

2023

WINTER

SPEAKING OF JUSTICE

NEWS FROM THE FLORIDA BAR FOUNDATION
Volume 15 Issue no. 1



Asia Anderson, right, sought help from Community Law Program after the father of her daughter, Gabby, left, filed an action against her seeking custody. An Engle grant made her lawyer's work possible, resulting in a positive outcome for Asia.



Thomas McGowan, Community Law Program's lead attorney funded under the Engle Grant, meets with a client.

Nine Engle grants impact thousands of Floridians in Middle District

Megan*, a Seminole County mother of two daughters, was caught in a precarious living situation after the COVID-19 pandemic began taking its toll on Floridians in 2020. She had lost income and owed four months in back rent. By the time she reached out to Seminole County Bar Association Legal Aid Society (SCBALAS), she had received a writ of possession and had 24

hours to move out, with nowhere to go.

But, thanks to the decision of a four-judge panel of the Middle District of Florida to distribute sanctions from Engle tobacco litigation to civil legal aid, The Florida Bar Foundation had created a grant program that funded a lawyer that helped Megan.

"The court made an innovative and heroic move in dedicating these funds to legal aid,"

Donny MacKenzie, the Foundation's executive director, said. "In 2019, when these funds were entrusted to the Foundation, no one could have known how desperately so many Floridians would need representation in court as a result of the myriad problems COVID-19 caused. It was serendipitous."

Megan's SCBALAS lawyer, funded by an Engle grant, immediately helped her file

Message from the President

Hon. Suzanne Van Wyk

2023 is a year for partnership



There is a new trend I've noticed this year – instead of adopting resolutions for the new year, some are adopting a word for the year. For the Foundation, I would choose “partnership” for 2023. The Foundation is fortunate to work with many partners in our legal community that support our work.

One of our newest partnerships is with The Florida Bar Young Lawyers Division. As a sponsor of the YLD, we have the opportunity to spread awareness of the Foundation among their members, to promote becoming a Foundation Fellow to support our Endowment Trust, and to recruit the next generation of Foundation board members.

The Foundation has a solid partnership with many law firms, and several have generously sponsored our quarterly board meetings. We hold our board meetings around the state so that board members, grantees and others have flexibility to attend. We are always open to building more and stronger relationships with firms. If your firm would like to partner with the Foundation in any way, please reach out to Michelle Fonseca, our development director.

We hope to be of assistance to the Florida Supreme Court as they review the IOTA rule this year and make any needed revisions. The Foundation made the first IOTA distribution under the amended rule in December. Our partnership with grantees in developing the distribution methodology was crucial to ensure fairness and efficiency.

Through the Florida Pro Bono Law School Challenge, the Foundation continues to maintain a strong partnership with our state's 12 law schools. (Welcome, Jacksonville University College of Law!) On Feb. 6, the Challenge transitioned to a year-round model

(see story, page 7). Our grantees are dedicated partners in our pro bono endeavors, posting cases on Florida Pro Bono Matters and shepherding student and lawyer matches through the Challenge.

We are fortunate to continue to have strong, collaborative partnerships with The Florida Bar and our grantees. By way of our grant requirements, grantees are encouraged to collaborate with each other in order to pool their resources, avoid duplication and serve more clients.

We collaborate with The Florida Bar to achieve our collective goals, especially as it relates to increasing access to the legal system and promoting pro bono and mentoring. We also support the Bar by promoting their projects, like the recently announced “Life's Legal Moments” effort.

Importantly, we are working toward establishing relationships and hopefully partnerships with more community and business leaders thereby creating more grassroots support and lessening the burden on the legal profession in tackling the “justice gap.”

Finally, I'd like to remember Lou Ann Powell for being a true partner in the mission of the Foundation. Lou Ann passed away in November. She was invaluable as our CFO, committed to the mission by giving financially to support the Foundation and recruiting her friends to do so as well.

A handwritten signature in blue ink that reads "Suzanne Van Wyk". The signature is fluid and cursive, written in a professional but personal style.

