

**THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE
STATE BAR CENTER - CHARLESTON
March 23, 2021 – Noon**

MINUTES

1. Call to Order

A meeting of the IOLTA Advisory Committee of the West Virginia State Bar was called to order by Anita Casey at noon on Tuesday, March 23, 2021. Due to continuing COVID-19 restrictions, the Committee members did not appear in person. Committee members who appeared via video conferencing were Jennifer Powell, Richard Lehman, Elizabeth Wehner, Harry Deitzler, Jennifer Massey, Kevin Robinson and Jennifer Wagner. Attending in person at the State Bar offices were State Bar Executive Director Anita Casey, State Bar Financial Director Sarah Hall, 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. Review of Minutes of Last Committee Meeting

The Minutes of the December 8, 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:

- In the 3 months from December 2020 – February 2021, Legal Aid of West Virginia opened **1370 new cases** statewide.
- LAWV has had continued increased intakes in the areas of housing (265 cases), unemployment (63 cases) and public benefits (124 cases). Our overall service numbers, and our services in these core pandemic-related legal issues continue to climb.
- LAWV staff are representing clients in video, teleconference, and live hearings, depending on current local court hearing protocols.
- With the increase in vaccine availability and the number of our vaccinated staff, more LAWV staff are working in our offices and our clients have more access to intake and other services. We have some higher risk staff still working remotely, but we also recognize that our in office technology offers more sophisticated tools to support our intake, attorney, and advocacy staff to serve clients.

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

1. **Veterans Fellowship:** Legal Aid of West Virginia recently used IOLTA and other

unrestricted funds to re-fund a statewide Veterans' Attorney Fellowship position. For several years LAWV had grant funding from Equal Justice Works AmeriCorps to support such a position, but since Equal Justice Works discontinued its national veterans' legal project in 2019, we have funded this position ourselves because we see it as a critical service priority. Our project assists veterans up to 300% of the federal poverty level (vs. 125% of the federal poverty level for most LAWV services) so that we can help a larger group of struggling West Virginia veterans. Over the span of the project, LAWV Veterans' Fellows have helped 1,246 West Virginia veterans.

2. **COVID Tax Issues Attorney:** LAWV will enter into a contract with a Tax Attorney with experience in low income taxpayer issues as a special short term COVID related project. With the various tax implications of the 2020 and 2021 stimulus funds, tax questions related to unemployment, and other unique COVID tax issues we know there is a need for attorney advice, representation, and preparation of legal information in the form of website materials, flyers, and handouts for our staff to share with our clients statewide.
3. **Seeking sustainability funds for Recovery Project Attorney, Lawyer in the School Attorneys, and Community Economic Development Attorney:** Currently, LAWV is working to identify and secure sustaining dollars for some of our most successful term-limited projects. We are justifiably proud of our medical legal partnership with Cabin Creek Health Systems serving clients in recovery, our innovative school based drop in clinics in Charleston and north central West Virginia, and our Community Economic Development Attorney who continues to help low income clients who want to start a small business or who face employment obstacles. We are working on a number of grant proposals to Foundations and to government funders in an effort to ensure their ongoing viability.

- b. Jennifer Wagner provided a quarterly report for **Mountain State Justice ("MSJ")** as follows:

Services & Program Updates

- **Immigration Project:** In December 2020, MSJ launched our new immigration project to assist low-income immigrants with their legal needs. We have conducted numerous consultations, statewide presentations, and trainings for groups including the Coalition Against Domestic Violence on immigration matters. MSJ currently is representing individuals with DACA applications, who are seeking to escape domestic violence, and who are seeking asylum. MSJ will soon be expanding the program through hiring a bilingual paralegal.

- As of March 22, 2021, MSJ currently has **632 open cases**, most of which are in active litigation. From December 4, 2020, through March 22, 2021, MSJ **opened 103 new cases**. MSJ provides free legal services in the following areas, including individual, impact, and class litigation:

