

# Protecting Client Funds When A Lawyer Dies

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The case of *Hynes v. Citibank, NA*, Supreme Ct., Queens Cty., October 2002, outlines the procedure to follow when a single practitioner dies leaving undisbursed client funds in his attorney escrow account. Walter Hynes was a Captain in the New York City Fire Department. He died at the World Trade Center on September 11, 2001. Captain Hynes was also an attorney who practiced part-time from his home. At his death, Captain Hynes left an IOLA account containing \$54,537.65 in client funds. He was the only signatory on the account.

Captain Hynes did occasional per diem legal work for attorney Robert H. Kane.

As attorney for Captain Hynes' widow, Administrator of the Captain's estate, Attorney Kane asked the court to add him and his law partner as signatories to the Hynes IOLA account. Judge Duane Hart granted the request.

Attorney Kane followed the procedure set forth in DR 9-102(G) (1):

Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory for such trust, escrow or special account who shall be a member of the bar in good standing and admitted to the practice of law in New York State.

The application must be made in the judicial district in which the deceased lawyer maintained his law office. Any one of a number of designated persons may make the application (DR 9-102(G) (2):

- the legal representative of the lawyer 's estate
- a lawyer who was affiliated with the deceased in the practice of law
- any person with a beneficial interest in the escrow account
- an officer of a city or county bar association
- counsel for an attorney disciplinary committee

A lawyer who assists in the application is not permitted to charge a fee for his services. In addition to designating the successor signatory, the Supreme Court judge who considers the application may direct the disbursement of the escrow funds and may order that the funds be deposited with the Lawyers' Fund for Client Protection for safekeeping.