paid by the Client Security Fund will depend on the type and amount of your loss. No reimbursement will exceed the amount of fees actually paid or money actually received by the lawyer on the client's behalf. The maximum reimbursement per claim is \$50,000.

What if I disagree with the fees charged by my lawyer?

The Oregon State Bar has a separate fee arbitration program for resolving fee disputes. The Client Security Fund may reimburse the unearned portion of a fee if there is evidence that the lawyer provided no legal services to the client, that the services provided were of insignificant value, or if there is a decision of a court or other fact-finder that some part of the fee was unearned.

What efforts must I make to collect from my lawyer or third parties?

Required efforts to collect will depend upon the particular circumstances of your case. Ordinarily for claims over \$5,000, a judgment against the lawyer (or other party liable for the loss) and a judgment debtor examination will be required. This requirement may be waived on a showing that further efforts to collect from the lawyer will be an undue hardship on the claimant.

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What if I am running out of time to file my complaint?

If your claim is incomplete because you have not yet finished all collection efforts, you may file your claim early. The Committee may continue the matter or reject the claim with permission to refile at a later time.

Special Needs

If you have a disability for which you need accommodation in filing a claim or if you need to receive printed materials in a different format, please contact General Counsel's Office at ext. 334.



Oregon State Bar

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rev. 12/02



Client Security Fund

General Information



General Information

Introduction

The Client Security Fund of the Oregon State Bar was created in 1967 to help reimburse clients who have suffered a financial loss as the result of dishonest conduct by their lawyer. Oregon lawyers developed the program and voluntarily fund it for the benefit of the public. Claims for reimbursement are reviewed by a committee of volunteers, including one public member. All awards are made by the Oregon State Bar Board of Governors.

Eligible Claims

The Client Security Fund will consider a monetary award to reimburse a client for money or property taken by an Oregon lawyer, if:

- the loss occurred within an established lawyer/client relationship or a fiduciary relationship related to the lawyer's practice of law;
- as a result of the dishonest conduct, the lawyer was found guilty of a crime, a civil judgment was obtained against the lawyer, or if the loss is \$5,000 or less, the lawyer was disbarred, suspended, or reprimanded or resigned from the bar;
- the claimant has made a reasonable attempt to recover the amount claimed without success, and
- the claim is filed with the bar within two years after the latest of: the lawyer's conviction, judgment date, or date of disbarment, suspension, reprimand or resignation; or the date the claimant knew or should have known of the loss. No claim will be considered if submitted more than six years after the loss.

Losses Not Covered

The following kinds of losses are not covered:

- losses that are the result of lawyer negligence or malpractice;
- losses from business or investment relationships between lawyer and client;
- damages, lawyer's fees, or interest;
- losses covered by an insurance or surety contract or bond.

Filing a Claim

A person wishing to make a claim may request an Application for Reimbursement form from the Oregon State Bar General Counsel's Office. A claim may be made by the injured client or the client's conservator, personal representative, guardian ad litem, trustee, or attorney in fact. Claimants do not need a lawyer to submit the claim; however, bar members are encouraged to assist claimants without charge in preparing or presenting claims. A claimant who would like assistance in presenting a claim may ask the bar may to supply the name of a volunteer lawyer.

Claim Processing

Applications for Reimbursement are reviewed by General Counsel's Office staff and, if complete, assigned to a member of the Client Security Fund Committee for investigation and report. The Client Security Fund Committee reviews all committee members' reports and determines if the claim is eligible for payment. If the committee recommends a claim for payment, it is forwarded to the OSB Board of Governors for final approval. Payments from the Client Security Fund are discretionary and are not a matter of right. If the Committee decides against reimbursement, claimants receive a written explanation and may request Board of Governors review. The Board's decision on review is final.

Processing Time

The thorough investigation and orderly processing of complaints requires time to complete, usually 6 to 18 months, depending upon the nature of the investigation and the meeting schedules of the Client Security Fund Committee and the Board of Governors. Delays are sometimes the result of insufficient information or documentation or pending legal or disciplinary proceedings. Every effort is made to process each claim as quickly as possible.

Claimant Responsibilities

Claimants must provide all necessary information and documentation to prove that their claims are eligible for reimbursement. Claimants must show evidence of their efforts to recover the lost money or property from the lawyer and may be required to seek recovery from others who may be liable for the loss, such as a bonding or insurance company, a bank that honors a forged endorsement, or the partners of the defalcating lawyer.

Other Options

The Client Security Fund was created for a specific purpose and does not cover all disputes between lawyers and clients. (For example, the fund may deal with the theft of a client's trust account funds, but does not cover losses due to malpractice even when the client may suffer monetary loss.) If a problem is not covered by this program, the Oregon State Bar may be able to provide information about other client assistance programs, including:

- Professional Liability Fund (malpractice insurance carrier for Oregon lawyers);
- Fee Arbitration Program (fee disputes between lawyer and client);
- Disciplinary Counsel's Office (complaints alleging violations of the Code of Professional Responsibility);
- Lawyer Referral Services (referrals to lawyers in private practice).