- o Consumer rights, including foreclosure prevention, illegal vehicle sales, etc.
 - o Consumer bankruptcy
 - o Civil rights, including access to housing
 - o Access to education
 - o Access to health care & public benefits
 - o Disability services, including special education advocacy
 - o Employment discrimination and wage theft
 - o Immigration
- MSJ further provides wrap-around services through collaboration with the WVU School of Social Work, which places two to three social work students with MSJ throughout the year to provide additional supports to our clients to ensure their long-term success.
 - MSJ serves clients statewide, with physical office locations in Charleston, Morgantown, and Princeton. MSJ offices remain open, with precautions, during COVID-19. Twenty-two staff members are employed, including thirteen litigating attorneys.
 - **Clifford-Cleckley Fellowship:** With partial funding from the WV State Bar Foundation and a generous donation from Ellen Cappellanti, Mountain State Justice is launching a paid summer internship to fund two young people of color to develop experience in the legal profession and social justice work.
 - MSJ is building deep collaboration with other partners in West Virginia to scale our efforts, including collaborating increasingly with Legal Aid of West Virginia, including on intakes, systemic failures, wrap around services, and education services. MSJ is also collaborating with the WVU Law Clinics, ACLU-WV, continuing to co-counsel with Disability Rights WV, and working with the Center for Budget and Policy Priorities on developing white papers and research that support our work for our clients.
 - MSJ remains gravely concerned about the coming wave of evictions and foreclosures as current moratoria and evictions time out.

Impact Updates

MSJ provides both individual legal services to people in need and impact litigation to ensure that West Virginian's rights are protected on a broader level. Below are some examples of successes that MSJ has obtained for low-income and marginalized West Virginians in the past quarter. A substantial portion of this work is otherwise uncompensated, and supported by IOLTA funds.

- *E.H. v. Matin*: This case has been resolved, with permanent changes to the Department of Health and Human Resources to ensure adequate treatment and care of people with severe mental illness, prioritizing placement in the community with appropriate supports.
- *Richards v. Crouch*: DHHR has agreed to sweeping changes to ensure compliance with the Americans with Disabilities Act for individuals seeking or receiving the Agency's services.

- *Blackshire v. Workforce*: Workforce West Virginia has updated its public facing materials to ensure that West Virginians are aware of their rights to unemployment benefits during the pandemic. These materials previously were misleading about the qualifications for benefits when a person was at high risk from COVID.
- *Baxley v. Jividen*: As the result of our litigation, the WV Department of Corrections and Rehabilitation is implementing sweeping changes to come into compliance with the Americans with Disabilities Act and to provide adequate health and mental health services to individuals in its care and custody.
- *Livingood*: We received the first order in the state applying the *Bostock* decision to the West Virginia Human Rights Act, to guarantee protections for transgender people from discrimination.
- *Black Jewell*: MSJ obtained a settlement of about \$13 million dollars for coal miners from a large coal company that declared bankruptcy without paying its miners that continued to work for the company.
- *McDaniel v. American Web Loans*: MSJ assisted clients in intervening in a nationwide class action regarding exploitative payday loans with around 700% interest. In the proposed settlement the class attorneys received nearly all of the benefit of the settlement with minimal relief to class members. After intervention, we were able to obtain a settlement that increased the debt relief to over \$100M, providing complete debt relief for the entire class, increased the common fund to \$85M, and reduced the class counsel fee to no more than \$15M.
- *Cutright v. City of Charleston*: The final portion of this prior settlement in which we represented a class of people experiencing homelessness in Charleston is now being implemented through the Religious Coalition for Community Renewal (RCCR) with funding from the City. RCCR has secured a lease to provide a locker storage facility for people experiencing homelessness. The facility should be up and running by May 2021.

4. Report from Special Grantees

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

Report from the WV Fund for Law in the Public Interest was submitted by Executive Director Jennifer Powell

The WV Fund for Law in the Public Interest's Board of Directors has selected and hired students to fill two Sprouse fellowships (one with a state public defender and one with a federal public defender) for the summer of 2021. One student will work this summer at the Federal Public Defender in the Northern District of WV and another will work at either the Harrison County or Preston County Public Defender (final placement site still pending). These rising 3L students will work full-time for 10 weeks for their host organizations and will seek their Rule 10 Certifications to get in-court experience this summer

In addition to the two summer fellowships with public defender organizations, the Board has also selected 13 other summer fellowships for summer of 2021 and 1 full time postgraduate fellow 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 students this year will be working at ACLU of WV, ChildLaw Services, Disability Rights of WV, Legal Aid of WV, Mountain State Justice, Our Future WV, and WV Senior Legal Aid. Our new post graduate fellow has been selected and she will bring her fellowship to Legal Aid of WV's Clarksburg office. Those summer fellows who are rising 3L's will also seek their Rule 10 certification.

