

THE WEST VIRGINIA STATE BAR  
IOLTA ADVISORY COMMITTEE  
STATE BAR CENTER - CHARLESTON  
December 19, 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 acting Chairperson Kevin Robinson on December 19, 2017. Committee members appearing in person were Jennifer Hall-Massey, Richard Lehman, Kevin Robinson, Elizabeth Wehner, Bren Pomponio, Harry Deitzler, Sue Racer-Troy, Pat Kelly, and State Bar Financial Director Sarah Harper Jones. State Bar IOLTA Administrator Tyler Shoub was also present for the meeting. Mr. Shoub served as Secretary. Joining the meeting via telephone was Professor Chuck DiSalvo.

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—June September 26, 2017

The Minutes of the meeting of September 26, 2017 were accepted by consensus.

3. Reports from Legal Services Programs

A. Mountain State Justice

Mr. Pomponio reported MSJ had hired a new attorney as well as a new paralegal. MSJ Plans to open a new office in Beckley. MSJ attorneys are handling a multitude of mortgage cases throughout the state and within the previous week had attorneys in trial in two cases. Mr. Pomponio reported that MSJ is seeing a steady stream of clients, largely flood related, for whom cases will be filed in the near future. Mr. Pomponio noted that a large amount of the cases they're seeing are related to improper claim denials under flood insurance policies. Mr. Pomponio will provide the Committee with an updated report regarding the Bank of America funds within the next week.

B. Legal Aid of West Virginia

Ms. Wehner reported that LAWV is settled on funding through the end of the year but the future is still uncertain, noting that an increase in PEIA rates will bring further difficulties. They are planning for a wide variety of contingencies to be prepared for

everything they can. The joint funded project has been staffed with the hiring of 4 attorneys and as of the date of this meeting had an offer out to a paralegal. The Clarksburg office has been working with the Law Clinic towards community and economic development projects. LAWV now has an attorney working on the west side of Charleston in an effort to revitalize the community through local outreach. LAWV recently held a jobs seminar in Beckley for small business development and training. Ms. Wehner stated that all those working on the joint project have scheduled quarterly meetings. The Land Use Clinic has hired a specialist attorney in the field of land use who has helped thirty-some homeowners to date. The clinic has begun work on mapping community improvements and drafting the necessary paperwork for the same. Ms. Wehner specifically noted that the Bank of America funds coupled with the regular IOLTA distributions have allowed LAWV to undertake projects that they otherwise would not have been able to.

#### 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.

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

The Center for Law and Public Service at the WVU College of Law has been busy this fall with community service and pro bono projects. I introduced the school-supported partners and projects for the 2017-18 school year, which included pro bono partners Legal Aid of WV, Senior Legal Aid, Mountain State Justice, CASA of Monongalia County, the WV Fair Housing Authority, Appalachian Prison Book Project (APBP), the local Magistrate Court Mediation program, VITA, Title IX office, and the Rape and Domestic Violence Information Center. I explained other possible pro bono opportunities and gathered information from potential volunteers.

On September 13, 2017, the Center hosted a school-wide community service and pro bono service fair in the new event space at the law school. The following organizations participated:

##### ***Community Service partners:***

Hospice Care Corporation  
Christian Help  
WVU College of Law Community Service Council  
Empty Bowls  
Girls on the Run  
Habitat for Humanity  
Harrison County Historical Society  
Homeward Bound

In Touch and Concerned, Inc.  
Literacy Volunteers  
Mountain Line Transit  
Mountaineer Food Bank  
Sundale Nursing Home  
WV Family Grief Center

***Pro Bono volunteers:***

CASA for Kids  
VITA in Mon County and WVU College of Law VITA  
Fair Housing Testing  
Legal Aid of WV  
Mountain State Justice  
Appalachian Prison Book Project  
Title IX/ WVU Peer Advocates  
WVU College of Law Magistrate Mediation program: Alternative Dispute Resolution  
RDVIC (Rape and Domestic Violence Information Center)  
WVU College of Law Public Interest Advocates

Over 100 law students, faculty and staff attended the fair and signed up for pro bono and community service opportunities. This was a remarkably well received by the law school community and the community partners. The Center for Law and Public service sponsored and coordinated the event here at the law school to make it easy for law students and community members to connect. The law school continues to recognize community service and pro bono service as an honor; we recognize any student who does 25 or more hours in each category at Honors Day and we recognize pro bono volunteers at graduation.

