



**Arkansas Access to Justice Commission
Arkansas Access to Justice Foundation
Arkansas IOLTA Foundation**



Joint Board Meeting

Saturday, April 27, 2013
UALR William H. Bowen School of Law
1201 McMath
Little Rock, AR 72202

Attending

Access to Justice Commission:

Rose Adams
Jean Carter
Nate Coulter
Prof. Chuck Goldner
Judge Leon Jamison
Justice Annabelle Tuck
Bill Waddell
Andrea Walker

Access to Justice Foundation:

Lori Chumbler
Nate Coulter
Zina Frazier
Prof. Chuck Goldner
Ron Lanoue
Rev. Vic Nixon
Bill Waddell

Arkansas IOLTA Foundation:

Tamra Cochran
Nate Coulter
Dick Downing
J.D. Gingerich
Dr. Alice Hines
Karen Hutchins
Frank Sewall
Jim Sprott

Guests:

Dennis Dorgan
Amy Lafont
Tyler Pearson
Gregg Potter

Staff:

Erin Jacobson
Amy Johnson

Meeting Minutes

Welcome and Introductions

Justice Tuck opened the meeting at 8:40 a.m. and welcomed members of all three boards.

Board Business

Arkansas IOLTA Foundation

Mr. Downing called the IOLTA Foundation meeting to order at 8:46 a.m.

Mr. Downing asked for any revisions to meeting minutes from the last meeting of the IOLTA Foundation Board of Directors on February 22, 2013. No revisions or amendments were raised. He called for a motion to approve the minutes. Mr. Sewall moved for approval and Ms. Cochran seconded the motion. The minutes were unanimously approved.

Mr. Downing moved on to the Treasurer's Report. He called attention to trends in IOLTA funding over the years, addressing the declining revenue stream.

Mr. Gingerich pointed out that revenues are presently lower than when attorney participation in the program was voluntary. He added that in order to make grants this past year, the program went into its reserves. IOLTA used to have a director and accounting

staff person, but when revenues declined the administrative support was cut. The program was down to bare bones until the Access to Justice Commission was created. IOLTA used to have a one-year reserve, which it no longer has.

Ms. Johnson reported that the program holds just over \$2 million, but the vast majority consists of foreclosure settlement funds designated by the Arkansas Access to Justice Commission for the state's two legal aid programs. She called the board's attention to the 2012 and 2013 Operating Revenues and Expenses reports in the board packet, which are modified versions of the full Balance Sheet and Fund Expenditures Reports that Melanie Jones of the Supreme Court Clerk's office normally prepares, which for 2012 included the foreclosure settlement funds and a cy pres distribution. Ms. Johnson prepared these reports of at the Board's request so that a truer picture of operating revenues and expenses could be reviewed.

Mr. Gingerich noted that the board has, in making grant determinations, historically taken into account operating expenses and budgeted income to determine what could be distributed. However, during the last grant cycle intentionally budgeted for a deficit knowing reserve funds would be used.

Ms. Johnson went over the 2012 Operating Revenues and Expenses report, stating that just over \$170,000 in IOLTA revenue was budgeted for the year, while total budgeted expenses for the year amounted to slightly over \$70,000. Actual income fell short, coming in at just over \$160,000. However, operating expenses came in lower than projected at \$55,500. Ms. Johnson then reviewed the Statistical Analysis Report, noting that the report was generated out of the IOLTA2 program and showed the month-to-month receivables for 2012. She noted the variance of these amounts from the amounts actually received each month due to the backlog in data entry. Now that data entry for 2012 is caught up, monthly receivables and actual income should track much more closely.

Ms. Johnson then reviewed the 2013 year-to-date Operating Revenues and Expenses report. She advised that IOLTA revenues continue to remain extremely low due to depressed interest rates. Year-to-date income is just over \$33,000, and expenses of approximately \$18,000, with no significant variances noted.

Mr. Downing mentioned the anticipated merger of the IOLTA Foundation with the Access to Justice Foundation as a source of additional savings in the future.

Ms. Johnson next reviewed the Foundation's investments, almost all of which are the foreclosure settlement funds. The Foundation does have one \$25,000 of cash reserves in a 24-month CD with National Bank of Arkansas, which is paying 0.8%. All other investments are housing foreclosure settlement funds in short-term CDs at Community First Bank, with a money market fund for the next round of grant payments. \$500,000 is at Stephens, where about 20% is invested in equities that are yielding about 5%. The remainder is in a money market fund, but gradually moving to low-risk equities that should bring in a higher yield.

