

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

FORM 5.06A

Annual Trust Account Report Required by Rule 5.06(3) of Uniform Trust Account Rules

Filing Instructions

1. With the exception of members who are exempt under s. 5.08 of the Rules, and who must file Form 5.06B, this Report in Form 5.06A must be completed and filed with the Society no later than November 1st of each year.
2. In this Form “Rules” means the Uniform Trust Account Rules of the Law Society of Newfoundland and Labrador.
3. The Form is to cover a calendar year from October 1st to September 30th, notwithstanding the fiscal year of the firm.
4. The Form must be completed in full and signed and dated before being forwarded to the Society.
5. The Declaration by the bookkeeper as to the person responsible for maintaining the accounting records must be signed and dated before being forwarded to the Society.
6. If there is not sufficient space on the Form, answers should be completed on separate sheets and attached as a schedule, identifying the section of the Form to which it applies.
7. The address of the Society for filing of the Report is PO Box 1028, St. John’s, NL, A1C 5M3 or 196 -198 Water Street, St. John’s.

NOTE: Failure to file this Report by the date fixed by the Society shall result in suspension as provided in Rule 5.07 as follows:

SUSPENSION FOR FAILURE TO FILE

5.07 If a member fails to file a report in Form 5.06A or 5.06B within the time required under section 5.06, or fails to provide additional information in compliance with a request under subsection 5.06(5), the Executive Director shall send a notice in writing to the member and/or firm informing the member and/or firm that if Form 5.06A or 5.06B is not filed within fifteen (15) days from the date of delivery of the notice to the member and/or firm, the membership or enrollment in the society shall be suspended until such time as the member and/or firm is in compliance.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

FORM 5.06A

PURSUANT TO RULE 5.06(3) OF THE UNIFORM TRUST ACCOUNT RULES

LAWYER'S TRUST ACCOUNT REPORT - 2019

1. This report covers the period from **October 1, 2018** to **September 30, 2019** (reporting period).
2. Name of law firm or sole practitioner _____
3. Addresses of offices covered by this Report _____

4. Telephone _____ Fax _____ E-Mail _____

Describe your overall practice below by indicating the approximate percentage of time devoted by you during the reporting period to each area of law listed below. (The total for the 19 rows should approximate 100%.)

	1-10%	11-20%	21-30%	31-40%	41-50%	51-60%	61-70%	71-80%	81-90%	91-100%
ADR Mediation Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bankruptcy & Insolvency Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Civil Litigation - Plaintiff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Civil Litigation - Defendant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Construction Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Corporate/Commercial Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal/Quasi Criminal Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment/Labour Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family/Matrimonial Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Immigration Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intellectual Property Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Real Estate Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Securities Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wills, Estates, Trusts Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Workplace Safety & Insurance Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. At the end of the reporting period:
- (a) Names of partners _____

- (b) Names of employed lawyers who are not partners _____

- (c) Names of all lawyers associated with the firm other than partners and employed lawyers

- (d) Names of all lawyers who are members of other law societies, identifying the other society(s) _____

6. Pursuant to Rule 9.01.1, the designated person for this firm to receive information about allegations, complaints and disciplinary matters is _____.
- The alternate designated person is _____.

Sole practitioners are not required to complete item 6

Designated person

9.01.1 (a) A law firm shall provide the Law Society with the name(s) and address(es) of a person(s) of the law firm designated to receive information from the society with respect to allegations, complaints, and disciplinary matters involving a member of the law firm. Where feasible the person designated shall be a member of the society.

(b) When there is a change in the designated member information previously filed with the Law Society, the member and law firm shall provide the name(s) and address(es) of the newly designated person(s).

(c) The designated person(s) will receive notification at the time a response is required from the respondent, the filing of a complaint or the implementation of disciplinary action. Copies of relevant documentation may be provided to the designated person(s) provided that any such disclosure would not have the effect of disclosing solicitor-client privileged information.

(d) For purposes of this rule, "law firm" includes a professional law corporation, partnership of professional law corporations or any combination thereof, the Newfoundland and Labrador Department of Justice, the Newfoundland and Labrador Legal Aid Commission, the Department of Justice (Canada) and one or more members of the society practising in any other unit of a public body, Crown Corporation, or as in-house counsel in a private enterprise.

7. Changes from the date of the last report in partners, employed lawyers and associated lawyers (provide full particulars, including the exact date on which any member left or joined your firm during the reporting period).

