

**THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE
STATE BAR CENTER - CHARLESTON
DECEMBER 8, 2020 – Noon**

MINUTES

1. Call to Order

A meeting of the IOLTA Advisory Committee of the West Virginia State Bar was called to order by Shannon Smith at noon on Tuesday, December 8, 2020. Due to continuing COVID-19 restrictions, the Committee members did not appear in person. Committee members who appeared via video conferencing were Chairperson Shannon Smith, Jennifer Powell, Richard Lehman, Elizabeth Wehner, Harry Deitzler, Tammie Alexander, Jennifer Massey, Kevin Robinson and Jennifer Wagner (new member). Also attending via video conferencing was Sarah Hall, State Bar Financial Director. Attending in person at the State Bar offices were State Bar Executive Director, Anita Casey and State Bar IOLTA Administrative Assistant/Paralegal, Patricia Schoolcraft, who served as secretary.

The 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. Chairperson Smith introduced new committee member, Jennifer Wagner who is replacing Bren Pomponio as the representative from Mountain State Justice.

2. Review of Minutes of Last Committee Meeting

The Minutes of the September 22, 2020 Committee meeting were approved by consensus.

3. Report from Legal Services Programs

a. Ms. Wehner provided a quarterly report for **Legal Aid of West Virginia as follows:**

Legal Aid continues to work remotely.

- In the 3 months from September - November 2020, Legal Aid of West Virginia opened **1337 new cases** statewide.
- LAWV services are available to clients utilizing pre-COVID intake protocols. We have not reduced access to services or changed our approach to hearing representation.
- LAWV has had continued increased intakes in the areas of housing (258 cases), unemployment (47 cases) and public benefits (91 cases).
- LAWV staff are concerned that without further government action, there will be a surge in eviction cases at the new year due to the end of the current eviction moratorium.
- LAWV staff are representing clients in video, teleconference, and live hearings, depending on current local court hearing protocols.

- LAWV staff are continuing with staggered office staffing but are also fully equipped to work remotely the remainder of the time.

Other Program Updates and Highlights for Legal Aid of West Virginia:

- Awarded new grant to fund our Lawyer in The School Project – Funds a full time attorney to work in high risk schools in Cabell, Wayne, and Preston Counties: \$638,975 for 3 years, focus on opioid impacted families
- Awarded a Legal Services Corporation Technology Innovation Grant: \$134,749 for 2 years. Will fund time for an LAWV attorney with an information technology background to develop a set of online resources for kinship caregivers to help them determine what type of permanency best for them, and to walk them through an online process for creating adoption and guardianship pleadings
- Awarded 2 year Equal Justice Works Fellowship to fund a new graduate, who will start in Fall of 2021 and carry out mediation in custody cases for families impacted by substance use disorder to come up with solutions in the best interest of the child.
- Awarded a Rural Summer Legal Corps grant to support a summer student working in southern West Virginia on legal obstacles impacting employment. Will particularly focus on handling cases arising from recent changes to West Virginia’s driver’s license reinstatement law, creating “On the Road Again” outreach materials, engaging in related legal outreach events to community partners.

b. Jennifer Wagner reported for **Mountain State Justice (“MSJ”)** as follows:

Client Services

- MSJ provides direct client legal services including on consumer rights, including foreclosure prevention, improper and abusive debt collection, and illegal vehicle sales and financing; consumer bankruptcy protection; education rights for disabled children; access to health care for vulnerable people; and protections against employment discrimination and abuses. In December 2020, we are launching a new an immigration project to assist low-income immigrants with their legal needs.
- As of December 3, 2020, we have **630 open/active cases**, the vast majority of which are in active litigation.
- From September 1 through December 4, we **opened 170 new cases**.
- We are gravely concerned about the coming wave of evictions and foreclosures as current moratoria and forbearances cease, as well as other types of consumer fraud on the horizon.