Ms. Johnson reported that a monthly reconciliation process has been fully implemented which allows for a complete reconciliation of monthly receivables shown in IOLTA2 with the IOLTA2 income that Melanie Jones books using our bank statements. Ms. Johnson pointed

out the report that starts with the header "Regions Bank Deposits," indicating that this is the tool that staff are using not only to reconcile deposits, but to log remittance reports as they are received, receivables as they are reported, and deposits as they are posted. She emphasized that this process makes the of the status of bank reports and remittances much easier.

Mr. Gingerich moved for approval of the Treasurer's Report and Mr. Sewall seconded the motion. With no discussion, the motion passed unanimously.

Ms. Johnson continued with program updates, reporting that preparations are underway for the 2012 audit. Staff are continuing to transition more banks to electronic reporting and remittance. Only 17 of the program's 133 banks currently remit by check. About 5 banks are remitting via self-initiated electronic transfer. The remainder of the participating banks remit via ACH transfers initiated by the Foundation. As banks transition to electronic remittance, the Foundation is encouraging those banks to set up internal debit accounts so that Foundation debits only one account, rather than each individual attorney account. This avoids issues that commonly arise if an account is closed-mid-month before interest is remitted or if an error is made for a particular attorney.

Mr. Coulter mentioned that with the comparability provisions of our rule, we will hopefully be in a position to lobby to banks to ensure that the IOLTA program receives interest rates that compare to other depositors.

Mr. Downing recommended selecting a banker who is committed to the cause who can engage banking community to the help support and increase relationships. He mentioned a former member who helped identify and rectify issue of negative netting and recognized Mr. Monroe for his help in disclosing bank processes and how to help streamline processes in line with bank practices when appropriate.

Mr. Downing commended his board and the active members who have the program going in both times auspicious and less so. He concluded IOLTA Foundation's portion of the meeting at 9:20 a.m.

Arkansas Access to Justice Foundation

Mr. Waddell called the meeting to order at 9:22 a.m.

He called the board's attention to the revised version of the February 22, 2013 meeting minutes handed out prior to the meeting. He entertained a motion to approve minutes as revised. Mr. Coulter moved to approve the revised minutes and Rev. Nixon seconded the motion. The motion passed unanimously.

Mr. Waddell moved onto the draft audit, addressing Note 3 of audit which reflects what the Foundation does and how it performs its mission financially. He commended the engagement and activity of board members from across the state who help fundraise and approach individual and corporate donors. He highlighted the growing relationship with Farm Bureau and existing relationship with Walmart. He also recognized Mr. Dorgan's help in increasing relationships and supporters, citing BancorpSouth's Responders First event as a direct result of Mr. Dorgan's involvement. He added that these relationships are beneficial

to gaining financial support, increasing pro bono recruitment, as well as to the dispersal of the message of increasing access to justice and educating corporate advocates.

Mr. Waddell asked for Ms. Frazier to present the financial report. Ms. Frazier called attention to the submission of an amended budget due to the State Justice Institute grant not being fully factored into the original budget presented at the February meeting. The amended budget now reflects an expense of \$55,900 for the SJI study instead of the \$9,500 that was previously approved. However, the amended budget also shows income of \$46,400 attributable to the SJI study, resulting in a net out-of-pocket amount equal to the \$9,500 originally budgeted for the study. Prof. Goldner moved to approve the amended budget and Mr. Lanoue seconded the motion. The motion passed unanimously.

Ms. Frazier reviewed the Statement of Financial Position contained in the board packet current to March 31, 2013. She indicated the beginning balance of \$32,413.60, with changes in net assets totaling \$11,675.30. The balance sheet notes an accrued expense for auditor amounting to \$3,800. She concluded by reviewing the total liabilities and assets equaling \$24,538.30. Year-to-date budgeted expenses are at \$21,744, so the actual expenses of \$19,600 have us slightly under budget for the year. Rev. Nixon moved to approve the financial report and Ms. Chumbler seconded the motion. The motion was approved and passed unanimously.

Ms. Frazier advised that the 2012 audit has been conducted and the Foundation has received an unqualified opinion once again. She indicated that the Audit Committee will need to meet with auditor to review the auditor's report. Mr. Waddell called for a motion to authorize the Audit Committee to approve the audit and Form 990. He added that approval of the audit will be subject to an exit interview of the Audit Committee, barring any substantive changes that appear. Mr. Lanoue moved to authorize the audit committee to accept the audit and Form 990 barring no changes. Mr. Coulter seconded the motion. All members approved the motion and it passed unanimously.