Member	Date joined firm	Date left firm
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Accounting records are maintained primarily by:

- Full-time bookkeeper Accounting firm Legal Assistant/bookkeeper
- Part-time bookkeeper Law firm's principal(s) _____
- (other)

Name of person(s) maintaining accounting records: _____
 Position/Designation/Office of the person(s): _____

9. The nature of the accounting system is mainly:

- Manual Computer In-house Name of software used to maintain computerized trust records: _____
- One-write Computer Service Bureau _____

10. Pursuant to Section 69 of the *Law Society Act, 1999*, which provides that:

- (a) A member or professional law corporation shall maintain a regular interest-bearing trust account in a chartered bank, a trust company or other depository approved by the board, into which he or she or it shall deposit all money received or held by the member or corporation for or on account of clients upon trust, and
- (b) A member or professional law corporation who or which is credited by a bank, trust company or other depository approved by the board with interest on money received or held for, or on account of, clients generally holds that interest in trust for the foundation and shall remit it to the foundation in accordance with the by-laws of the foundation,

during the reporting period, the following are all the general trust accounts maintained by the firm, or professional law corporation, and the opening or closing dates during this period.

Financial Institution, Name and Branch	Account Number	Date opened	Date closed (if applicable)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

11. Pursuant to Section 70 of the *Law Society Act, 1999*, which provides that nothing in Section 68 or 69 or in the by-laws of the foundation

- (a) affects a written arrangement, whenever made, between a member or a professional law corporation and a client respecting the application of the client's money or the interest on it; or
- (b) applies to money deposited in a separate account for a client at interest that is, and is intended to remain, the property of the client,

at the end of the reporting period, the following are all the specific trust accounts and interest-bearing trust investments maintained by the firm or professional law corporation:

Financial Institution, Name and Branch	Account Number or other identifier
_____	_____
_____	_____
_____	_____

12. (a) The following were the signing officers on the general and specific trust accounts at the end of the reporting period:

Financial Institution, Name and Branch	Account Number	Signing Officers and Position with Firm
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (b) Were there any changes in the signing authority during the reporting period? Yes No
 If yes, explain _____

13. During the reporting period, did you have sole signing authority or control in any capacity with respect to the administration of an estate or a trust, as a guardian or under a power of attorney? Yes No

If "yes", was any trust money or trust property as defined in Rule 5.01 held outside the firm's general or specific trust accounts and records? Yes No

Bank Balances as at September 30, 2019

a) General trust bank accounts	\$ _____ , _____ , _____ ,
b) Specific trust bank accounts	\$ _____ , _____ , _____ ,
c) Total of a) to b)	\$ _____ , _____ , _____ ,
d) Plus total outstanding deposits	\$ _____ , _____ , _____ ,
e) Plus/minus total bank/posting errors	\$ _____ , _____ , _____ ,
f) Less total outstanding cheques	\$ _____ , _____ , _____ ,
g) Reconciled Bank Balance	
[c] plus or minus any adjustments from d) to f)]	\$ _____ , _____ , _____ ,
h) Total Client Trust Liabilities (Client Trust Listing)	\$ _____ , _____ , _____ ,
i) Difference between Reconciled Bank Balance and Client Trust Liabilities [g] minus h)]	\$ _____ , _____ , _____ ,

If there is a difference between the reconciled bank balance and the client trust liabilities, provide a written explanation below:

NOTE: Attach supporting documentation to explain any discrepancies if required.

14. (a) All trust money was deposited into a trust account in a financial institution in the province authorized by law to receive money on deposit, which account was kept under the name of the firm of which the lawyer is a member and is designated both in the records of the firm and the financial institution as a trust account [Rule 5.03(1)]. Yes No
- (b) All deposits to the trust account(s) were made in accordance with Rule 5.03. Yes No
15. (a) Is the firm holding in trust any funds for which the purpose of the trust cannot be fulfilled or the trust funds cannot be distributed or remain unclaimed? (s. 70.1 of the *Law Society Act, 1999*) Yes No
- (b) If yes, provide details. _____