Operational Updates

- In the past quarter MSJ transitioned leadership to Jennifer Wagner as Executive Director and Bren Pomponio as Litigation Director. Dan Hedges has resigned from management and remains actively litigating cases as Of Counsel to MSJ.
- We operate statewide out of three physical office locations, Charleston, Morgantown, and Beckley. Our services have been uninterrupted by COVID-19. Our offices remain open and staffed under COVID-19 protocols and precautions. Our staff is working on

a staggered in person schedule, with all staff fully enabled to work remotely as well. Attorneys appear at hearings, depositions, and mediations in person or by video-conference or telephone, as appropriate.

- We employ twenty staff members, including eleven attorneys.
- In September 2020, we added a Fund for Law in the Public Interest Fellow to work on workers' rights and procuring black lung benefits for miners and survivors.

4. Report from Special Grantees

Prior to the meeting Ms. Powell provided the following reports from the five special grantees:

Report from the WV Fund for Law in the Public Interest,

The WV Fund for Law in the Public Interest's Board of Directors met two times this past academic semester: Once on September 10, 2020 and again on November 11, 2020. The Fund committed to funding two Sprouse fellowships (one with a state public defender and one with a federal public defender) for the summer of 2021. However, interviews were postponed to Spring 2021 and will be held virtually to comply with West Virginia University's COVID-19 protocols.

In addition to the two summer fellowships with public defender organizations, the Board has also committed to funding a minimum of 16 other summer fellowships for summer of 2021 and 1 full time postgraduate fellowship for 2021. 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 \$5,500 and we award \$50,000 to our postgraduate fellows' host organizations for their one-year fellowship. Interviews will take place virtually for those fellowships in February and March of 2021.

We currently have two post-graduate fellows working full time in public interest law settings. One is at Mountain State Justice in Morgantown, West Virginia as a staff attorney and the other is at ChildLaw Services in their new Morgantown office. Both began their fellowships in October 2020 and will work as until October 2021 at their respective sites.

Last summer we hired and paid for twenty-five fellows to work as summer PIA fellows in ten different organizations: Legal Aid of WV, Mountain State Justice, Senior Legal Aid, Disability Rights of WV, ChildLaw Services, the WVU College of Law Land Use and Sustainable Development Clinic, ACLU of WV, the Harrison County Public Defender, and the Federal Public Defender, N.D. of WV, Clarksburg office.

Report from the Center for Law and Public Service

The Center for Law and Public Service at the WVU College of Law has sponsored community service and pro bono projects for WVU College of Law students, working within the parameters of social distancing and other restrictions due to COVID-19. 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 two particularly successful community service and programs this fall. For example, during the week of November 2-6, 2020, we held a school-wide food drive competition that yielded over 11,000 food and personal care items that were distributed to the Scott's Run Settlement House food bank and the Pantry Plus More food bank in the Morgantown area. Further, the Center and the Community Service Council coordinated the Angel Tree program again at the College of Law. Through this program, 50 children in the Morgantown area were sponsored by a member of the law school faculty, staff, or student body. This resulted in a very generous outpouring of gifts, clothing, and personal care items for the children whose names were on our tree.

Several pro bono projects were sponsored in the fall 2020 semester, including the voting rights hotline training and project sponsored by the ACLU of WV, the Magistrate Court Mediation project, volunteer work with the Appalachian Prison Book Project, and the Public Interest Advocates. VITA and the Magistrate mediation projects will also be quite active in the spring semester, and we are partnering with our local CASA office to offer virtual training for potential volunteers and with the WVU Student Conduct office to train law students to serve as advisors in student conduct hearings. PIA enjoyed a very successful fundraising fall, where their third annual "Pets of the Law School" calendar fundraiser yielded over \$9000 in donations for public interest fellowships. PIA members have begun planning for the annual auction; PIA will host its annual auction online this year during the week of March 15-19, 2021.

