

THE WEST VIRGINIA STATE BAR  
IOLTA ADVISORY COMMITTEE  
STATE BAR CENTER - CHARLESTON  
March 21, 2017 - NOON

**MINUTES**

1. Call to Order

A meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Chairperson Anne Werum Lambright on March 21, 2017. Committee members appearing in person were Jennifer Hall-Massey, Richard Lehman, Pat Kelly, Harry Dietzler, Kevin Robinson, and Sarah Harper Jones. Also participating in the meeting by conference call was Charles DiSalvo. State Bar IT Director Mike Mellace and State Bar IOLTA Administrator Tyler Shoub were also present for the meeting. Mr. Shoub served as Secretary.

Minutes are presented in the order the items appeared on the Agenda, not necessarily in the order in which the items were presented at the meeting.

2. Review of Minutes of Last Committee Meeting—December 20, 2016

The Minutes of the meeting of December 20, 2016 were accepted by consensus.

3. Reports from Legal Services Programs

A. Mountain State Justice

Mr. Pomponio reported that MSJ had since hired a new attorney and paralegal. This gave them a total of 18 full time staff members and has allowed an expansion in services provided. MSJ has been doing work out of a satellite office in Mullens, WV. MSJ has entered into an agreement to use teleconference equipment in order to expand its effective outreach. Over the last three years, MSJ has seen an expansion of its services and has been representing clients in black lung and whistle blower cases within the mining industry.

B. Legal Aid of West Virginia

Ms. Wehner reported that Legal Aid has growing concerns over the potential funding cuts to Legal Service entities and noted that the proposed federal budget may cut funding by more than %20. Such a loss in funding from the federal level would be devastating to LAWV and the people who depend on it.

#### 4. Report from Special Grantees – Professor DiSalvo

Prior to the meeting, Mr. DiSalvo was provided with a summary of each of the grantees activities for the prior period. Those summaries were forwarded onto Mr. Shoub for record keeping and have been included below.

##### **Childlaw Services**

For the first three months of 2017, we have opened 72 cases. Ten of them were high conflict family court cases, nine of them were delinquency/juvenile cases, 45 were abuse and neglect cases, five were victims of sexual crimes, and eight were guardianship cases.

We closed 76 cases with full representation: 6 - high conflict family court cases, 16 delinquency and other juvenile, 40 - abuse and neglect, 1 - emancipation, and 13 - guardianship..

Once again we are doing our work without payment since September in our Circuit Court cases while maintaining optimal care for our young clients.\* We had great interviews at WVU School of Law and look forward to new top-notch fellows in the summer.

Your support during this time, and as always, means so much to us.

Please let me know if you would like any additional information.

\*The majority of our revenue comes from the public defender corporation which is state funded. They ran out of money for the fiscal year in September.

##### **WV Senior Legal Aid**

In addition to serving about 120 clients this quarter we partnered with a number of groups led by the WV Coalition Against Domestic Violence to help draft a new kind of protective order for West Virginia to stop financial exploitation. Our public interest fellow, Micki Biggs, has done most of the legal research and helped develop language for the order. Defining "undue influence" has been the tricky part, as it is not defined anywhere in our code or in any other but 2 state's codes. The definition we helped craft has also been included in another bill to amend the Uniform Power of Attorney Act (HB 3014). We have been preparing a presentation with Joyce Yedlosky at the Coalition and Jennifer Taylor at LAWV to deliver at the Equal Justice Conference in Pittsburgh this spring on the development of the Financial Exploitation Protective Order.

##### **Center for Law and Public Service:**

The Director of the Center for Law and Public Service will manage the PIA auction which will be held in the new event center at the WVU College of Law on March 23, 2017, and the follow up silent auction, which will be held on March 28-30, 2017 in the main lobby of the WVU College of Law. The PIA expects to raise at least \$20,000 from its auctions to fund summer and full time public interest fellowships for WVU College of Law students. The PIA has already conducted two book sales and a taco lunch sale to raise money this year. They will wrap up their fundraising year with a concert at 123 Pleasant Street on April 13, 2017. At the concert, a student band, a professor band, and a local band (the Soul Miners) will play. PIA hopes to raise \$25,000 total this year. The Center continues its work coordinating pro bono projects at the WVU College of Law. This year the Center worked with 7 community partners to sponsor

different pro bono projects for law students. For example, currently our VITA program is particularly active, thanks to assistance from 3L Jackson Butler and WVU College of Law tax Professor Elaine Wilson. VITA is hosting four sessions on campus to process income tax forms for low income tax payers in Monongalia and surrounding counties. Students will also volunteer at community sites around Monongalia County. Another successful program including students working with Legal Aid of WV and other volunteer attorneys to help pro se litigants fill out their divorce and custody packets correctly for filing with family court. Over 35 students have volunteered and approximately 12 packets have been completed so far. Other community partners included Legal Aid of WV, Senior Legal Aid, the WV Fair Housing Network, CASA of Monongalia County, the Appalachian Prison Book Project, the Magistrate Mediation project, and RDVIC. At the WVU College of Law Honors Day, the Center will recognize students who have earned community service and pro bono recognition. This means that these students have performed over 25 hours of community service or pro bono service over the course of their law school career. Pro bono honorees will also be recognized at graduation.

