

SPEAKING OF JUSTICE

NEWS FROM THE FLORIDA BAR FOUNDATION
Volume 13 Issue no. 3



In June, the Florida Supreme Court approved changes to the Bar rule that dictates how Interest on Trust Account funds are used and distributed by the Foundation.

Florida Supreme Court approves changes to IOTA Bar Rule

The Florida Supreme Court has amended Bar Rule 5-1.1(g), which outlines the Interest on Trust Accounts (IOTA) program. The Florida Bar Foundation has been the sole administrator of the IOTA program since 1981.

The nation's first IOTA program, Florida's program was the prototype for similar programs across the country and still creates millions of dollars in funding for legal aid programs each year.

Generally, under IOTA, all nominal or short-term funds belonging to clients or third persons that are placed in trusts with any Florida attorney must be deposited into one or more IOTA accounts unless the funds may earn income for the client or third person in excess of the costs incurred to secure the income. The net interest earned on these accounts is remitted to the Foundation for civil legal aid assistance.

IOTA funds historically have been allocated

to three uses: legal assistance for the poor, improvements in the administration of justice, and law student assistance.

On June 18, the court issued its ruling for *In re: Amendments to Rules Regulating The Florida Bar 5-1.1(g), Case No. SC20-1543*. Changes to the rule provide clarifications and define new terms, address the use of IOTA distributions, and create additional reporting requirements.

"The Foundation appreciates the court's



Florida Bar Foundation President Connie Bookman began her term July 1, 2021. She is just the second non-lawyer to hold the position. A licensed clinical social worker, Bookman is the founder and CEO of Pensacola nonprofit Pathways for Change, which provides counseling, education, vocational training and residential addiction treatment. She is overseeing its current pivot from daily program operations to a broader vision of assisting local agencies in eliminating homelessness. She earned her bachelor's degree from St. Leo University and her master's degree in social work from Florida State University. She received the Chief Judge Award of Service for the First Judicial Circuit in 2015 and was named the FSU School of Social Work Field Educator of the Year in 2012. Bookman is also a Florida Bar Foundation Fellow and a member of the Bronze Society for lifetime giving.

Message from the President

It takes a pandemic.

It's hard for me to watch the pain of so many folks facing so much uncertainty.

To see loved ones getting sick, some dying.

The fear as health care resources, usually easily accessible, are now not always available. Elective surgeries, even some emergencies, delayed in order to tend to those suffering the effects of the pandemic. Shortages of food and necessities. Runaway prices in housing. No used cars available for purchase. People losing jobs and their tempers.

The prospect of evictions and foreclosures looming because of furloughs and job cuts. The contraction of the small business sector (the backbone and heart of America). Landlords unable to pay their bills because rent payments dried up when tenants lost their jobs or got furloughed. A vicious cycle of sorts.

The new normal, at least for the short term, is anything but normal.

For most of us, it has been trying and frightful. And terribly inconvenient. Thankfully, most of us have the fortitude and resources to suffer the inconvenience. Most of us look forward with hope to getting back to "normal."

Sadly, for millions of our fellow Floridians, the norm has always been trying and frightful. And terribly inconvenient.

Well before the onslaught of COVID-19, one of every six of our neighbors and friends faced uncertainty and insecurity. Making ends meet and keeping households and families intact has always been a challenge for millions of working poor Floridians. Homelessness is two to four missed paychecks away for far too many working families.

In *To Kill a Mockingbird*, Atticus Finch told his daughter Scout, "You never really understand a person until you consider things from his point of view, until you climb inside of his skin and walk around in it."

Though I've worked with marginalized citizens my entire career, it took a pandemic for me to fully realize the plight of the less fortunate.

For the first time, I can say that I've walked a mile in their shoes. I am powerless on many levels. I am also armed with the knowledge that, at some point, my walk over the unpaved, rocky road will eventually smooth out back to normal.

For too many, the road will remain treacherous and, for some, unpassable.

The Foundation is committed to playing its part in increasing access to our justice system, protecting the Rule of Law, and bolstering Florida's economy. It remains committed to its mission especially in these extraordinary times affecting not only the disadvantaged, but all of us.

