

THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE
STATE BAR CENTER - CHARLESTON
SEPTEMBER 25, 2014 - 11:00 A.M.

MINUTES

1. Call to Order and Introduction of New Committee Member – Chairperson Lambright

A meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Chairperson Anne Werum Lambright on September 25, 2014. Committee members appearing in person were Chairperson Lambright, Patrick Kelly, Jennifer Massey and James Martin. Attending by conference call was Professor Charles DiSalvo. Also attending were the Supreme Court of Appeals of West Virginia's Clerk Rory Perry, State Bar Finance Director Sarah Harper-Jones and State Bar Executive Director Anita Casey, who served as secretary for the meeting. After calling the meeting to order, Chairperson Lambright introduced and welcomed Patrick Kelly as a new member of the Committee.

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 – March 20, 2014 and June 19, 2014

Following a review of the same, a motion to approve the minutes of the March 20 and June 19, 2014, meetings was made. The motion received a proper second and passed by a unanimous vote.

3. The Agenda for the meeting was numbered incorrectly, there was no item number 3.

4. Reports from Legal Service Programs

Mr. Martin reported that no predictions could be made at this time regarding the status of LSC funding. State contracts, however, were in good shape. He discussed a pending contract with DHHR and the relationship of negotiations on that contract to a Kanawha County action pending before Judge Louis Bloom. He reported, in the absence of a representative of Mountain State Justice, that he did not believe there were any significant issues pending with Mountain State Justice. He did report that that organization was working with Legal Aid of West Virginia on the behavioral health issues involved in the action before Judge Bloom.

5. Reports from Special Grantees

Professor Disalvo provided the following information from the Special Grantee:

WV Fund for Law in the Public Interest - Despite a decrease in the amount of tax credits awarded to the Fund by the Neighborhood Investment Program, the Fund is optimistic it can fund 15 fellowships for the summer of 2015 and at least one post-graduate fellowship beginning in the fall of 2015.

WV Senior Legal Aid - This past quarter we have had wonderful law student Fellows and an extern serving clients and completing projects. We updated our FAQ book, to be updated on the website this month. We created a WV LGBT Elders Legal Guide which will be published on our website this

month also. Cat delivered workshops on elder abuse, legal aspects of green burial, the new transfer on death deed, financial powers of attorney, and landlord/tenant law in Harrison, Hampshire, Mon, and Kanawha counties. We continued to participate in the task force examining due process issues in the guardianship process in WV, the abuse in later life pilot projects in Greenbrier and McDowell counties, and finished up the Caregiver University series produced by Alzheimers Association WV. We also got our annual fiscal audit done, report and 990 expected this week.

Center for Law and Public Service - Pro Bono projects are underway at the WVU College of Law. On September 22 Jennifer Powell held a Pro Bono Rollout presentation to over 25 first, second and third year law students. We introduced the school-supported pro bono partners for the 2014-15 school year, which includes Legal Aid of WV, Senior Legal Aid of WV, the WV State Bar Mediation program, CASA of Monongalia County, VITA, the WV Fair Housing Network, RDVIC, the PIA and the Appalachian Prison Book Project. Legal Aid of WV will conduct its first volunteer training on campus on Wednesday, October 8th, followed by a pro bono/online research help project and a pro se divorce paperwork project to commemorate ABA Pro Bono Week the week of October 20-24. The other organizations plan trainings for early in the 2014 semester, including the VITA tax program on Thursday, September 25. APBP, CASA and RDVIC will be present on campus on Wednesday, September 24 for the first ever pro bono/community service organization fair which will be held at the College of Law from 11:30-1:30 p.m. on that date. I expect other training/volunteer recruitment to take place during October 2014, including the Fair Housing Network and the Magistrate mediation program. The Center uses IOLTA funds to support all of the publicity, training, promotional materials and to provide food for the volunteers and training sessions.

Childlaw Services - Our second quarter at ChildLaw has been a quarter of challenges to say the least. Financially, our small nonprofit suffered tremendously when the state changed financial systems and payment on invoices grinded to a stop for close to two months. State funding for our guardianship cases in family court and circuit court make up over 85% of our funding, so we have needed to be very creative with overcoming these obstacles. Unfortunately, we had to reduce staff and continue to do more with less.

Thankfully, we have had help from our ChildLaw friends and a supportive bar and courts so that our work has continued and grown. During the first half of 2014, we have expanded our services to Fayette, Kanawha, and Putnam counties. We have had two Girls on the Run programs run successfully in Mercer and Kanawha counties, and watched over 45 young girls finish their first 5k as a culmination of the event. Thanks for all of you in the community who joined our races and helped us raise money so this program can continue.

Our Teen Court has been on fire. During the first half of the year, they have been asked to participate in state level education and decision making on the future of young people and have been integral to policy-making at the state level. Additionally, this program was financially able to be self-sustaining for the first time in recent history. We were renewed for our First Book grant which ensures each child who comes through our doors receives a book to read and assistance with reading it, and we have also renewed our VOCA grant that gives assistance for children who are victims of crime with a brand new counseling component. We were blessed with interns from Concord University, Queens College School of Law, and West Virginia University School of Law, who all dug in and offered many hours of support to the many kids we reach out to. The WV Women's Commission also stepped in with our first grant from them that is placing our Girls on the Run program at Piedmont Elementary in Charleston, an impoverished school with lots of at risk children. True to the

community support, Grant's Supermarket is known for, they helped us again with financial support during some of our shortfalls as did many of you, our many friends and supporters.