We had several successful community service and pro bono programs this fall. During the week of September 11, the Community Service Council organized a very successful school-wide food drive that yielded over 1600 items for local food banks. On September 28, Legal Aid trained and recruited students for a pro bono project assisting with intake of new clients seeking domestic violence protection orders. On September 30, over 20 law students volunteered with Habitat for Humanity at a local build site. On October 2, Legal Aid of WV trained 20 new law student pro bono volunteers to assist with their pro se divorce packet project. On October 23, the Center sponsored Pro Bono Week at the WVU College of Law. The ABA designates this week for recognition of and support of pro bono activities. On Monday, October 23, we hosted a book-wrapping project with APBP and 25 law students volunteered and celebrated with cake. On October 25, I attended and presented at the PSJD/NALP advisor training in Washington, D.C. and attending the national Equal Justice Works Conference on October 26 and 27, 2017. We had eight students attend the Equal Justice Works Conference as well. Eight students participated in WVU's Trunk or Treat program on October 29, giving out candy to local children. During the week of November 6, we collected over 50 coats and dozens of hats, gloves, and scarves for a local coat drive for Morgantown Health Rights' clients who are homeless and in need of warm outerwear. On November 11, 2017, the Magistrate Mediation program trained

over 30 new volunteers to mediate disputes in WV Magistrate Courts and the Fair Housing Tester program trained 10 new law student pro bono volunteers. Finally, on November 17, 12 law students prepared a Thanksgiving dinner for the residents of Rosenbaum House in Morgantown.

In January of 2018, we will sponsor another training for Legal Aid's divorce packet questionnaire project for the Spring 2018 semester. VITA and the Magistrate mediation projects will also be quite active in the spring semester. Plans are underway to hold a spring 2018 training for volunteers for Legal Aid's online help site and to investigate/launch a voluntary "Alternative to Spring Break" pro bono project/week. PIA will host its annual live auction on March 22, 2018. Planning for the live auction and silent and online auctions is in full swing!

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

The Fund has committed to funding a minimum of 16 summer fellowships for summer of 2018 and 2 full time postgraduate fellowships for 2018-19. As a reminder, our summer fellows work for approved public interest law organizations full time for 10 weeks and our postgraduate fellows work for one year for approved public interest law organizations, pending bar passage and admission to the bar. Our summer fellows make \$5500 and our we award \$50,000 to our postgraduate fellows' host organizations for their one-year fellowship.

### **WV CASA**

From September 15, 2017 through December 15, 2017 there were 268 active volunteers across the state. These volunteers along with CASA Program Staff served 3465 children. During this quarter, 35 additional CASA volunteers have been trained and sworn in by the local circuit court judges.

The National CASA Association has developed a outcome based volunteer training curriculum and we are utilizing the additional IOLTA funds to get all CASA program trained in the new curriculum. We are also planning and seeking funding for a statewide volunteer recruitment campaign.

We have continued to encourage the development of new CASA Programs, with the next program likely to begin services located in Randolph County. We have also met with interested parties in Nicholas County.

### **Childlaw**

Here is our 4th quarter report.

ChildLaw opened 65 cases this quarter: 2 family court matters, 13 guardianship matters and 50 victims of abuse and neglect.

We also closed 55 cases. Of these, 7 were guardian ad litem cases in family court, 11 were special guardianship cases, 10 were juvenile offenses and 37 were abuse and neglect cases. Please note as usual, that all cases handled in our office are with full representation and end in a court resolution.

Also, of interest during this quarter is that fourteen of the cases closed were New View cases. These were cases appointed to us by the Supreme Court where it was determined that the case is cold and the child/children have not achieved permanency in too long of a time. We were tasked with going in and determining where the obstacles are and assisting the legal team in moving the case forward. These cases were sad to step in on, but exciting to be a part of the resolution in most cases.