Hon. Suzanne Van Wyk, President

Florida Bar Foundation President Suzanne Van Wyk began her term July 1, 2022. Van Wyk is an administrative law judge with the Florida Division of Administrative Hearings in Tallahassee. A graduate of Florida State University College of Law, she also has a master's degree in urban and regional planning. Previously, Van Wyk was a shareholder with Bryant Miller Olive, served as assistant general counsel to the Florida Department of Community Affairs, as assistant county attorney with the Leon County Attorney's Office, and as a staff attorney for the Florida Building Commission and the Florida Senate Committee on Community Affairs. She is board certified in City, County, and Local Government Law. Van Wyk, a Florida Bar Foundation Fellow and Gold Society donor, is currently serving as chair-elect of The Florida Bar's Administrative Law Section, and previously served on the Committee on Professionalism and chaired the Voluntary Bar Liaison Committee. She is also a past president of the board of the Florida State University College of Law Alumni Association.

Sponsors needed for Annual Award Ceremony and Breakfast



The Florida Bar Foundation will host our Annual Award Ceremony & Breakfast during

The Florida Bar Annual Convention
June 21–24, 2023
at The Boca Raton

501 E. Camino Real, Boca Raton, FL 33432

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COFFEE STATION SPONSORSHIP
\$1,500

Sponsorships and tickets may be purchased online at www.TheFloridaBarFoundation.org/tickets

Lou Ann Powell, Foundation's chief financial officer, passes away

Lou Ann Powell, The Florida Bar Foundation's chief financial officer, passed away in November due to complications from a terminal illness. A certified public accountant since 1980, Powell joined the Foundation in 1991 and oversaw its fiscal administration, including governance, finance and investments.

"Lou Ann loved people, and she loved being around them, almost as much as she loved the Foundation," Donny MacKenzie, the Foundation's executive director, said. "She was a big part of the Foundation and served it well for 31 and a half years. We will miss her dearly."

Powell earned a Bachelor of Science in business administration/accounting from Bowling Green University in Ohio. Before

joining the Foundation, she served as corporate controller for a real estate development and management company in Central Florida and as division controller for a restaurant chain.

Powell will be remembered for her three decades-worth of contributions to the Foundation, her mastery of the game of bowling, her kind-heartedness, and her love of cats.

Former Foundation president John Patterson, who was awarded the 2022 Medal of Honor in June, accepted the award on behalf of the access to justice community, specifically Powell. "She's always understood the necessity for integrity, accuracy and transparency in the finances of the Foundation. Lou Ann's hard work helped the Foundation grow and succeed, and her dedication to its mission will



Lou Ann Powell

continue to inspire us. She will be remembered with fondness and respect by all who had the privilege of working with her."

September and December board of directors meeting reports

The Florida Bar Foundation board of directors held its last two meetings on Sept. 9 and Dec. 16, 2022. Director Murray Silverstein and his law firm Greenspoon Marder LLP graciously hosted the September meeting in Ft. Lauderdale, and the Florida State University College of Law and KE Law Group generously hosted in December in Tallahassee. This saves the Foundation considerable expense and allows local grantees to attend more easily.

The major actions of the board and reports received during the [September](#) meeting included:

Grantee Input and Comments regarding IOTA Trial Run Distribution

By way of short background, the Board allocated and distributed \$1,250,000 pursuant to an "IOTA trial run." This money was funded using the Foundation's pre-existing reserves. The purpose was to develop a prototype formula and distribution plan before actual distribution of post-amendment IOTA collections, then test the framework and seek input from grantees. More than 30 grantee representatives attended, and 11 provided input and comments. The Foundation is most appreciative of the grantees' continuous involvement and input during the development of objective standards and a fair plan for the distribution of IOTA collections.

FY 22-23 Grant Allocation Approved

The Grants Allocation Committee, chaired by director Maria Gonzalez, recommended, and the board approved, a total grant allocation of \$10,425,792 for FY 22-23.

This amount reflects 85% of FY 21-22 IOTA collections per the amended IOTA rule plus all net revenues received from other sources during the previous fiscal year. In addition, \$132,328, the difference between the FY 21-22 projected operating budget and the projected amount of funds received from fundraising and development efforts other than IOTA collections, was added, increasing the total amount available for distribution.

