

DRAFT

THE WEST VIRGINIA STATE BAR  
IOLTA ADVISORY COMMITTEE  
STATE BAR CENTER - CHARLESTON  
SEPTEMBER 19, 2013 - 11:00 A.M.

MINUTES

1. Call to Order

A meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Committee member James Martin on September 19, 2013. Committee members appearing in person were James Martin, Anne Werum Lambright and Bren Pomponio. Jennifer Massey and Charles DiSalvo appeared by phone. State Bar Finance Director Sarah Harper-Jones and State Bar Executive Director Anita Casey were also in attendance. Executive Director Casey served as secretary for the meeting.

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

2. Review of Minutes of Last Committee Meeting – June 25, 2013

A motion was made to accept the Minutes of the June 25, 2013, IOLTA Advisory Committee Meeting, as presented. Following a proper second, the motion passed by a unanimous vote.

3. Report from Legal Service Programs

Mr. Martin reported that there was no predicting “where Congress might go” on LSC funding. He anticipated no problems with state funds and reported that Americore grants remained unchanged from last year. He noted that Legal Aid of West Virginia had handled between nine and ten thousand matters during the past year. Approximately half of those cases were litigation related, the other half were advice. Thirteen cases had gone to the Supreme Court. Mr. Martin noted that efforts to work with the Attorney General’s Office on foreclosure issues had been unsuccessful. He noted that Legal Aid was gearing up to address anticipated issues related to implementation of the Affordable Care Act. Mr. Pomponio noted that Mountain State Justice had not received any referrals from the Attorney General’s Office under the new administration. He reported that two Fellows have been added to the staff and that their offices had been successfully involved in some issues related to the closing of the Salem juvenile facility. They had also handled some DHHR impact cases.

4. Report from Special Grantees

Professor DiSalvo reported on behalf of each of the IOLTA special grantees:

#### A. West Virginia CASA Network

WVCASA has been busy planning for the upcoming WVCASA conference. CLE credit will be available for attending the conference. WVCASA was recently notified it had received a NCASA grant for volunteer recruitment. The CASA for Children, Inc. program also received funding from NCASA for the entire state to implement a new, transitional youth program entitled "Fostering Futures." The program will provide CASA Volunteers with supplemental training to aid one of the most challenging populations: foster children ages 14 years of the age to 21 years of age. This past quarter CASA served 968 children throughout the 11 programs operating in 29 counties. Two hundred sixty-six volunteers clocked 2,097 in-kind hours.

#### B. West Virginia Senior Legal Aid, Inc.

WV Senior Legal Aid was very pleased with its PIA Fellow, Wes Peterson, who completed the annual update of the book Legal Questions Frequently Asked by WV Seniors. He also did substantial case and intake work. A new student volunteer is working one afternoon a week on intake, casework, and development of an LGBT Elder Legal Guide. Elderlaw workshops were given at several Alzheimers Caregiver University events in Charleston, Beckley, & Martinsburg, the Summer Institute on Aging in Morgantown, and at statewide, homecare, social work training at Stonewall. Senior Legal Aid finished up the federal Administration on Aging grant and, therefore, had to say goodbye to staff attorney Melanie Hoover. Senior Legal Aid has been invited to participate in a two day national meeting of experts for the National White Collar Crime Center to help update their law enforcement training curriculum on Financial Crimes Against the Elderly. Staff and Kate White, of Legal Aid, have continued to meet bimonthly and have a first draft of a Memorandum Of Understanding for coordination and cooperation between WVSLA and LAWV. Senior Legal Aid served clients in all 55 counties the fiscal year which will end in September.

#### C. ChildLaw Services of Mercer County

For the second quarter of 2013, ChildLaw closed 190 cases with court decisions and opened 108. These cases were mostly abuse and neglect cases, guardian cases, and status offender cases for children and youth. This school year ChildLaw teamed up with Partners in Prevention and Child Protect to educate over 2,500 children on body safety. ChildLaw graduated another class of Girls on the Run Runners from Bluefield Middle School, successfully finished up the first half year of Mercer County Teen Court and held its first high school Youth Summit on Legal Issues in Mercer County with Judge Aboulhosn. Board members John David Smith and Colin Cline were honored as exemplary champions of children in Mercer County. Attorney Allison Huson was selected to be a part of the New View Project in WV which targets high risk, lingering abuse and neglect cases in the state and works to identify issues and achieve permanency for the children in question. ChildLaw's director was asked to join the WV Court Improvement Board, which seeks to improve the court system in the State. The ChildLaw Board is working hard to ensure that the budget stays balanced, despite losing critical funding in the last year.