Ms. Johnson commended Van Izard for his work on the bookkeeping of the Foundation expenses and attributed the receipt of the unqualified opinion to his efforts.

Mr. Waddell individually recognized the Foundation's board members and their contributions to the work of increasing access to justice.

Mr. Waddell concluded the Foundation's portion of the meeting at 9:45 a.m.

Arkansas Access to Justice Commission

Justice Tuck began the Commission's meeting by introducing and recognizing her fellow commissioners. She called the meeting to order at 9:49 a.m.

Justice Tuck entertained a motion to approve the minutes of the February 15, 2013 Commission meeting as presented. Mr. Coulter moved to approve the minutes and Judge Jamison seconded the motion. The motion passed unanimously.

Ms. Johnson gave an update on the Commission's strategic priorities, emphasizing the need to measure outcomes going forward. Recent accomplishments include engagement of a consultant to develop a strategic plan for meeting the needs of pro se litigants and completion of several additional online documents and forms that can assist self-represented individuals with legal needs. She added that good recent media exposure on

landlord-tenant laws in Arkansas has brought public attention to the need for policy changes. Finally, she has submitted an application to the Clinton School of Public Service for a practicum project that would result in completion of an economic benefit study if approved.

Justice Tuck recognized Ms. Karen Hutchins and the Arkansas Bar Association's assistance in helping to keep the Association's members informed on the Commission's activities.

Ms. Johnson indicated that one strategic priority that has not yet been addressed is the hosting of town hall meetings around the state. She indicated that this would be a good time to really focus on this priority now that we have had a nearly complete legislative turnover at the state and federal levels. Ms. Adams suggested getting the Bar, Clinton School, the law schools involved and incorporating the findings of the recently completed legal needs study into the town hall effort. She stressed need to localize and educate constituents in the communities where these issues matter and where people are being affected. Mr. Lanoue mentioned that after the last town hall meetings, Arkansas's entire congressional delegation voted in favor of increasing LSC funding. He agreed that education is integral and advocated that instead of a statewide conference this year, the Commission should be doing these town hall meetings.

Ms. Johnson moved on to highlight recent and upcoming pro bono events that the Commission has sponsored in furtherance of the "saturation days" strategy, including the "Super Saturday" event in Helena, the "Serving Our Seniors" event scheduled for late May, and the Bar Association Leadership Academy "Serving Our Seniors" event scheduled for June.

Shared Business

Justice Tuck moved on to joint action items and called on Mr. Sewall to address the merger petition. Mr. Sewall advised that the Arkansas Access to Justice Foundation voted to approve the merger on August 17, 2012, and the Arkansas IOLTA Foundation on September 13, 2012. Since that time, he, Prof. Goldner, and Mr. Coulter have worked together to draft a petition requesting the Arkansas Supreme Court's approval of the merger of the Arkansas IOLTA Foundation and the Arkansas Access to Justice Foundation. He clarified the surviving entity will be the Arkansas IOLTA Foundation, but that the Foundation will adopt "Arkansas Access to Justice Foundation" as its name. The board structure will be similar to that of the IOLTA Foundation.

Mr. Gingerich advised that the Court will be meeting next week. Ms. Johnson stated that staff can have the petition filed on Monday morning. Once filed, the Court will likely publish the petition for public comment. Ms. Cochran speculated that as long as the rules governing IOLTA accounts are not affected, most lawyers will likely have no issue with the merger.

Ms. Johnson gave the Executive Director's report. She offered an update on the status of the Administration of Justice Fund shortfall, which in turn resulted in cuts to the Public Legal Aid Fund. A bill was passed this session that was intended to address loopholes related to court filing fees and costs, and it is anticipated that this legislation will restore revenues to

previous levels. Mr. Gingerich reported that revenues are already up and are expected to exceed obligations for the first time in a number of months.

Ms. Johnson also reported on the Legislature's decision to convert current Bar of Arkansas Employees (including Arkansas Access to Justice Commission staff) to state employees. This follows a dispute over the constitutional authority of the Arkansas Supreme Court to create staff positions and a retirement plan for those employees under Amendment 28 of the Arkansas Constitution. The Legislature will now appropriate the funds for staff salaries and program budgets and will convert the employees to the APERS retirement system. Commission staff are working with Arkansas Supreme Court staff to take all necessary steps for the transition.

Ms. Adams asked how this will affect the ability of Commission staff to lobby and be a legislative liaison for access to justice matters. Mr. Gingerich and Ms. Johnson indicated that they are still not entirely certain. Operationally, not much will change, but this will be an issue that will be researched.

Adjournment

There being no other business, the meeting adjourned at 10:29 a.m.