FY 22-23 Grant Awards

The total grant allocation amount for FY 22-23, based on current funds, was set at \$10,425,792. Of this amount, \$2,351,903 consists of non-IOTA collections earmarked for the Administration of Justice Grant Program (\$900,000), the Children's Legal Services Grant Program (\$1 million), Law School Civil Clinics (\$351,903) and Equal Justice Works Fellowships (\$100,000).

Of the remaining \$8,073,889, representing 85% of FY 21-22 IOTA collections, \$468,663 was approved for the second payment of 2022 Loan Repayment Assistance Program (LRAP) loans with the balance of \$7,605,226 to be distributed to qualified grantee organizations on or before December 31, 2022.

The board also approved, subject to actual IOTA collections in FY 22-23, funding LRAP loans in the total amount of \$1 million (200 loans at \$5,000 each), \$200,000 for the Limited Matching Funds Grant Program, and \$200,000 for a proposed Training/Technology Initiative under development.

Paul Doyle Children's Advocacy Award criteria refined and clarified

The board approved refinements to the Paul Doyle Children's Advocacy Award, which were recommended by an ad hoc committee chaired by First Vice President Roberto Pardo. The changes included emphasizing that the award recognizes high quality work that has protected, expanded or brought about positive change for children and their fundamental rights; expanding eligibility to include any non-profit, philanthropic organization whose mission is similar to or compatible with the Foundation's mission, who is currently involved in projects directly affecting children's issues and who meet the award's criteria; not accepting further submissions from a project that has already won the award; and giving a bonus of \$1,000 to any first-time applicant or nominee who is awarded.

Collaboration with Young Lawyers Division

Motions to purchase a sponsorship of the YLD Division and to invite YLD to apply for membership on the Foundation's board were passed. Afterward, individual directors volunteered to pay for the sponsorship out of their personal funds.

The major actions of the board and reports received during the [December](#) meeting included:

Foundation officers elected

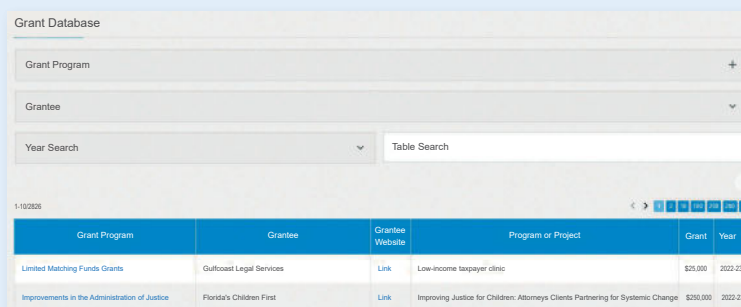
Pursuant to its Articles of Incorporation and Bylaws, the Nominating Committee presented, and the board elected, the following officer nominees for a term beginning July 1, 2023, and concluding June 30, 2024:

[see REPORT, p. 6](#)

Use our online Grant Database to view current and past grants, IOTA distributions

Do you have questions about grants that the Foundation has awarded? The Foundation's online grant database has the answers!

Located at TheFloridaBarFoundation.org under the "What We Do" tab, the grant database houses information that dates as far back as 1982. The database can be searched by grant program, grantee, year or keyword.



The screenshot shows a web interface for a grant database. At the top, there are search filters for 'Grant Program' and 'Grantee'. Below these is a 'Year Search' dropdown and a 'Table Search' input field. The main content is a table with columns: Grant Program, Grantee, Grantee Website, Program or Project, Grant, and Year. Two rows of data are visible.

Grant Program	Grantee	Grantee Website	Program or Project	Grant	Year
Limited Matching Funds Grants	Gulfcoast Legal Services	Link	Low-income taxpayer clinic	\$25,000	2022-23
Improvements in the Administration of Justice	Florida's Children First	Link	Improving Justice for Children: Attorneys Clients Partnering for Systemic Change	\$250,000	2022-23

ENGLE, from p. 1

a notice of appearance and an emergency motion to stop the writ. The judge granted the motion, but Megan was still in jeopardy. Her lease was about to expire, and her landlord did not want to renew it without receiving her back rent first.