16. During the reporting period:
- (a) a record was kept for each client from or on whose behalf any trust money was received or disbursed [Rule 5.02(1)]. Yes No
- (b) the following books, records and accounts were maintained [Rule 5.02(1)]:
- (i) a book of original entry or data source showing the date of receipt and source of money received in trust for each client and identifying the client on whose behalf the trust money was received [Rule 5.02(1)(a)]; Yes No
- (ii) a book of original entry or data source showing all disbursements of money held in trust for each client and showing each cheque number, the date of each disbursement, the name of each recipient, and identifying the client on whose behalf each disbursement is made [Rule 5.02(1)(b)]; Yes No
- (iii) a client's trust ledger showing separately for each person on whose behalf trust money has been received all such money received and disbursed with applicable transaction date and any unexpended balance [Rule 5.02(1)(c)]; Yes No
- (iv) a record showing all transfers of trust money between clients' trust ledger accounts together with explanations of the purpose each transfer is made [Rule 5.02(1)(d)]; N/A Yes No
- (v) a book of original entry or data source showing the date of receipt and source of all money received other than trust money (i.e. general account) [Rule 5.02(1)(e)]; Yes No

- | | | | |
|--------|---|------------------------------|--|
| (vi) | a book of original entry or data source showing all disbursements of money, other than trust money, and showing each cheque or voucher number, the date of each disbursement and the name of each recipient (i.e. general account) [Rule 5.02(1)(f)]; | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (vii) | a book, data source or chronological files of copies of billings, showing all the fees and other billings charged to clients, the dates such charges were made, and identifying the clients charged [Rule 5.02(1)(g)]; | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (viii) | a record showing all trust property held in trust for clients, and identifying the client on whose behalf the property is held [Rule 5.02(1)(i)]; | N/A <input type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| (ix) | bank statements or passbooks, cashed cheques and detailed duplicate deposit slips for all trust and general accounts [Rule 5.02(1)(j)]; | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (x) | written confirmation of electronic transfer of funds; [Rule 5.03(2)] | N/A <input type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| (xi) | a record of the receipt and disbursement of money received by the firm but not paid into a trust account as permitted by Rule 5.03(6) | N/A <input type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| (c) | the books, records, data sources and accounts referred to in 16(b) above have been entered and posted at all times as required by Rule 5.02(2). | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 17. | During the reporting period, the firm maintained a record showing a comparison made monthly of the total of balances held in all trust accounts and the total of all unexpended balances of trust money as they appear from the books, data sources and records, together with the reason for any differences between the totals and supported by [Rule 5.02(1)(h): | | |
| (i) | a detailed listing made monthly showing the amount of trust money held for each client and identifying each client for whom trust money is held [Rule 5.02(1)(h)(i)]; and | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (ii) | a detailed reconciliation made monthly of each trust account [Rule 5.02(1)(h)(ii)] | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 18. | The reconciliations required of the trust accounts referred to in 17 above have been made monthly within 30 days from the date in respect of which the reconciliation is made [Rule 5.02(2)(a)] | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 19. | During the reporting period: | | |
| (a) | was all trust money required to be deposited in a trust account deposited not later than the first banking day following the day of receipt? [Rule 5.03(1)] | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (b) | has any trust account been used for a purpose prohibited by Rule 5.03(7)? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

- (c) has any trust account been overdrawn as a whole, or with respect to the funds held on account of any person for reasons other than those described in Rule 5.05(2)? Yes No
- If “yes”, was the overdraft reported under Rule 5.05(1)? If not, provide an explanation. Yes No
- (d) was money withdrawn from a trust account done in compliance with Rule 5.04(2)? i.e.
- (i) money properly required for payment on behalf of a client [Rule 5.04(2)(a)]; Yes No
- (ii) money required to reimburse the firm for money spent or for expenses properly incurred on behalf of a client [Rule 5.04(2)(b)]; Yes No
- (iii) money properly required for or toward payment of fees for which a billing or other written notification has been delivered to the client [Rule 5.04(2)(c)]; Yes No
- (iv) money that is directly transferred into another trust account and held on behalf of a client [Rule 5.04(2)(d)]; N/A Yes No
- (v) money inadvertently deposited in a trust account [Rule 5.04(2)(e)]; N/A Yes No
- (e) were more funds withdrawn from a trust account than held in a client’s credit? [Rule 5.04(2)] Yes No
- (f) was every cheque drawn on a trust account marked as a trust account cheque and made payable to a named payee? [Rule 5.04(5)] N/A Yes No
- (g) was every withdrawal by electronic funds transfer done in accordance with Rule 5.04(6), and N/A Yes No
- (i) does the electronic funds transfer system require a password or access code [Rule 5.04(6)(a)]? Yes No
- (ii) does the member retain/maintain the password or access code [Rule 5.04(6)(b)]? Yes No
- (iii) does the electronic funds transfer system produce the written confirmation as required by Rule 5.04(6)(c); Yes No
- (h) was every withdrawal by electronic funds transfer supported by an electronic funds transfer requisition as required by Rule 5.04(6)(e)? N/A Yes No
- (i) was money on deposit in a trust account to which the member or firm became entitled withdrawn from the trust account as soon as reasonably possible? [Rule 5.04(1)] Yes No

