

***IN THE SUPREME COURT, STATE OF WYOMING***

***October Term, A.D. 2015***

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***In the Matter of Amendments to the*** )  
***Rules of Professional*** )  
***Conduct for Attorneys at Law*** )

**SECOND ORDER *NUNC PRO TUNC* AMENDING RULES 1.15, 1.15A, AND  
6.1 OF THE RULES OF PROFESSIONAL CONDUCT  
FOR ATTORNEYS AT LAW**

**Bar Counsel for the Wyoming State Bar** has recommended that the Wyoming Supreme Court amend the Rules of Professional Conduct for Attorneys at Law, to make those rules consistent with the recent consolidation of the Wyoming State Bar Foundation with the Equal Justice Wyoming Foundation. The Court, having carefully reviewed the proposed amendments, finds that the proposed amendments should be adopted. This second *nunc pro tunc* order is being entered to remove a sentence from Rule 1.15(a) that was inadvertently inserted. It is, therefore,

**ORDERED** that the amendments to Rules 1.15, 1.15A, and 6.1 of the Rules of Professional Conduct for Attorneys at Law, attached hereto, be, and hereby are, adopted by the Court to be effective December 1, 2015; and it is further

**ORDERED** that this order and the amendments be published in the advance sheets of the Pacific Reporter; the amendments be published in the Wyoming Court Rules Volume; and that this order and the amendments be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments to the Rules of Professional Conduct for Attorneys at Law shall thereafter be recorded in the journal of this Court; and it is further

**ORDERED** that this Court's October 27, 2015, "Order *Nunc Pro Tunc* Amending Rules 1.15, 1.15A, and 6.1 of the Rules of Professional Conduct for Attorneys at Law" shall be removed from the Wyoming Judicial Branch's website and is of no further effect.

**DATED** this 23<sup>rd</sup> day of November, 2015.

**BY THE COURT:**

/s/

**E. JAMES BURKE**  
**Chief Justice**

## RULES OF PROFESSIONAL CONDUCT FOR ATTORNEYS AT LAW

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### **Rule 1.15. Safekeeping property.**

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All client or third person funds shall be deposited in either an "IOLTA Program Account" or "Non-IOLTA Program Account." ~~A lawyer may elect not to maintain an IOLTA Program Account by following the procedure set forth in Rule 1.15A subsection (f).~~ Other property shall be identified as belonging to the appropriate entity and appropriately safeguarded

(1) "IOLTA Program Account" refers to a trust account, at an "IOLTA-Eligible Institution" (see Rule 1.15A) from which funds may be withdrawn upon request as soon as permitted by law. An IOLTA Program Account shall include only client or third person funds that cannot earn income for the client or third person in excess of the costs incurred to secure such income while the funds are held. All other client or third person funds shall be deposited into a Non-IOLTA Program Account. ~~The Wyoming State Bar~~ Equal Justice Wyoming Foundation will maintain a list of IOLTA-Eligible Institutions currently holding IOLTA Program Accounts and shall provide the list upon request.

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### **Rule 1.15A. Interest on lawyers trust accounts program.**

(a) Lawyers may only place their IOLTA Program Accounts in IOLTA Eligible Institutions. IOLTA Eligible Institutions are depository institutions which voluntarily offer IOLTA Program Accounts and meet the requirements of this rule. ~~The Wyoming State Bar~~ Equal Justice Wyoming Foundation will maintain a list of IOLTA Eligible Institutions currently holding IOLTA Program Accounts, and will provide the list upon request.

(b) An IOLTA Eligible Institution shall:

(1) ensure that each IOLTA Program Account receives the highest interest rate that the depository institution pays other customers when the IOLTA Program Account meets the same minimum balance or other requirements. IOLTA Eligible Institutions may elect to pay higher rates than required;

(2) deduct only allowable reasonable fees from IOLTA interest, defined as per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, sweep fees, and a reasonable IOLTA Program Account administrative or maintenance fee. All other fees are the responsibility of, and may be charged to, the lawyer maintaining the IOLTA Program Account. Fees or charges in excess of the interest or dividends earned on the account for any month or quarter shall not be taken from interest or dividends earned on other IOLTA Program Accounts or from the principal of the account. IOLTA Eligible Institutions may elect to waive any or all fees on IOLTA Program Accounts;

(3) remit, each month, interest or dividends, net of any service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with the institution's standard accounting practice for other depositors, to the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation, a tax exempt entity; and

(4) transmit with each remittance to the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation, in an electronic format to be specified by the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation, a statement which shall include the following: (a) the name of the member or the member's law firm for whom the remittance is sent, (b) the account number of each account, (c) the rate of interest applied, (d) the amount of interest or dividends remitted, (e) the amount and type of charges or fees deducted, if any, and (f) the average account balance for the period in which the report is made.

(c) The ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation shall maintain records of each remittance and statement received from depository institutions for a period of at least three years and shall, upon request, promptly make available to a lawyer or law firm the records and statements pertaining to that lawyer's or law firm's account.

(d) All interest transmitted to the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation shall be distributed by the entity for the purposes of providing legal services to the poor of Wyoming, who would otherwise be unable to obtain legal assistance; providing public education projects which promote a knowledge and awareness of the law; providing projects which improve the administration of justice; or providing for the reasonable costs of administration of interest earned on accounts under this rule. Subject to the fulfillment of fund purposes, the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation shall have the sole discretion of allocation, division, and distribution of funds.

(e) Lawyers, by maintaining either an IOLTA Program Account or Non-IOLTA Program Account, are deemed to consent to the reporting requirements required by these rules.

(f) The ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation shall have authority to promulgate administrative policies and rules consistent with this rule, subject to the approval of the Supreme Court.

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**Rule 6.1. Pro bono public service.**

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(b) In the alternative, a lawyer should voluntarily contribute \$500.00 per year to any existing non-profit organization which provides direct legal assistance to persons of limited means such as the ~~Wyoming State Bar~~ Equal Justice Wyoming Foundation, the Wyoming Legal Services Corporation offices, the University of Wyoming College of Law clinics, or some similar organization.

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