

DRAFT
THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE
STATE BAR CENTER - CHARLESTON
June 22, 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 Chairperson Shannon Smith on Tuesday, June 22, 2021. The Committee members appearing in person are Chairperson Smith, Elizabeth Wehner and Jennifer Massey. Committee members who appeared via video conferencing were Richard Lehman, Jennifer Powell, Kevin Robinson, Sue Troy, and Jennifer Wagner. Attending in person at the State Bar offices were State Bar Executive Director Anita Casey, State Bar Financial Director Sarah Hall, State Bar IOLTA Administrative Assistant/Paralegal Patricia Schoolcraft who served as secretary, and summer intern Michael Heidenreich.

Anita Casey introduced summer intern, Michael Heidenreich, to the Committee.

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 March 23, 2021 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:

- From March 2021 – May 2021, Legal Aid of West Virginia opened **1,605 new cases** statewide. LAWV's statewide caseload continues to increase in the aftermath of COVID.
- Since the Committee's last report, LAWV has continued to serve higher numbers of clients in the areas of housing (287 cases), unemployment (56 cases), and public benefits (110 cases).
- LAWV is also increasingly helping veterans, clients in recovery, and others to remove employment obstacles. In the last 3 months, LAWV has opened 56 cases to expunge old, non-violent criminal charges, and 52 cases to reinstate a client's driver's license.

- As of June 1, 2021, LAWV returned to fully in-office services. Recognizing that LAWV's in-office technology offers more sophisticated tools to support its staff in serving clients, LAWV is very happy to be fully back and open to walk-ins!

Other Program Updates and Highlights for Legal Aid of West Virginia

- **Education Law Collaboration and Initiatives:** LAWV is collaborating with Mountain State Justice to provide broader outreach, advocacy, and legal assistance to West Virginia kids with special education needs. In response to the significant impact of COVID on children who need specialized educational supports, LAWV has publicized and launched an Education Law Hotline. In collaboration with MSJ, LAWV has developed a jointly-funded, integrated network of advocates and attorneys providing statewide special education advocacy and litigation.
- **Pro Bono Transformation Grant Application:** LAWV is currently applying for a Legal Services Corporation Pro Bono Transformation grant. If awarded, the grant will provide technical assistance and resources to support LAWV in restructuring its existing work with volunteer lawyers statewide. The funds would allow LAWV, with the help of national experts, to conduct a rigorous program assessment and identify best practices well-suited for West Virginia's needs and challenges. Ultimately, if funded, the grant will support the implementation of improvements to LAWV's organizational policies, management, and operations designed to create a high impact pro bono program focused on priority client services.
- **LAWV Community Navigators help West Virginians impacted by COVID:** In addition to hosting 7 law students and 2 undergraduate interns, LAWV has hired 4 Community Navigators to assist low-income West Virginians impacted by COVID. The Navigators are out in the community helping people complete online forms and applications for housing and rental assistance, public benefits, tax credits, and other programs available to low-income state residents as COVID relief. The 4 Navigators have also received training in connecting people with non-legal resources. LAWV Community Navigators will be offering services through August 20, 2021.
- **Redesigned LAWV website launched:** LAWV has a new website at www.legalaidwv.org. While the old site served LAWV well for years, LAWV has updated its on-line image along with its site's flexibility and functionality. LAWV's new site is better-organized, more user-friendly, adapted for mobile use, and fully ADA compliant. The site features information on COVID policies that continue to impact clients and partners. LAWV's former site, www.lawv.net, still works and using it takes you to the new site. As materials are reprinted, LAWV will transition to the new address.

Chairperson Smith requested information on the impact that the IOLTA funds contributed to the Legal Aid programs. Ms. Wehner advised that she will obtain and provide the requested information to the Committee.

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

Services & Program Updates

- **Community Engagement Program:** MSJ is in the process of launching this program to provide wrap around services for MSJ clients to ensure success and stability into the future, as well as educate and engage our clients in policy that impacts their lives. MSJ is currently hiring a fulltime Community Engagement Specialist who will spearhead these efforts and supervise our social work interns.
- **Clifford-Cleckley Fellowship/Speaker Series:** With partial funding from the WV State Bar Foundation and a generous donation from Ellen Cappellanti, Mountain State Justice has now launched a paid summer internship to fund two young people of color to develop experience in the legal profession and social justice work. The inaugural fellows are Aryanna Islam, an undergrad from WVU who has already run for the WV House of Delegates, and Darrin Lester, a recipient of multiple humanitarian awards who was released from prison this spring and will be attending WVU to obtain a Masters of Social Work in the fall. MSJ has arranged a weekly speaker series for the interns to learn from and connect to leaders throughout WV.
- **Immigration Project:** MSJ recently hired a fulltime bilingual paralegal to assist with and expand its immigration project and to better support its clients who have limited English proficiency. MSJ recently succeeded in obtaining a legal status for a domestic violence survivor and are engaged in several other cases, as well as outreach and education efforts, including working with WVU on its classification of students eligible for in state tuition.
- As of June 22, 2021, MSJ currently has **576 open cases**, most of which are in active litigation. From March 22, 2020, through June 22, 2021, MSJ **opened 62 new cases**. **MSJ** provides free legal services in the following areas, including individual, impact, and class litigation:
 - Consumer rights, including foreclosure prevention, illegal vehicle sales, etc.
 - Consumer bankruptcy
 - Civil rights, including access to housing
 - Access to education
 - Access to health care & public benefits
 - Disability services, including special education advocacy
 - Employment discrimination and wage theft
 - Immigration
- MSJ serves clients statewide, with physical office locations in Charleston, Morgantown, and Princeton. The offices remain open, with precautions, during COVID-19. MSJ employs nineteen staff members, including twelve litigating attorneys, and are in the process of hiring.