I am proud and humbled to be able to serve and so very thankful for our grantees and supporters like you who help us make Florida a better and more just place for everyone. Thank you.

Connie Bookman, President

New members join Foundation Board of Directors

The Florida Bar Foundation's board awards all grants, oversees the fundraising program, sets investment and Foundation policies generally, and adopts the annual operating budget.

The Foundation has six designated directors, including the president of Florida Legal Services, the president, president-elect and immediate past president of The Florida Bar, and two judicial officers. At-large directors and public members serve a maximum of two three-year terms, with one-third selected by the Florida Supreme Court, one-third by The Florida Bar Board of Governors and one-third by the Foundation board.

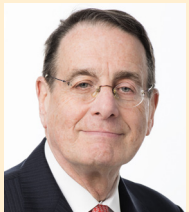
The Board of Directors can be contacted at BoardofDirectors@TheFloridaBarFoundation.org.



Dr. Patricia Babcock, Public Member, 2021-24
Babcock is a licensed clinical social worker and a former Florida Department of Children and Families deputy secretary. She has also served as co-director of the Center for Behavioral Health Integration at FSU College of Medicine.



Joshua T. Chilson, Designated Director, 2021-22
Chilson is a partner with Johnson Pope Bokor Ruppel & Burns in Clearwater. He has served as president of the Clearwater Bar Association and won its Ralph Richards Award. He is currently serving on the Bar's Board of Governors.



Ian M. Comisky, Director, 2021-24
Comisky is a partner with Fox Rothschild LLP in Philadelphia. Ian serves as special projects chair of the American Bar Association Tax Section and as chair of the Investment Committee of the Florida Bar Board of Governors.



Sarita Courtney Baigorri, Director, 2021-23
Baigorri practices in the areas of medical malpractice, product liability and personal injury in Coral Gables. She recently served as interim executive director of the Pan Am 103 Lockerbie Legacy Foundation.



Vincent F. Cuomo, Public Member, 2021-24
Cuomo is an executive partner with Pursuit Wealth Management and has spent more than 24 years in the financial services industry. He currently serves as vice chair of The Florida Bar's Citizens Advisory Committee.



Hon Jeffrey T. Kuntz, Designated Director, 2021-24
Judge Kuntz serves in the Fourth District Court of Appeal. He is a member of the Florida Supreme Court's Appellate Court Technology Committee, Appellate Case Management Change Advisory Board, and Judicial Ethics Advisory Committee.



James P. Schwarz, Public Member, 2021-24
Schwarz has served as president of Compass Development and Governance Group since 1991. He is an Emeritus Board Member of St. Johns Riverkeeper in Jacksonville.



Michael R. Tein, Designated Director, 2021-22
Tein is Florida Legal Services' president. He is a trial lawyer with Tein Malone PLLC in Coconut Grove, and previously served as vice chair of the Florida Bar Grievance Committee.



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Summer 2021 Board of Directors meeting report

The Florida Bar Foundation Board of Directors met via Zoom conference on June 10, 2021. The major actions of the board and reports received included:

Adoption of Two-Month Spending Authority/Interim Operating Budget

The Board adopted the recommendation of the Budget & Finance Committee calling for a two-month spending authority/interim operating budget for July and August in the total amount of \$604,361. The purpose of the spending plan is to provide funding for two months in order to allow more time to receive, process and prepare an operating budget after receipt of the anticipated, imminent changes to the IOTA rule. Once the changes to the IOTA rule are received from the Florida Supreme Court, staff will endeavor to create an operating budget in accordance with the revised rule.

Regarding the spending authority: The total amount (\$604,361) reflects the best estimate for necessary cash outlays for July and August 2021. Expenses that could be deferred or delayed are not included in the calculation. Staff intends to apply the proceeds of the PPP loan obtained (\$255,000) to offset certain expenditures incurred during June, July and

August which are allowed per the terms of the PPP loan.

The Foundation expects to ultimately recover \$159,773 of the monies spent during July and August in the form of reimbursements and refunds.

Consequently, the net cash outlay for July and August is expected to be \$189,588 or \$94,794 per month.