We currently still have two post-graduate fellows working full time in public interest law settings from the Class of 2020. 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 of 2020 and will work as until October of 2021 at their respective sites.

Report from the Center for Law and Public Service was submitted by Director Jennifer Powell

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 are collecting those forms now and expect to honor 25+ students with pro bono honors and 10+ with community service honors at the end of this academic year.

We held an outerwear clothing drive in conjunction with the United Way of Monongalia and Preston Counties this January which resulted in over 100 coats for children and adults being donated to the United Way. We are also partnering with the Monongalia County Bar to help with a Pantry Plus More food distribution event in April where 12 students will join members of the bar to aid in this food distribution effort.

Several pro bono projects were sponsored in the spring 2021 semester, including the Magistrate Court Mediation project, volunteer work with the Appalachian Prison Book Project, volunteer work with the Public Interest Advocates, volunteer service to the VITA (volunteer income tax assistance) program, ACLU Legal Observer training, and a new program where law students have been trained to serve as mediators and advisors to undergraduate students who are involved in the Student Conduct process. We are partnering with our local CASA office to offer virtual training for potential volunteers as well, hopefully beginning this summer. The PIA online auction is in full swing and will end on Friday,

March 19, 2021. Proceeds from the annual auction are used to fund the aforementioned summer and full fellowships.

Report from WV Senior Legal Aid was submitted by Cathy McConnell, Executive Director

WV Senior Legal Aid has served 122 clients in 47 counties in the past 3 months. With the Financial Exploitation Task Force, WV Senior Legal Aid helped in the creation of HB2671 providing enforcement for violations of financial protective orders, and it has passed the state House and is on to Senate judiciary now. Since our most fruitful source of outreach and referrals, the county senior centers, have been closed for year we continue to develop new outreach strategies. This quarter we surveyed the county senior center directors and followed up with interviews for their ideas, and we have started sending a short timely elder law issue blurb for them to include in their newsletters and handouts to home-delivered meals participants.

Our website got hacked in February so it was down for about 2 weeks while we got it cleaned up. We are in the process of doing some security updating with a contractor which will be complete by the end of this month.

Report from ChildLaw Services was submitted by Cathy Wallace, Executive Director

ChildLaw Services currently has 456 open cases.

For our first quarter, ChildLaw opened 86 which included 76 abuse and neglect cases, 5 domestic violence divorce cases, and 5 juvenile cases. During this same period of time, 51 cases were closed. These included 2 custody, 4 guardianship, 4 juveniles, 2 domestic violence cases and 39 abuse and neglect.

We are also excited that our new Morgantown office has its first 10 cases which are currently coming from Mon and Marion counties.

Report from CASA for Children was submitted by Shanna Gray, State Director

During this reporting period, IOLTA funds continued to be an important source of contributed revenue for WV CASA and our ten (10) local CASA programs.

IOLTA funds are directly supporting CASA programs' efforts of increasing public awareness of CASA programs, CASA service to our communities, and the impacts our CASA volunteers drive for the youth we serve. WV CASA has contracted with a strategic design company to redesign our website. The goals of this project are two-fold: to improve efficacy of finding a local CASA program and to better represent our programs' mission and impacts.

Additionally, IOLTA funds are supporting a statewide CASA public awareness campaign. The primary goal of our public awareness campaign is to increase volunteer

recruitment across the state. As a by-product, we aim to attract additional funding sources to support the sustainability of our organizations.

IOLTA's continued contributions are instrumental in advancing the mission of CASA programs in West Virginia - providing a quality volunteer advocate for every abused and/or neglected child that comes before the WV court system.

5. Financial Report

State Bar Financial Director, Sarah Hall, provided current financial information. She reported that approximately \$63,307 is available for IOLTA grant distribution. Following a discussion of the financial report, the Advisory Committee agreed, by consensus, to distribute the \$63,307 to the grantees.

6. Old Business

Executive Director Casey asked the committee members to review the previously drafted IOLTA Financial Assistance Distribution Protocols. Ms. Casey provided a history on the previously drafted protocols and amendments to Rule 10. She discussed how the protocols would give the Board of Governors oversight of the distribution of IOLTA funds. She requested that comments or changes be sent, in writing, to the Bar before the June 22 Committee meeting.

7. New Business

None

8. Next Committee Meetings – The next meetings of the Committee will be both in-person at the Bar Center and via Zoom conference at **noon on June 22, 2021**.