- MSJ is building deep collaboration with other partners in West Virginia to scale its 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 remain 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.
- During the past reporting period, MSJ has continued to litigate the ongoing actions that have previously been reported, in the areas of consumer rights, disability rights, and workers' rights. Also during the past reporting period MSJ has filed class litigation challenging the improper discontinuation of retirement and health benefits for hospital workers in Huntington in federal district court.
- Ms. Wagner advised that MSJ has a budget of approximately \$2,500,000. A percentage supports litigation efforts for low income clients; including housing retention and foreclosures and paying for the attorney and paralegal services.

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

ChildLaw Services

Currently, 475 cases are open.

During the second quarter, ChildLaw opened 75 cases. Of these, 5 were DV/Family law, 1 Adoption, 10 Juvenile criminal cases, 1 special GAL case, 5 miscellaneous child representation, and 53 abuse and neglect cases. During this same period, 71 cases were closed. Eight of these were Guardianship cases, 5 were Juvenile, 1 Adoption, 1 Felony Victim, 7 DV/Family, 2 Specialized GAL, 2 Miscellaneous and 45 abuse and neglect cases. All these cases are (or were) for full representation.

Childlaw is very excited to report that the Morgantown office is picking up steam and its attorney/WV Funded fellow Tiffany Kent has done a superb job helping to get the office off the ground and assisting the community in balancing the scales of justice. Due to the high volume of cases currently coming in, Childlaw has also hired a new veteran part-time attorney for its Princeton office and due to demand, Childlaw is given its first ever VOCA Summer Fellowship to WVU Law's own Rachael Mullins to further assist child

victims. Childlaw's Regina Charon and PIA Summer Fellow Zoey Vilasuso is working in Princeton and is also doing a great job with three hearings already under her belt in her first two weeks with us.

Additionally, this year is also ChildLaw's 20th anniversary and events are scheduled all year to bring awareness to issues facing children and raise money for additional services for children in need within the legal system. ChildLaw started a new program, Helping Hands, in April to recognize milestones for children in state care, ran a social media campaign to bring awareness to child abuse, conducted a fun 5k run and community service trash pick-up for at-risk children, and helped sponsor a community wide baby shower for new mothers.

Center for Law and Public Service

The Center coordinates the work of the Public Interest Advocates (PIA) at the College of Law. The PIA auction was held online during the week of March 15-19, 2021. This year was a very successful fundraising year for the PIA, as the auctions, book sale, pet calendar sales, and tailgate chair sale raised over \$30,000 to fund full-time and summer public interest fellowships for WVU College of Law students. The money is used to fund the summer and full-time public interest fellowships awarded by the WV Fund for Law in the Public Interest. See below for the Fund report. The Center continues its work coordinating pro bono projects and community service projects at the WVU College of Law. This year the Center worked with multiple community partners to sponsor specific pro bono projects for law students. The Center's community partners included Legal Aid of WV, CASA of Monongalia County, VITA, the Appalachian Prison Book Project, the Magistrate Mediation project, and RDVIC. Students also earned pro bono hours volunteering for judges, prosecutors, public defenders, other legal services organizations, and for PIA.

At the WVU College of Law Honors Day, the Center recognized 33 graduating students as students with "pro bono distinction," meaning they performed at least 25 hours of pro bono service in their law school career. Five students were also awarded community service honors, meaning they performed at least 25 hours of community service over their law school career. With the easing of restrictions around COVID 19, the Center expects to be able to "ramp up" and offer more in person pro bono and community service projects for students.

WV Fund for Law in the Public Interest

In March of 2021, the WV Fund for Law in the Public Interest conducted interviews and selected 15 first- and second year WVU College of Law students for public interest summer fellowships, known as PIA fellows. These students are working this summer at public interest employers all over West Virginia, including Legal Aid of WV, Senior Legal Aid, Mountain State Justice, Disability Rights of WV, Childlaw Services, ACLU of WV, the WV State public defenders' offices in Clarksburg, and the federal public defender in Clarksburg. In addition, the WV Fund for the Law in the Public Interest selected one student from the Class of 2021 at the WVU College of Law for a full-time

postgraduate fellowship. This student will work for one year at Legal Aid in Clarksburg, West Virginia as a postgraduate fellow attorney once she passes the WV bar.