Report from ChildLaw Services

This quarter at ChildLaw has been filled with continued flexibility and life with COVID and the excitement of opening our office in Morgantown in partnership with WV Fund for Law in the Public Interest and Stacy Law Offices. Our new attorney (who is a WV Fund for Law in the Public Interest post graduate fellow) has been boldly striking out making great contacts and getting involved with ensuring the best welfare of children in our new area. Tiffany Kent has certainly been a great contribution to our staff!

Currently, we have 429 open cases. During this quarter, 42 cases were opened. Of those cases, 5 are domestic violence, divorce and custody, 28 are guardian ad litem work, 1 is adoption, 1 is guardianship, and 7 are juvenile/delinquent.

The closed number reflects the number of cases closed during the last quarter. We have 33 cases closed with 21 abuse and neglect cases, 6 victims of crime, 1 personal injury, 4 adoptions and 1 domestic violence divorce.

Report from Senior Legal Aid of West Virginia

WVSLA served 151 seniors in the past 3 months, our call volume is increasing but is not quite back to our pre-COVID levels as we are not doing the in-person workshops and senior

events around the state that we usually do in summer and fall. We published many brief posts on our blog and our Facebook page, particularly we highlighted safe voting and explained that how to request, submit, and track absentee ballots for the November general election. We also published many posts and few newspaper articles about benefits issues and scams related to COVID. We developed a strategy for outreach partnering with the home-delivered meals programs that we will implement starting January 2021. We are still brainstorming how to reach the neediest seniors in the new normal of isolation and anxiety, and are in the early stages of developing a pharmacy outreach project. We hired a wonderful part-time support staff person who is doing client intake and bookkeeping for us.

The CASA for Children report was presented by Shanna Gray, State Director as follows: During the reporting period September 1, 2020 to November 30, 2020 - COVID-19 has caused many of our annual fundraisers to be cancelled resulting in a loss of revenue for our programs statewide. This quarter's additional IOLTA funds helped cover expenses related to volunteer appreciation, training, marketing and recruitment, overhead costs, general office supplies, staff, and employee benefits. With online trainings reaching broader audiences, we are happy to report that we offered a total of 42 virtual trainings including our annual WV CASA Conference during this reporting period. Training topics ranged from: CASA/GAL collaboration, writing CASA Reports, Sexual Violence, Mental Illness, Human Trafficking, and testifying in Court. CASA programs across the state currently have 254 active volunteers assigned to cases. During this reporting period, local CASA programs trained 32 new volunteer advocates.

5. Financial Report

State Bar Financial Director, Sarah Hall, provided current financial information. She reported that approximately \$59,000 is available for IOLTA grant distribution. Following a discussion of the financial report, the Advisory Committee agreed, by consensus, to distribute the \$59,000 to the grantees.

6. Old Business

None

7. New Business

- a. Chairperson Smith opened a discussion regarding using Drop Box to share reports and documents in preparing for the IOLTA Advisory Committee meetings. Following a brief discussion, Executive Director Casey will discuss the suggestion with the Bar's IT Director, Mike Mellace.
- b. Chairperson Smith introduced a discussion regarding the previously drafted IOLTA Financial Assistance Distribution Protocols. Executive Director Casey provided a history on the development of Rule 10, the Supreme Court of Appeals' directive to transfer the oversight of the IOLTA program to the State Bar, and the subsequent drafting of the protocols and amendments to Rule 10. She advised that the Supreme Court of Appeals had expressed an interest in the protocols. The Committee discussed how the protocols

would give the Board of Governors oversight of the distribution of IOLTA funds, and an application process and reporting requirements of the grantee. Chairperson Smith asked the Bar to forward the previously drafted protocols and Rule 10 amendments to all Committee members for review. She requested that written comment or changes be sent to the Bar before the January meeting with Justice Armstead and Justice Jenkins.

8. Next Committee Meetings – The next meetings of the Committee will be at noon on March 23, 2021.