- (j) was the balance on deposit maintained in each trust account sufficient to meet all obligations at all times with respect to monies held in trust for each client? [Rule 5.04(9)] Yes No
- (k) were any cash withdrawals made from a trust account by means of a debit card? [Rule 5.04(8)] Yes No
- (l) was trust money held outside the Province done in accordance with the National Mobility Agreement or on instructions by the client in writing? [Rule 5.03(8)] N/A Yes No
20. Are all of the books, data sources, records and accounts maintained in compliance with the Rules so that an audit trail is created for all transactions? Yes No
21. During the period covered by this report:
- (a) Did any member receive cash as defined by rule 15 in the amount of \$7,500 or more? Yes No
- (b) If so, indicate which member and the exception under rule 15.02(4) that permitted the member to accept such cash.
-
- (c) For **any and all** cash payments received, were the cash receipts signed by both the employee receiving the cash and person delivering the cash to the member, as required by rule 15.03(2)? N/A Yes No
- (d) If no, please provide an explanation.
-
22. During the period covered by this report:
- (a) Were the Client Identification Rules complied with? [Rule 16] Yes No
- (b) If no, please provide an explanation.
-
23. During the reporting period, did any member of the firm, either directly or indirectly through a related person or corporation, hold mortgages or other charges on real property in trust for clients or other persons? Yes No

24. During the reporting period, were any loans made to clients **without** the approval of Benchers as required by rule 5.11? Yes No

If yes, please provide details.

25. The Law Society recommends that members maintain a secure back-up system of computer files which can be restored in the event of destruction of the current system. The back-up can be placed in an onsite fireproof safe or an offsite secure location.

Does the firm maintain a secure backup of files and records? Yes No

If yes, please provide details.

26. Are all members and staff, who are involved in real estate transactions, fully knowledgeable of the mortgage fraud red flags circulated by the Law Society?

N/A Yes No

27. For sole practitioners, please advise whether you have an appropriate succession plan in place, including a named successor, in the event that you are no longer able to practice.

N/A Yes No

28. Please provide an explanation for any exceptions reported to the Rules (attach schedule if necessary):

**MEMBER CERTIFICATION AND AUTHORIZATION AND
BOOKKEEPER DECLARATION**

To be completed by:

- (a) a sole practitioner; or
- (b) or in the case of a firm, by the managing partner(s) or other member(s) in authority designated by the firm; and
- (c) the bookkeeper of the firm.

Member Certification and Authorization

I/We hereby certify to the Society that:

- (a) I am/We are authorized on behalf of the firm to complete Form 5.06A.
- (b) I/We have read and are familiar with the Uniform Trust Account Rules.
- (c) No matters have arisen subsequent to the reporting period which, had they occurred during the said period, would have been reported as an exception to the Rules referred to in statements 14, 15, 16, 17 or 18 above (attach schedule if necessary).
- (d) The information contained in this Report is true and correct to the best of my/our knowledge and belief, and the books, records, data sources and accounts maintained in connection with the practice fully disclose the trust obligations to clients.
- (e) In compliance with the provisions of Section 69 of the *Law Society Act, 1999*, I/We have filed instructions with the financial institutions to remit to the Law Foundation of Newfoundland and Labrador the interest earned on the account numbers of all general trust accounts listed in Form 5.06A maintained at the branch addresses of the financial institutions.

I/We hereby:

- (a) authorize the Society to make available to the Law Foundation of Newfoundland and Labrador the account numbers of all general trust accounts listed in Form 5.06A together with the names and branch addresses of the financial institutions in which the accounts are maintained; and
- (b) consent to all financial institutions with general or specific trust accounts of the firm or professional law corporation to disclose to the Society occasions on which any of the trust accounts have been subject to a deficiency, shortfall or overdraft.

Bookkeeper Declaration

I hereby declare to the Society that I am the person responsible for maintaining the accounting records of the firm and the information contained within this report has been reviewed by me and is correct.

Signature of member

Signature of bookkeeper

Name of member (please print)

Name of bookkeeper (please print)

Signature of member

Date

Name of member (please print)

Date