Because spending and revenues are not received or incurred consistently, the total outlay or net cash outlay does NOT reflect a projected budget for FY 2021-22. Therefore, multiplying the gross spending amount requested (\$604,361) or the net cash outlay (\$189,588) by 6 (2 months X 6 = 12 months/1 year) does NOT translate to an annual projected budget.

Children's Legal Services Grants Awarded to seven applicants

Funding allocated by the Board for FY 2020-21 Children's Legal Services grants was \$655,000. Sixteen applications seeking \$1,601,933 in funding were received. The Board approved the recommendation of the Grants Committee to fund seven projects, shown in the chart on this page.

Given the number of applications,

limited funds, and the overall quality of the applications received, the choices were difficult. The consensus of the initial working group that independently scored each application and arrived at a collective recommendation for consideration by the Grants Committee was to fund as many projects as possible in amounts as meaningful as possible so as to protect the overall effectiveness and impact of those projects receiving funding. As a result, applying an overall pro rata distribution to all applicants was rejected because such would result in funding levels below minimum viable amounts for most projects. It would also penalize high scoring applicants disproportionately.

After extensive discussion and analysis, the group decided upon an approach similar to ones previously used: graduated awards based on relative scores until allocated funds are exhausted.

A special thank you to Directors Sarita Courtney Baigorri and Steve Salzer, who volunteered considerable time to carefully review and thoughtfully consider and score all applications submitted.

Law School Civil Legal Clinic grants awarded to two law schools

Funding allocated by the Board for FY

see [REPORT](#), p. 6

2020 - 21 Children's Legal Services grants awarded

\$655,000 in funding was allocated for 2020-21 Children's Legal Services grants. Sixteen applicants sought a total of \$1,601,933 in funding. The board approved the Grants Committee's funding recommendation, which was based on an application review by three Foundation staff members and two board members.

Brevard County Legal Aid Provides legal advocacy for children in the care of the state, dependent children with special needs and those aging out of foster care to support their transition to independent living \$39,000	CABA Pro Bono Legal Services Provides legal representation to abused, abandoned and neglected immigrant children. Children are represented in state court, immigration court and with US Citizenship and Immigration Services \$150,000	Dade Legal Aid Provides legal representation to South Florida's diverse, disabled and impoverished dependent children and foster youth, including documented and undocumented, vulnerable and at risk older foster teens \$97,500	FSU College of Law Public Interest Law Center Provides direct legal representation and advocacy to children survivors of human trafficking, dependent children 0-5 years old and children with disabilities \$115,690	Lawyers for Children America Recruits, trains and supports pro bono lawyers and law students to represent children, focusing on dependent children with complex legal needs, including foster teen parents, crossover kids and immigrant children \$50,700	Legal Services of North Florida Provides comprehensive children's advocacy through direct representation and system advocacy; focuses on the needs of foster and dependent children and those with disabilities \$121,209	Southern Legal Counsel Represents students with health impairments, transgender youth, and children with behavioral/mental health needs to obtain an education to keep them in school and on track to graduate \$81,000
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RULE, from p. 1

focus on the need for more civil legal aid support and funding," Donny MacKenzie, the Foundation's executive director, said. "It also very much appreciates the court allowing the Foundation to remain as the IOTA funds administrator. The Foundation will endeavor to implement and carry out the revised rule as quickly, efficiently, and responsibly as possible."

The Foundation and its board immediately began working to implement the rule changes. The board's executive committee set meeting dates for September 9 and 23 and October 5 and 23 to finalize the new processes, procedures and changes the Foundation will make to comply with the rule.

At the first two meetings, the committee extensively reviewed all amendments to the rule and discussed and identified numerous issues related to implementation.

At the third meeting, the committee will review issues related to the rule changes, including if a compliance audit will be required in addition to the Foundation's annual audit; the reporting requirements; due dates for annual certification; and reducing the Foundation's overhead by downsizing office space and possibly working remotely.

At the fourth meeting, the committee will make its final decisions and prepare a report for the board of directors.

New Rule

The Foundation must distribute all IOTA funds collected in a fiscal year to qualified grantee organizations no later than six months after the end of that fiscal year.