#### D. Appalachian Center for Law and Public Service

Pro Bono projects at the WVU College of Law will be rolled out to students at a luncheon meeting at the WVU College of Law on Monday, September 30<sup>th</sup>. Seven to ten new collaborative projects will be rolled out and implemented for the 2013-14 academic year. The Center is partnering with Legal Aid of West Virginia, Senior Legal Aid, CASA, RDVIC, and the WV Fair Housing Coalition for initial project offerings. The Center's director is finalizing a pro bono handbook for students and attorneys and creating forms for launching and tracking pro bono projects. She will be attending the Equal Justice Works conference, in October in Washington, D.C., where issues of access to justice, public interest law, and pro bono projects will be discussed. She serves as a member of the Pro Bono committee of the WV Access to Justice Commission and has met with the Commission's Executive Director to learn more about the Commission's work. The Center is planning and co-sponsoring the Pro Bono Summit that will be held at the WVU College of Law on October 21. This summit will be a collaborative effort between the WV Supreme Court of Appeals, the Access to Justice Commission, Legal Aid of WV, and the WVU College of Law, among others. The Center expects to have a keynote speaker and to host 2 to 3 panels on pro bono topics. Law firms, judges, academics and other stakeholders will be invited to attend and participate. The week of October 21-25 is recognized as "National Pro Bono Celebration" week. The Center is planning for the Sprouse summer fellowship program, the PIA summer fellowship program and the post graduate fellowship program. The Center has drafted a judicial clerkship manual and compiled a list of WVU College of Law graduates who have served as federal and/or state judicial clerks. It is finishing an externship manual for students and is hosting an informational session for the Public Service Externship program on October 9. Planning for the Spring 2014 PIA auction is underway, as are other fundraising efforts for the PIA. Community Service projects are being implemented, including a dinner at the Rosenbaum House on September 17, adopt a street program for the WVU College of Law, and a clothing/food/toy drive for November.

#### E. West Virginia Fund for Law in the Public Interest, Inc.

The Board recently settled on several targets for the upcoming year including 15+ summer fellowships, the start-up of a modest loan repayment assistance program for graduates serving the poor, and is anticipating having two, one-year, post-graduate fellowships for students graduating in May of 2014.

#### 5. Financial Report

Ms. Harper-Jones reported that the IOLTA fund currently has \$68,740.64 cash on hand. Of that amount, \$7,500 was earmarked for the State Bar for administration of the Program. Following discussion, a motion was made to distribute \$52,000 to IOLTA grantees. The motion received a proper second and passed by a unanimous vote. Thereafter, Ms. Harper-Jones discussed the fact that the State Bar had three open accounts: one operating account, which was not interest bearing, and two interest bearing accounts. Based upon the limited amount of funds currently available to the IOLTA Advisory Committee, it was Ms. Harper-

Jones' recommendation that one of the interest bearing accounts be closed. A motion was made to close one of the interest bearing accounts and consolidate the two current interest bearing accounts. The motion received a proper second and passed by a unanimous vote.

6. Old Business

A. Update on Rule 1.14 amendments regarding dormant trust account funds

Executive Director Casey reported that there had been no movement on the proposed amendments to Rule 1.15.

B. Continue discussion of IOLTA Accounts for title agencies

Following a discussion of the manner in which both Ohio and Kentucky handle IOLTA accounts versus IOTA accounts (Interest on Trust Accounts), Ms. Lambright agreed to meet with the chair of the Banking Commission to determine if similar accounting might be considered in West Virginia. Based upon the information obtained by Ms. Lambright, the Committee will discuss whether the same type of proposal could be considered in matters involving foreclosures.

7. New Business

A. Executive Director Casey reported on the contact she had received from Kevin Thompson regarding the settlement of the Mingo County Coal Slurry cases. During her conversation with Mr. Thompson, he advised that the settlement of these cases could possibly serve as a source of additional revenue for the IOLTA Advisory Committee. Following discussion, a motion was made to appoint a sub-committee of Mr. Pomponio, Mr. Martin and Ms. Lambright to review the coal slurry pleadings and prepare pleadings asking the Court to direct that any undistributed monies from the settlement be paid into the IOLTA fund. Sub-committee members will prepare appropriate documents and appear for the October 10 hearing in the matter. The motion received a proper second and passed without opposition.

8. Next meeting - December 11, 2013, at 11:00 a.m. at The State Bar Center. Committee members were asked to bring their calendars so meeting dates for 2014 could be set.

9. Adjournment

A motion to adjourn was made, received a proper second and passed by acclamation.

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