SCBALAS advised Megan to apply for Seminole County's Emergency Rental Assistance Program. She was approved, paid her back rent and was able to stay in her home with her daughters. Megan's was just one of 545 eviction cases SCBALAS opened during the two-year period of their grant.

Nine legal aid providers were awarded \$3.3 million in Engle grants, and eight have exhausted their funding. Jacksonville Area Legal Aid extended their grant contract and will complete their project in June of 2023. As of January 2023, more than 3,300 cases have been opened as a result of Engle grants.

Community Law Program (CLP), which was awarded \$72,600, used their grant to expand the availability of high quality free legal representation in family law proceedings to low-income litigants in the Middle District, particularly in cases where the opposing party was represented so that there was a level playing field in high stakes situations.

CLP recovered \$375,121 in financial benefits consisting of child support, alimony, and equitable distribution for their clients. They opened 88 cases and helped 10 different clients obtain, preserve, maintain, modify, or enforce custody and timesharing rights.

One of those clients was Asia Anderson, who sought help after her nine-year-old daughter Gabby's father, who lived in North

Carolina, filed a paternity action against her in Pinellas County seeking to have a judge award primary timesharing to him. That would have meant Gabby would leave her younger brother, mom, her school and her friends to live with her father for the majority of her time.

Community Law Program noted that Gabby's father was a successful engineer, had a larger home, and had hired one of the very best family law attorneys in Pinellas County to represent him. In addition, he had hired a guardian ad litem (GAL), who had investigated both sides of the case and made a recommendation to the court that Gabby should move to live with her father.

"In family law proceedings where a GAL is involved, most judges give great weight to their recommendations regarding timesharing," Kimberly Rodgers, CLP's executive director, said.

Despite Asia's financial struggles, Gabby was doing well in school and was well adjusted. CLP lawyer Tom McGowan provided zealous advocacy, and after a two-day trial, the judge ruled in favor of Asia, allowing Gabby to remain with her mother and younger brother during the school year, with liberal timesharing with her father during summer and school breaks.

"This case was truly an example of an uneven playing field that tipped in favor of the parent with money. Asia certainly is not a bad parent; she just had not had an opportunity to finish school and was struggling financially."

*This client requested anonymity. Her name has been changed to protect her privacy.



Brevard County Legal Aid lawyer Ashley Ferrell, in pink, with paralegal Amy Howerter, third from left, with clients who have on an ongoing paternity case with issues of child timesharing and support. Their work is funded by an Engle grant.



Engle Grant Highlights

Bay Area Legal Services

- Closed 89 cases with positive outcomes in 86 cases
- Obtained judgments, awards, fees, costs, benefits, etc., of \$15,281

Brevard County Legal Aid

- 1,177 cases opened: 280 full representation litigation; 863 brief counsel/legal advice
- Obtained judgments, awards, fees, costs, benefits, etc., of \$1.5 million

Community Law Program

- See story, left

Florida Legal Services

- Provided legal assistance in 527 cases for 463 clients over two years, including 388 cases for prisoners and 139 cases for immigrants
- In litigation, obtained successful outcomes in 50% of immigration cases resolved, and in 69% of cases for prisoners that were resolved

Jacksonville Area Legal Aid*

- Served 711 litigants, including 78 who have obtained citizenship or a similar status, 33 who secured Medicaid or insurance and 36 who avoided eviction

Legal Aid Service of Collier County

- Project yielded \$407,673 in direct dollar benefits such as client savings in waiver or forgiveness of fees, costs, etc.
- Assisted 87 clients

Seminole County Bar Association Legal Aid

- See story, page 1

Southern Legal Counsel

- Won a case to prevent individuals experiencing homelessness from being incarcerated for sleeping or resting in public, saving taxpayers an estimated \$364,782 over four years, what it would have cost to jail 264 people for 5,393 nights in jail

Three Rivers Legal Services

- Provided bankruptcy advice to 140 clients and provided brief service to an additional 14 clients
- Increased disposable income for clients through discharge of debts of \$4,116,351