### **WV Senior Legal Aid**

This quarter we had some big changes at WVSLA. We said goodbye to our staff attorney Rachel Livingood and hired Micki Biggs as our new staff attorney. Micki has spent the last year as a post-graduate public interest fellow with us focusing on financial exploitation of seniors and outreach and delivery targeting LGBT seniors in WV and we are delighted to be able to hire her as permanent staff. We also lost a very valuable partner on various projects including one to make Morgantown a more dementia-capable community when Regina Mayolo, the Executive Director of CLIC (Community Living Initiatives Corporation) died suddenly in October. We have been working with the CLIC board and the WV Bureau of Senior Services to help facilitate a transition to another grantee to complete that project, and we will continue to participate in the coalition of groups working on it. We were invited to participate in a lively discussion of about 30 seniors at OLLI (Osher Lifelong Learning Institute) about a widely-read New Yorker article about abuses of the adult guardianship system in Nevada <https://www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights> where we listened to the concerns of WV seniors and offered comparison and contrast of how the WV adult guardianship system works. We offered workshops to nearly 300 total caregivers, seniors, and senior service professionals in Hancock, Cabell, Morgan, Kanawha, Wyoming counties. We offered a free training on outreach and services to LGBT seniors to staff of several of our partner organizations including Alzheimers Association, Regional Long-term Care Ombudsmen, the Rape and Domestic Violence Information Center, and the Northern WV Center for Independent Living. Micki and Cat attended the ABA's National Aging and Law Conference and the annual meeting of the National Association of Senior Legal Hotlines.

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

Mrs. Harper-Jones reported that, as of the date of the meeting, the IOLTA Advisory Committee had \$153,436 available for distribution. The amount was considerably more than usual as a result of funds received via a cy pres award. A motion was made to disburse that amount. The motion was seconded and passed by the committee.

### **6. Old Business**

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

MSJ-

MSJ has hired two lawyers and a paralegal with the first BoA grant and money from the second has allowed them to continue their work. MSJ has been advertising and conducting interviews and believe they have found the right candidate to fill the third opening. She is wrapping up her private practice and won't be able to join MSJ until January and they will likely wait for her to become available because of her expertise and background. MSJ has hired contract attorney, Wendy Ratliff who has been meeting with stakeholders to determine need for co-ops and has looked at specific areas for growth in community development. The attorneys who have been hired have conducted 97 meetings, taken on 30 individual cases, 4 bankruptcies and attended 2 FEMA center sites. MSJ would like to use grant funds to support an emergency housing needs fund that would be operated by an outside agency.

LAWV-

The first allocation of funds was used to hire an additional attorney with interviews set and intentions of hiring 2 more attorneys. They have had productive partner meetings with MSJ and the Law School Clinic about the ongoing projects and all are working well together. The Land Use Clinic is working within the devastated flood areas to help draft building codes, perform title work, and aid in debris removal. They have hired two public interest students for the summer to help with their efforts. For the hired attorney, they are completing a work plan which focuses on helping small businesses and low income individuals who qualify for LAWV's assistance. The West Side program has seen more partners come onboard providing help with transactional work. A small group of business owners did a workshop in May which was attended by various small business owners from the local area. LAWV is handling a lot of referrals from clients who have employability issues. Ms. Wehner reported that LAWV is right on track as far as deliverables and is continuing its community outreach.

B. Update on new IOLTA reporting system

The new IOLTA reporting database has been up and running for attorneys since the opening of the current reporting period on June 10, 2017 and is operating well. The full system has been implemented and banks are now able to submit their periodic remittance files online.

C. Discussion of the Adoption of new IOLTA Protocol into by-laws

The process of incorporating the proposed protocol into the by-laws is still ongoing. John Hedges is working diligently on refining the protocol currently. The hope is to have the protocol in place by next year's reporting period. More updates are forthcoming.

## 7. New Business

### A. Discussion on future disbursements of BoA funds to grantees

A discussion was held concerning the BoA grantees and how each was functioning regarding the remaining funds available from the BoA settlement. The grantees indicated that they are fully funded currently operating well with the previous BoA monies. No time was set for the next disbursement of funds, but the grantees will keep the committee informed.

### B. Discussion on deceased attorneys with active IOLTA accounts

The committee discussed an issue recently uncovered with the help of the new reporting system. Multiple attorneys were found to be deceased but banks continued to hold and report active IOLTA accounts for those attorneys. Committee members discussed several possibilities for addressing this issue. The issue is complicated by the fact that the State Bar has no authority to cancel/close the accounts on behalf of deceased attorneys. The committee discussed the possibility of suggesting legislation relating specifically to this issue, as no current law exist to address administrative issues with IOLTA accounts. The committee deemed it important to work with the banks in resolving this situation. The Committee also discussed suggesting a reduction in the 7-year time limit on non-active bank accounts in regards to escheatment.

### C. Discussion on debit card usage on IOLTA accounts

The State Bar had recently been contacted by an attorney asking about the permissible use of a debit card connected to his IOLTA account. The attorney was informed that he could not use a debit card tied to his IOLTA account under any circumstances. This information was relayed to the committee.

## 8. Next meeting-State Bar Center March 20, 2018

## 9. Adjournment

The meeting was adjourned by consensus