WV Senior Legal Aid

In the past 3 months WV Senior Legal Aid has served 212 individual seniors in 44 counties. WV Senior Legal Aid's summer Public Interest Fellow has been working on several projects including Faith and Justice for WV Seniors (an outreach project developing partnerships with pastors in rural communities to spot legal issues ripe for referral to WVSLA), Mountaineers Aging with Pride (an outreach and delivery project responding to the unique legal needs of LGBTQ+ seniors), and producing and updating substantive law materials on aging solo, supported decision making and planning for diminished capacity, and transfer on death deeds, and providing analysis of several bills enacted by our state legislature this year and how they impact senior West Virginians.

Report from CASA for Children

During this reporting period, CASA programs across West Virginia advocated for over abused and neglected youth before the courts. CASA currently has active CASA volunteers appointed and serving child abuse/neglect cases. Additional advocates completed CASA pre-service training during this reporting period.

CASA programs provide continuing education and in-service training opportunities for CASA volunteers and staff. During this reporting period, training topics included:

- ACEs 101
- ACES & the Opioid Epidemic
- Baby Safety Training Event
- Case reviews/new resources update
- Compassion Fatigue and Self-Care
- Court Hearings and timelines
- Court Improvement Program: New View & Missing from Care
- CSED waiver
- Cybersecurity for Children
- Day report drug screening
- Drug Exposed Infants
- Family Treatment Court Training
- Instant Family Movie and discussion
- Home Visit Safety
- Legal Aid of WV
- Mandated Reporter Training
- Suicide Prevention
- Supporting LGBTQ+ Youth
- Understanding Foster Care
- United Summit Center and the Mobile Crisis Unit

Further, in service to our communities and the youth we serve, CASA programs:

- Hosted a group therapy opportunity for children in CPS custody (now hosted by NAMI - National Alliance on Mental Illness)
- Provided Easter Baskets to children served by CASA

Lastly, CASA programs across the state participated in the following events:

- Child Abuse Prevention
- Light of Hope
- Men of Change
- Right from the Start
- The Bright Side
- Wetzel County Community Day

Chairperson Smith requested information on the impact that the IOLTA funds contributed to the five special grantees. Ms. Powell advised that she will obtain and provide the requested information to the Committee.

4. Financial Report

State Bar Financial Director, Sarah Hall, provided current financial information. She reported that approximately \$718,904.00 is available for the June IOLTA grant distribution. Following a discussion of the financial report, the Advisory Committee agreed, by consensus, to distribute the \$718,904.00 to the grantees. The grantees abstained from the vote.

5. Old Business

Chairperson Smith opened a discussion regarding the proposed amendments to the IOLTA Financial Assistance Distribution Protocols. Both the prior 2018 proposed amendments and the recently proposed grantee amendments were discussed and compared. Chairperson Smith provided information on the total amount of IOLTA funds distributed to the current grantees during the past 5 years. She advised that the 2018 amendments added oversight to Rule 10.

Ms. Wagner presented the grantees' recent proposed changes and the desire of the grantees to work with the Committee to maintain funding stability.

Ms. Massey explained the 2018 proposed amendments and how the current Rule 10 restricts the distribution to the current grantee and other entities that desire to become a grantee. Ms. Wagner expressed concerns that changes to distribution process may cause harm to a grantee's direct services. The Committee discussed the current distribution percentages and how the same may be changed to include more grantees and increase current grantee distribution.

Ms. Powell expressed a concern that the 2018 proposed definition of legal services would exclude court-based programs. Following a discussion, the Committee agreed to include court-based services to subsection (a) of Rule 10.11. Chairperson Smith will amend the proposed Rule change to include court-based services.

Committee members discussed how the application process may be burdensome to and may exclude smaller organizations. The Committee discussed that the 2018 proposed changes will establish a review and renewal application process every three years. If there are no new applications, the current grantees will not have to do a full scale application process.

The Committee further discussed the current Rule's lack of financial disclosure requirements and that the proposed rule provides for annual financial disclosures similar to what is already reported to the IRS.

Ms. Casey provided information on the steps to amend a Rule and that the ultimate decision to change a Rule is with the Supreme Court of Appeals.

Following the discussion on both Rule 10 proposed amendments, a motion was made to send the 2018 proposed amendments, with the above-noted change to include court-based services, to the State Bar By-laws committee for consideration. The motion received a proper second. The grantee members abstained from the vote. All present voting members of the Committee unanimously voted to send the 2018 proposed changes, with the language to include court-based services to subsection (a) of Rule 10.11, to the State Bar's By-laws Committee for consideration at the June 28, 2021 meeting.

6. New Business

None

7. 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 September 21, 2021.**