What will change?

Previously, the Foundation collected an entire fiscal year's worth of IOTA funds, invested the funds, then distributed them the next year. During years of high interest rates, some funds were allocated to the Foundation's reserves or held back for emergencies like hurricanes.

New Rule

The Foundation and grantees must annually certify their compliance with the rule.

What will change?

While the Foundation distributes an annual report and completes an audit yearly, the rule now requires it to certify an additional eight areas of data; grantees will be required to submit seven, including the number of clients receiving services facilitated by the use of IOTA funds and the number of low-income

Floridians impacted, and the number of hours expended delivering legal services.

New Rule

"Direct expenses (of the Foundation) required to administer the IOTA funds must not exceed 15% of collected IOTA funds in any fiscal year without the court's prior approval." Additionally, grantees must expend at least 85% of the IOTA funds received from the Foundation and must expend no more than 15% of the IOTA funds received for general administrative expenses. If grantees fail to achieve these thresholds, they must provide written justification to the Foundation.

What will change?

This provision requires more tracking, accounting and allocation of time and expenses on the part of both the Foundation and its grantees.

Read the rule:

<https://bit.ly/3tog0it>

Foundation benefits from donations of all sizes and shapes

The Florida Bar Foundation has received a \$12,558 cy pres award to be used for consumer protection legal aid. In the Southern District of Florida case *Gonzalez v. TCR Sports Broadcasting*, the plaintiff alleged that the Telephone Consumer Protection Act had been violated by offering to provide consumers with informational baseball score updates, but then sending text messages advertising third party retailers.

The parties settled, and once the members of the class were compensated, leftover funds that could not be distributed to the class were donated to the Foundation.

The Florida Justice Technology Center donated \$5,000 to the Foundation to aid in production of the One Promise campaign, an

effort to increase pro bono. Filming began in August with plans to kick off the campaign in October, which is Pro Bono Month. The Labor and Employment Section also gave \$1,000.

The Administrative Law Section of the Florida Bar gave \$1,000 in unrestricted funds.

The Florida Bar Business Law Section donated just under \$1,000 to the Foundation. The section raffled off a stay at a Savannah hotel to benefit the Foundation during their executive council spring retreat.

Finally, friends of Bruce Blackwell, former Foundation president and executive director, made donations to the Foundation on Facebook in honor of his 75th birthday. \$955 was donated in this effort. (See sidebar to learn how you can do the same!)



2020-21 Law School Civil Clinic Grants was \$196,196. Six applications were received seeking \$412,522 in funding. Only five were scored because the sixth applicant was determined to be ineligible because it was not an accredited law school and did not propose using funds for a law school clinic setting. The Board approved funding two projects from the Florida State University College of Law Public Interest Law Center and Nova Southeastern University Shepard Broad College of Law Children & Families Law Clinic (see graphic below).

The working group that scored the applications initially recommended funding the FSU project at 100% because its collective score was significantly higher than the other applicants. Because of limited funds, the working group decided the most equitable and effective approach was to allocate the remaining monies to the next two highest scoring applications on a 60/40 basis, based on their scores, with NSU receiving 60% and the University of Florida's project 40%.

However, the working group was concerned that the UF project may not be viable with funding at the proposed level and conditioned its funding recommendation accordingly. As such, an inquiry was made to the UF grants application contact inquiring as to the minimum amount of money their program needs in order to maintain viability of the proposed clinic.

Based on UF's response, the working group recommended that NSU be funded at 100% of its request (\$68,407) with the remaining allocated monies (\$27,789) being returned to the Foundation for other grants or program related expenses.

The grants committee adopted the recommendation which was approved by the board.

A special thank you to Directors Justice Peggy Quince, Lorna Brown-Burton and Ashley Sybesma, who reviewed and considered the applications individually and collectively and assisted staff with the initial funding recommendation.

COVID-19 Relief Funding

\$2.5 million dollars remain allocated for a second round of COVID-19 relief funding. The board tasked staff to prepare and present a funding recommendation for such funds to the Executive Committee on or before June 30, 2021. The Foundation continued to solicit, receive and consider input from Foundation grantees and others.

