

Malice Aforethought

The problem with commingling is that, sooner or later, someone almost always notices that the money is missing. For Philadelphia lawyer Jordan L. Peiper, the discovery came later; it was not until 1989 that suspicious relatives found that at least \$50,000 had vanished from the widow's trust Peiper had administered since 1973. When Peiper refused to explain where the money went, an angry judge sentenced him to six months in jail for contempt.

But most lawyers who pocket money wrongfully never go to jail because they never get caught.

Why?

Because the money they mishandle is money willingly paid to them by clients for actual legal fees. But there's a trick: In contrast to hotels and car rental companies and dozens of other legitimate businesses, we're willing, actually happy, to be paid in cash. Not all of us insist on it. Joel Hyatt accepts Visa and Master Charge, and Big Firms expect checks in payment of their inch-thick bills. But some lawyers prefer cash so much that they'll discount their fee to get it, and very few attorneys, even in Big Firms or Hyatt Legal Service centers, turn down good old American greenbacks.

Here's what happens when they don't: When a client hands a young lawyer a \$500—or \$5,000—cash retainer, the lawyer, often for the first time in his life, has a big wad of money, cash money, in his hand. And typically, no one else knows about it, because retainers are paid in one-on-one office meetings, or in a remote corner of a courthouse corridor, or in the parking lot outside the police station.

What should he do with it?

In answering that, the lawyer will find three quick ways to trigger a sharp pain in his midsection.

- He can steal from his partners.

Attorneys who practice with partners are supposed to put all fees into the partnership pot. The partners will hear