In the legal realm, our attorneys continue to be leaders in providing quality representation for the children in all of our counties. Among so many, we have had the pleasure of watching an impoverished dad with two struggling teenage boys receive better housing and the boys really start to flourish. We have watched a four year old case of a young man who has struggled with behavioral issues successfully transition to adulthood, and we have protected a 15 year old mother whose 18 year old boyfriend hospitalized her from a beating, even after she wanted to go straight back to him. We have more than doubled the cases we opened the first quarter by opening 159 cases for the first half of the year with 10 juvenile delinquency, 24 discipline cases, 5 custody cases, 1 domestic violence, 100 abuse and neglect, 5 VOCA cases, and 14 miscellaneous GAL cases. We have closed 104 cases.

WV CASA - We have hired a new State Director! Tracy Taylor was hired on August 26, 2014 as WVCASA's new Executive Director. She was actually a former CASA Volunteer out of Marion County CASA and we are thrilled to have her knowledge and enthusiasm to get WVCASA back moving forward! She will provide all future updates re: IOLTA for the next meetings.

We are currently planning our Statewide CASA Conference- It is scheduled for September 25, 2014 in Wheeling at Oglebay Conference Center. Once again our theme will be focused on Older Youth so we can continue to improve our advocacy skills across the network for one of our most difficult populations of youth that we serve.

For two days before the conference in September we will be meeting at Oglebay as a network- one of those days will be focused on statewide strategic planning and one of those days Susan Harrison, CASA Director from Ohio, Marshall, Wetzel & Tyler Counties will be training all the local program directors on this NCASA new training curriculum Fostering Futures so that we can each individually train our new incoming CASA Volunteers in our local programs on this specialized curriculum for children ages 14-18 within our programs.

We have a NCASA grant at the State level until September 30, 2014 that will provide each local program with some financial resources for printing training manuals, advertising for new CASA Volunteers and purchasing jump drives for each current CASA Volunteer to be able to keep their case related materials on as the State transitions to virtual storage of court files.

6. Financial Report

Finance Director Harper-Jones reported that the accounts for IOLTA currently had a totaled \$64,623.73. Of that amount, \$7,500 was earmarked for the State Bar for administrative costs considering the requirement of a \$10,000 minimum balance in the account, available funds for distribution amounted to \$54,625.73. A motion to distribute \$54,000 to the IOLTA grantees was made. The motion received a proper second and passed by a unanimous vote. The Committee also discussed the current expenses of IOLTA and the need for personnel to properly administer the Program. Chairperson Lambright requested that Executive Director Casey place an item on the State Bar Board of Governors November 14, 2014, agenda allowing her to make a request for funding for a part-time position for IOLTA.

7. Old Business

A. Update on Proposal Rule 10 (formerly Rule 1.15) – Ms. Lambright

1. Bankers Associations Comments on Proposed Rules

Supreme Court Clerk Perry reported that Rule 10 of the State Bar's new administrative rule dealing with IOLTA would become effective September 29, 2014. The Committee discussed the impact that the new Rule may have on accounts where the owners of the monies in those accounts were unknown. Clerk Perry noted that the new rule directed a change in the ownership of the accounts based upon comments received from the West Virginia Bankers Association. He noted that a penalty would be added for an attorney's failure to timely do annual reporting of his/her IOLTA account.

B. Discussion of IOLTA grantee reporting/auditor issues – Ms. Lambright and Mr. Martin

Chairperson Lambright discussed the concerns the Committee currently has with reporting and auditing issues of some of the grantee organizations. She discussed the Committee's plan to establish protocols for the grantees in both of these areas. Clerk Perry believed that, once protocols were established, any issues related to failure to comply with the protocol could be resolved by Order of the Court.

8. New Business

A. Hiring a part-time person to check remittances from participating financial institutions and contact those not properly remitting.

The Committee discussed the inability of current State Bar staff to properly monitor the voluminous number of IOLTA accounts. Following discussion, a motion was made recommending that a part time person be hired by the State Bar to work with the staff currently dealing with IOLTA accounts. The motion received a proper second and passed by a unanimous vote. Chairperson Lambright requested that Executive Director Casey place the request on the Board of Governor's November meeting agenda.

B. Discussion of Consensus Forecasts of United States Interest Rates and Key Assumptions

This topic was tabled until the Committee's next meeting.

C. Bank of America Settlement and Conference Call on October 2, 2014 at 2:00 p.m.

Executive Director Casey advised of information received from the American Bar Association that each state will receive a minimum of \$200,000 from a settlement reached with Bank of America. Additional monies will be distributed based upon the poverty levels of individual states. Mr. Martin agreed to participate with Executive Director Casey in an October 2 conference call which will provide additional information on the anticipated timing of the initial settlement distributions and the requirements for receipt of additional funds.

D. ABA LT Congressional Representatives regarding credit union issue for insurance coverage
Executive Director Casey advised that a letter had been sent to Senator Manchin in support of federal legislation providing for FDIC coverage for funds held in credit union accounts.

9. Next meeting – The next meeting of the Committee will be December 18, 2014, at 11:00 a.m. at the State Bar Center.

10. Adjournment

The meeting was adjourned was by consensus.

ioltaminutessept2014.docx