### **WV Fund for Law in the Public Interest**

On March 13, 2017, the Director and three Board members of the WV Fund for Law in the Public Interest conducted interviews to select students for summer public interest fellowships. We hope to fund 17 summer fellows in civil legal services organizations all over West Virginia, including Legal Aid of WV, Senior Legal Aid, Mountain State Justice, Disability Rights of WV, ACLU of WV, the Land Use Clinic, and Childlaw Services. The fund expects to fund 20 total summer fellows, as we already hired three students who will work in public defender offices. One will work with the Kanawha County Public Defender, another will work with the Harrison County Public Defender, and the third will work with the Federal Public Defender in Clarksburg. This year the Fund also expects to Fund three full time post graduate fellows; each will work full time for one year in a public interest organization.

### **WV CASA Association**

Susan Harrison on behalf of WV CASA Association Executive Director of CASA for Children Serving Ohio, Marshall, Wetzel and Tyler Counties March 17, 2017 From January 1, 2017 through March 15, 2017 there were 223 active volunteers across the state. These volunteers contributed approximately 5500 volunteer hours and served 1797 children. During this quarter, 22 additional CASA volunteers have been trained and sworn in by the local circuit court judges. Over the past quarter, directors and staff from 3 programs and the state office attended the National CASA Conference in Seattle. We have worked on the redesign of our website and have approved the transition to a new database system that will begin next month. Many programs are working on community engagement and awareness of and prevention of child abuse activities for the month of April, which is Child Abuse Awareness month.

Thank you for your continued contributions

### **5. Financial Report – Mrs. Harper-Jones**

Mrs. Harper-Jones reported that, as of the date of the meeting, the IOLTA Advisory Committee had total assets on hand of \$2,896,010.37, with \$44,100 being unrestricted and

available for distribution. A motion was made to disburse \$44,100 to the special grantees. A proper 2<sup>nd</sup> was made in support, the motion then passed unanimously.

## 6. Old Business

### A. Discussion of previously disbursed Bank of America funds to LAWV and MSJ

#### a. LAWV

- i. The west side project is seeing an increase in activity and they have begun to receive applications from community members interested in restoring the area. The group projects are anticipated to be a big help to the small business world and non-profit sector, the mining industry has a good deal of legal needs and the grants will provide the opportunity for training, education, and infrastructure. The 3 group program will provide an opportunity to strengthen the relationships between them and the people of the community.

#### b. MSJ

- i. With the funds from the Bank of America settlement, MSJ has been able to hire new staff which has allowed them to expand services fairly significantly. They have been able to take on more cases from people and businesses who were affected by the floods of June 2016, noting that damage claims have been coming in at a very high level, and that the grant money has been a great help in covering the administrative costs of handling the cases.

### B. Update on new IOLTA reporting system

Mr. Mellace and Mr. Shoub reported to the Committee that the new system is on schedule and has been tested by two Committee members for feedback purposes. The new system will be online by the opening of the new reporting period on June 10, 2017. By October, the system will be fully active and itself serve as the sole means of IOLTA reporting and tracking.

## 7. New Business

### A. Discussion of Mountain State Justice situation

Mr. Pomponio reported that an employee had embezzled over 1 million over 14-year period. And that an audit revealed the situation and that employee was promptly terminated. All of the funds embezzled were monies from settlements reached in cases handled by MSJ. No IOLTA funds were embezzled.

B. Discussion of Medicare liens

Ms. Casey reported that a member of the Board of Governors proposed that funds in IOLTA accounts for the purpose of paying Medicare liens should be pulled out and distributed to the special grantees. The Committee will take the matter under advisement.

C. Discussion of IOLTA rules and operating regulations

A discussion centered on a matter involving a WV licensed attorney whose office is in KY but whose firm is based in OH. Administrative Rule 10 makes no mention of requiring a separate IOLTA account in WV so long as the attorney abides by the IOLTA requirements of the state in which his/her principle place of business lies. After discussing whether or not to require a separate account a motion was made to permit the attorney to maintain only his firm's OH account. A proper second followed and the motion was passed with one vote in the negative.

D. Introduction of new committee members

Harry Dietzler and Kevin Robinson were introduced and briefed on the procedures of the committee and brought up to speed on the BoA settlement project and how that is being used to help.

8. Next meeting—June 27, 2017 at noon

9. Adjournment

The meeting was adjourned by consensus.