*JALA's project has been extended to June 2023

REPORT, from p. 4

President: Murray B. Silverstein, Esq.
President-elect: Roberto R. Pardo, Esq.
First Vice President: Ashley N. Sybesma, Esq.
Second Vice President: Maria Gonzalez, Esq.
Immediate Past President: Hon. Suzanne Van Wyk

Board approves payments for 2023 Loan Repayment Assistance Program

The Board received a report and recommendation from the Grants Committee for FY 22-23 Loan Repayment Assistance Program payments that recommended funding 167 loan applications in the total amount of \$835,000. In addition to accepting and adopting that recommendation, the board approved one additional loan up to \$5,000 conditioned on receipt of an application acceptable to the staff. If approved, the total outlay for LRAP loans for FY22-23 will be \$840,000 with distributions occurring in the spring and fall of 2023.

Training Grant Program approved

The Grants Committee recommended final approval of a proposed Training Grant Program. The Board approved it on first reading, voted to suspend the rules (which passed unanimously) and thereafter passed the Training Grant Program description in final.

The Training Grant Program will provide applicants periodic opportunities to apply for funding to train qualified legal service providers to better enable them to provide services to meet the legal needs of people in Florida. Grant applications will be accepted on a rolling, as-needed basis and funded on a quarterly basis. Trainings must be provided by qualified grantee organizations and funds must be used to develop and deliver trainings on topics useful to providers in the areas of shelter; health and safety; protective and corrective security; and/or family, community and legal stability. Although there are no minimum or maximum amounts established, the grants are designed to be limited in nature and are expected to range from \$10,000 to \$30,000.

Investment policy amended to include IOTA collections

After nearly a year of deliberation and review, the Investment Committee recommended passage of an amended

Foundation Master Investment Policy Statement to include an IOTA Collections Account. The Board passed the Amended Policy in final.

The Amended Policy establishes an IOTA Collections Account to invest IOTA collections received by the Foundation pursuant to Rule 5.1-1(g) Interest on Trust Accounts (IOTA) Program, Florida Rules Regulating the Florida Bar. Investments objectives for the IOTA Collections Account will be to preserve the IOTA collections, maintain liquidity and provide income for the benefit of the IOTA Program.

The IOTA account must be invested consistent with the requirements set forth in the IOTA Rule and in a manner that allows for distribution of IOTA funds by the Foundation pursuant to Section 5.1-1(g)(8) of the Rule. Consequently, the IOTA account must be kept separate from other Foundation investment accounts and be designed in a manner that allows for all IOTA funds collected within a fiscal year to be distributed no later than six months after such fiscal year. In addition, the IOTA Collections Account has new cash receipts every month and those new cash assets shall be invested at least monthly.

Board approves Gift Administration Policy for non-IOTA gifts

A Sustainability Sub-Committee of the Development Committee presented its final draft of a proposed Gift Administration Policy to the Development Committee on December 12. This effort took nearly two years and was shepherded and spearheaded throughout by director Ashley N. Sybesma with considerable and substantial assistance from director James Schwarz. The Grants Committee approved the policy on December 15 and recommended its approval and adoption, which the board did at its meeting.

This policy establishes transparent policies and procedures regarding the use of gifts received by the Foundation, addresses donor interests and contributes to the financial sustainability of the Foundation by retaining a small portion of gifts to pay administrative and operating expenses. The policy does not apply to IOTA funds collected by the Foundation or in-kind gifts made to the Foundation.

Executive Director's Report

Donny MacKenzie's report provided directors required annual information related to the Foundation's updated schedule of insurance coverage and summarized ongoing efforts to transition operations from its current, leased location to the building purchased in July 2022. He also discussed continued and ongoing efforts related to the amended IOTA rule, including the first general distribution of IOTA funds collected, and efforts to secure proposals for services related to the application and interpretation of direct expenses under the amended rule. He also briefly reported on the status of technology asset transfers as approved by the board, and reported on staffing and personnel changes, including the passing of Lou Ann Powell.

