

CLIENTS' SECURITY FUND CHAIR JANET PANCOAST TALKS CLIENT PROTECTION

BY THERESA FREEMAN,
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Janet Pancoast is an attorney member of the State Bar of Nevada and the chair of the Clients' Security Fund (CSF) Committee. As the committee chair, Pancoast can see how a few bad attorneys could ruin the reputation of the whole legal profession were it not for programs such as the fund.

The State Bar of Nevada's Clients' Security Fund was

established to reimburse clients defrauded by disbarred or discipline-suspended attorneys. It also provides recourse for clients if an attorney dies or is unable to practice because of health issues. Through her work on the CSF Committee, Pancoast has helped many clients recover thousands of dollars stolen by a few dishonest attorneys or lost when an attorney died or became ill.

In a recent interview, Pancoast discussed the CSF and the ways in which it protects clients and fosters a positive public perception of attorneys.

How did you first learn about the Clients' Security Fund?

Janet Pancoast: I wanted to get more involved with the bar and submitted an application. John Shook, the previous Clients' Security Fund Chair called and asked me if I would be interested in serving on the CSF committee and, given my own experiences, it seemed like an ideal committee for me.

What made you want to join the Clients' Security Fund Committee?

Pancoast: My children were getting older and I had more time on my hands, so I wanted to give back to the legal community and get more involved in volunteering.

What are some of the reasons an attorney might begin stealing?

Pancoast: I don't think most attorneys start out as bad people (with a few exceptions). Being an attorney is a very stressful job and attorney theft may be contributed to any number of stressors. For example, if an attorney has a large amount of debt he or she cannot pay, the attorney may become desperate and succumb to the temptation to use client funds. If an attorney has a mental illness or drug/alcohol addiction, he or she may use client funds to support their addiction or to cope with their mental illness. Often attorneys become accustomed to a certain lifestyle. If, at any point, they find that they

are unable to afford that lifestyle, they may start taking client funds. Then there are some attorneys who just have poor office management skills and get themselves into trouble that way.

Do you find attorney theft is usually premeditated, or is it often just bad business practice?

Pancoast: When attorneys are desperate, the theft usually starts out with taking small amounts of money from their client funds. Those amounts then become larger over time. It is bad business practice for sure, but depending on the circumstances, the intent to actually steal is not always what the attorney planned to do. Often they are trying to rob Peter to pay Paul, where the intent is to actually pay the money back. However, they get in over their head and end up in trouble over time.

At what point in an attorney's career is the attorney most likely to steal?

Pancoast: There is no one answer to this question. It varies and depends more on the attorney's circumstances than how long he or she has been in practice.

Are most clients surprised to learn that their attorney has stolen from them?

Pancoast: Yes, especially in cases where there was a settlement and the client doesn't realize until years later that the settlement proceeds were not used to pay medical liens, etc. Additionally, in recent years, a large percentage of the fund's claims have resulted from attorneys targeting Nevada's Spanish-speaking population. The clients choose Spanish-speaking attorneys because they think they can trust them. In those cases, the clients are very surprised when they get burned by one of their own.

Have you seen a trend in the types of claims made or amounts paid out?

Pancoast: Yes. When the economy tanked, there was an increase in Clients' Security Fund claims regarding attorneys who handle bankruptcies and home loan modifications. A small group of attorneys decided to take advantage of people who were in dire straights, financially. Clients would give their last few thousand dollars to these attorneys, with hopes of saving their homes and resolving their debt issues. It is really sad to see clients who are desperate used like that.

Does the Committee approve all claims?

Pancoast: No. Each claim is different and approval or denial is based on the merits of the claim. We had 95 claims reviewed last year. Of those 95, the Committee approved 69 and denied 26.

Are there just a few bad attorneys, or is this behavior reflective of the whole profession?

Pancoast: It is mainly a few bad apples. Most Clients' Security Fund claims are against a handful of attorneys out of the entire membership. Of the 95 claims reviewed last year, the majority of those claims (67) were against only three attorneys.

Has your position on the Clients' Security Fund Committee negatively affected your view of the profession?

Pancoast: No. It's like any large demographic group: you have good ones and bad ones, competent and incompetent, lazy or diligent. Some of my best friends are attorneys, so I don't think they are all bad!

How does the CSF combat poor public perception of attorneys?

Pancoast: When a client hires an attorney, he or she is usually in an adversarial situation. As such, the odds of coming out on top are usually 50-50. When a case is not successful, the person blamed is often the attorney. Although the fund cannot help rectify public perception in these instances, it can make clients who have actually been wronged by an attorney whole. The fund is primarily supported by attorney bar dues; therefore, when the fund pays a claim, that money comes from all the other attorneys in the state. It is good the bar has a program in place where attorneys are able to look out for one another in the profession.

There are some attorneys who believe their bar dues should not be used to compensate the clients of other attorneys. How do you respond to that view?

Pancoast: As members of the bar, we have a responsibility to protect the public, even if it is from our colleagues. When an attorney hurts his client, either intentionally or inadvertently, we have a duty to protect the public from that attorney.

What can we do to encourage more attorneys to serve the profession through the State Bar of Nevada?

Pancoast: An attorney's life is all about fighting with opposing party or counsel each and every day. I advise lawyers to take the time to step out of the everyday role of an attorney and give back instead. It will give them a different perspective of life. ■



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(TIP) Program. Prior to taking her current position, Freeman worked as an Investigator for the State Bar of Nevada's Office of Bar Counsel.