Public members selected for Foundation Board Service

The Board received a report from the Joint Nominating Committee regarding selection of new and/or reappointments of public members of the Foundation's Board. The six-person committee selected George Tinsley Sr. of Winter Haven, Dr. Patricia Babcock of Tallahassee,

Vincent F. Cuomo of Palm Beach Gardens and James P. Schwarz of Jacksonville to serve three-year terms beginning July 1, 2021.

The new members were welcomed to the board and thanked for the commitment to service on the Board and its committees.

Passing of the Gavel and thanksgiving for service

Connie Bookman received the president's gavel from outgoing president Stephen R. Senn. Bookman took office as president on July 1, 2021. She announced her committee assignments and dates for board meetings for FY 2021-22, which were ratified by the board.

President Senn also recognized those members of the board and the Foundation Endowment Trust whose terms were ending and thanked them for their service and commitment. Those members are Carlos Halley, Public Member; Maria Henderson, Endowment Trustee; Hala Sandridge, Immediate Past President; Samantha Vacciana, President, Florida Legal Services; and the Honorable Reginald Whitehead, Judicial Officer.

Next Meeting

The Board met September 10, 2021, virtually. The Executive Committee will continue to monitor the COVID-19 situation and decide on the nature of an in-person December meeting as soon as possible.

2020 - 21 Law School Civil Clinic grants awarded

\$196,196 in funding was allocated for 2020-21 Law School Civil Clinic grants. The purposes of these grants are to involve law students in the provision of civil legal assistance in impoverished local communities, to provide an in-depth educational experience in representing low-income Floridians and working with clients, and to encourage law students to pursue public interest careers or pro bono work.

Florida State University College of Law Public Interest Law Center

The Eliminating Economic Barriers for Immigrant and Farmworkers Project will promote economic development by eliminating barriers to employment such as undocumented status, lack of housing, and lack of healthcare for immigrants and farmworkers. The clinic will also educate law students on public interest legal work and advocacy.

\$100,000

Nova Southeastern Shepard Broad College of Law

The Children and Families Law Clinic will serve the needs of indigent clients while educating law students on the skills and professional values that are essential to practice ethically and effectively. The clinic provides full-service pro bono representation to assist with familial legal issues including dissolution of marriage, alimony, child support, dependency, domestic violence and more.

\$68,407

Foundation awards second round of COVID-19 relief grants to 23 programs

The Florida Bar Foundation has awarded \$2,574,996 in grants to 23 civil legal aid organizations in a second round of COVID-19 relief efforts. Grantees will use their funding to retain or hire personnel to provide direct legal assistance to low-income clients for legal issues caused by or directly related to the pandemic.

To determine second round funding, the Foundation reviewed interim reports from grantees that received first round funding, sent three surveys to grantee programs, took input from stakeholders including the Florida Civil Legal Aid Association, and conducted research.

The executive committee then convened with the goal of covering as much of the state's population as possible with COVID relief funding. Programs serving vulnerable

populations and communities with the greatest needs or fewest resources were prioritized.

Sixteen organizations were awarded a second grant, and seven organizations received their first grant.

In North Florida, Three Rivers Legal Services (TRLS) is using its funding to help clients like "Hannah", a mother of three residing in a rural county. Her household lost income when her partner was laid off from his job due to COVID-19. Hannah sought help after receiving an eviction summons. TRLS helped her file a response and apply for CARES Act rental assistance. Her family was able to remain in their home.

With their first round grant, Florida Legal Services (FLS) helped a single mother of a young child who faced food insecurity as a

result of layoffs due to the pandemic. "Sharla" often went hungry to ensure her daughter had enough to eat. Working with FLS, she found out that a caseworker had misinformed her about eligibility for the Supplemental Nutrition Assistance Program (SNAP). Though Sharla was ineligible due to an old felony conviction, her daughter could receive SNAP benefits. FLS helped Sharla apply for benefits for her daughter and connected her with a local food pantry.