Presentation and Review of Audited Financial Statements

Heather Mosier, a partner with Carr Riggs & Ingram CPAs (CRI), presented the written report and results of CRI's annual audit of the consolidated financial statements and related statements of activities, cash flows and functional expenses of the Foundation and The Florida Bar Foundation Endowment Trust for the year ended June 30, 2022. She stated and opined that such materials present fairly, in all material respects, the financial position of the Foundation and the Endowment Trust in accordance with accounting principles generally accepted in the United States of America. The board, after open discussion and thereafter in executive session, approved and accepted the audit report, which is posted on the Foundation's website and available for review upon written request.

Next Meeting

The board's next scheduled meeting will be on March 10, 2023, at Florida Southern College in Lakeland. Past President Steve Senn and his law firm, Peterson & Myers, will be hosting the meeting for which the Foundation is most grateful.

Foundation benefits from donations

The Florida Bar Foundation has recently been the recipient of two generous donations.

In 2022, lawyer Matthew Weidner of Weidner Law in St. Petersburg donated \$15,523. Weidner incorporated Florida Consumer Justice Advocates in 2013 and raised money from defense lawyers to support consumer efforts. Their efforts wound down, so Weidner donated their remaining funds.

In January of 2023, the Foundation received a \$59,662.54 cy pres award that resulted from the matter of Guidry v Penn Credit Corporation.

In 2019, the plaintiff filed a class action complaint against Penn, alleging that Penn violated the Telephone Consumer Protection Act (TCPA) by making cellular telephone calls using an automatic telephone dialing system or artificial or pre-recorded voice to the plaintiff and members of the putative class to

which they did not consent.

A settlement was reached, and \$4,675,000 was to be issued to members of the class. After attempts to distribute all of the funds to class members were exhausted, just under \$60,000 remained. At the final hearing, the parties proposed the Foundation as a cy pres recipient, and the court agreed.

Lawyers John Yanchunis, Octavio Gomez and Patrick A. Barthle II of Morgan and Morgan, P.A. represented the plaintiff. Dale Golden of Golden Scaz Gagain, PLLC, in Tampa represented Penn Credit Corporation.

Under cy pres, courts can approve a charitable donation out of unclaimed class action funds or a direct grant in lieu of damages to an organization that could vindicate class member rights in the future.

YOU CAN HELP: CY PRES AWARDS

Civil legal aid organizations are always appropriate recipients of cy pres or residual funds awards in class actions. No matter what the underlying issue is in the case, every class action is about access to justice for a group of litigants who on their own would not realistically be able to obtain the protections of the justice system.

Organizations like The Florida Bar Foundation are grateful recipients of cy pres or residual funds awards in class action suits.

If you are interested in facilitating a cy pres award, contact Michelle Fonseca, CFRE, at 407-960-7000.

TheFloridaBarFoundation.org/cypres

Florida Pro Bono Law School Challenge transitions to year-round model

The Florida Bar Foundation has run the annual Florida Pro Bono Law School Challenge each spring for the past four years. The Challenge has matched almost 1,000 lawyers and students on cases.

After reviewing feedback from students, lawyers and legal aid organizations, the Foundation decided to transition the Challenge to a year-round model, with cases available throughout the year rather than just 8 weeks each spring.

"We hope this will allow for more flexibility and opportunities for both lawyers and students," Hon. Suzanne Van Wyk, the Foundation's president, says. "Additionally, we hope to alleviate the pressure put on legal aid providers to coordinate a large number of new volunteers with cases in a short amount of time."

The site, FloridaLawSchoolChallenge.org, launched the 24/7/365 model on Feb. 6. The Foundation will continue to recognize high performing law schools annually, with awards presented each June during The Florida Bar's annual convention.

LEADERSHIP AND FUNDING

CONNECTING law students with lawyers to partner on PRO BONO CASES from LOCAL legal aid organizations.



How to participate:

- 1** Navigate to FloridaLawSchoolChallenge.org
- 2** Read and accept the terms
- 3** Choose your law school
- 4** Pick a pro bono case
- 5** Contact your student once you receive your match email
- 6** Work with the legal aid program and complete your case!

FloridaLawSchoolChallenge.org



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and we believe the justice system works best when it works for everyone.

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