"The Foundation is proud that it was able to pivot quickly and adjust its funding allocations to help legal aid programs meet the increased challenges caused by the COVID-19 pandemic," Connie Bookman, president of The Florida Bar Foundation, said.

Second round of COVID-19 Relief grants awarded

COVID-19 Relief grants will be used to retain or hire personnel to provide direct legal assistance to low-income clients for legal issues caused by or directly related to the pandemic.

Program	First Round Outcomes or Second Round Projects (if no first round grant)	Second-round Grant
Americans for Immigrant Justice	Direct legal assistance to low-income clients for pandemic-related legal issues	\$87,583
Brevard County Legal Aid	3 lawyers retained; 155 domestic violence clients assisted (\$11,588 grant)	\$87,583
CABA Pro Bono Legal Services	Retained 5 lawyers; served 30 domestic violence survivors (\$19,314 grant)	\$100,000
Catholic Legal Services, Archdiocese of Miami	1 lawyer retained, provided immigration services to 42 individuals (\$10,324 grant)	\$72,000
Community Justice Project	Hired 1 lawyer; retained 1 lawyer; 78 housing clients served (\$25,176 grant)	\$87,583
Dade Legal Aid	Served 335 domestic violence survivors, 180 eviction clients (\$45,954 grant)	\$175,000
Disability Independence Group	Served 12 clients in housing, benefits, family law matters and more (\$2,598 grant)	\$87,583
Emerald Coast Legal Aid	1 lawyer retained; 6 clients served in eviction matters (\$11,389 grant)	\$87,583
Florida Health Justice Project	Direct legal assistance to low-income clients for pandemic-related legal issues	\$80,000
Florida Justice Institute	Direct legal assistance to low-income clients for pandemic-related legal issues	\$87,583
Florida Legal Services	Hired/retained 5 lawyers who assisted 171 clients (\$54,683 grant)	\$250,000
Gulfcoast Legal Services	295 clients served in housing, collections, consumer finance matters (\$68,601 grant)	\$87,583
Heart of Florida Legal Aid Society	55 clients served in family law and domestic violence matters (\$3,863 grant)	\$62,000
IDignity	Direct legal assistance to low-income clients for pandemic-related legal issues	\$87,583
Jacksonville Area Legal Aid	Closed 300 cases involving housing, family law and more (\$127,942 grant)	\$87,583
Lawyers for Children America	Represented 36 domestic violence clients and 42 benefits clients (\$6,461 grant)	\$87,583
The Legal Aid Foundation of the Tallahassee Bar Assoc.	Direct legal assistance to low-income clients for pandemic-related legal issues	\$60,000
Legal Aid of Manasota	Opened 187 housing cases, and supplemented CED work (\$11,389 grant)	\$75,000
Legal Aid Service of Broward County	Direct legal assistance to low-income clients for pandemic-related legal issues	\$250,000
Legal Aid Society of Orange County Bar Association	Hired 2 lawyers; served 183 housing clients, 67 family law clients (\$45,555 grant)	\$175,000
Seminole County Bar Association Legal Aid Society	Served 207 eviction clients, 355 family law clients and more (\$22,777 grant)	\$87,583
Southern Legal Counsel	Direct legal assistance to low-income clients for pandemic-related legal issues	\$225,000
Three Rivers Legal Services	9 lawyers hired or retained; 54 clients served in housing, bankruptcy, more (\$91,378)	\$87,583
		Total: \$2,574,996

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EXECUTIVE

Dominic C. "Donny" MacKenzie, Executive Director
dmackenzie@TheFloridaBarFoundation.org

Lou Ann Powell, Deputy Director, CFO/COO
lapowell@TheFloridaBarFoundation.org

Eli Mattern, Interim Director of Technology
emattern@TheFloridaBarFoundation.org

COMMUNICATIONS

Jessica Brown, Communications Director
jbrown@TheFloridaBarFoundation.org

DEVELOPMENT

Michelle Fonseca, Development Director
mfonseca@TheFloridaBarFoundation.org

GRANTS

Andrea Horne, Grants Administrator
ahorne@flabarfdn.org

IOTA

Lushawn Phillips, IOTA Program Director
lphillips@TheFloridaBarFoundation.org

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