

DELAWARE BAR
FOUNDATION

Annual Report to the Membership of the Delaware Bar Foundation

June 30, 2017

Celebrating Service to the Delaware Bar For Over 36 Years

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Delaware Bar Foundation

Delaware Bar Foundation

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Delaware Bar Foundation Overview

The Delaware Bar Foundation (the “Foundation”), a non-profit Delaware corporation, celebrated its 35th anniversary in FY2016. Since its creation, the Foundation’s charter and structure have remained largely unchanged. Its mission, expressed in its charter, is a broad directive to improve and facilitate the administration of justice by providing legal services to the poor, enhancing public respect for the rule of law, fostering knowledge of citizenship rights and responsibilities, and promoting study and research in the field of law including the continuing education of lawyers. In furtherance of its mission to provide legal services to the poor, the Foundation manages and distributes funds derived from Delaware’s Interest On Lawyer Trust Accounts (IOLTA) Program discussed in detail on page 3 *infra*.

The Foundation Board of Directors (the “Board”), originally 9 members, was increased in 2000 to 12 members. Board members are either appointed by the Chief Justice of the Delaware Supreme Court, appointed by the Delaware Bar Association President, or elected by the Delaware Bar Association membership. The Foundation President is elected by the Board. The Foundation’s current Board members are: Kathi A. Karsnitz (President), Ryan C. Cicoski (President-elect), Benjamin Strauss (Treasurer), Elizabeth M. McGeever (Secretary), Justice Karen Valihura (Delaware Supreme Court liaison), C. Malcolm Cochran, Kelly Farnan, Michael Houghton, Denise N. Nordheimer, Jenness E. Parker, Judge Laurie Selber Silverstein, and Jeffrey Young. The Foundation staff includes Melissa Flynn (Executive Director) and independent contractor, Wendy Fish (Finance Manager/Accountant).

The Foundation would like to thank William H. Sudell, Jr., whose term expired on June 30, 2017, for his dedication and years of service to the Foundation both as a member of the Board and as President. His wisdom and institutional knowledge have been invaluable to the Foundation. The Board anticipates calling on Bill in the future to continue to provide service to the Foundation.

The Foundation has four active committees: Finance, Endowment/Membership, Programming, and Governance. The Finance Committee reviews the financial stability of the Foundation, manages investment of IOLTA and endowment funds, assesses IOLTA income each year, and annually makes a recommendation to the Board as to the amount of IOLTA funds to be allocated to Delaware legal service agencies. A review of the Foundation’s finances appears at the end of this report. The Endowment/Membership Committee works to increase participation by Delaware lawyers in the Foundation, both through membership and contributions to the Foundation’s endowment fund. The Programming Committee reviews and recommends programs to be supported by funds from the Foundation’s endowment. The Governance Committee reviews, and periodically recommends changes to, the Foundation’s operations and organizational structure, as laid out in the Foundation’s governing documents.

The IOLTA Program

In administering the IOLTA Program, the Foundation tracks IOLTA accounts, analyzes interest rate adjustments and fluctuations in the market, reviews bank reports, and ensures that financial institutions participating in the IOLTA program offer rates on IOLTA products that are at least comparable to rates offered on similar bank products. In addition, the Foundation manages investment of IOLTA funds and seeks to generate interest on those funds through non-volatile, secure instruments, like CDs.

On June 10, 2010, the Delaware Supreme Court amended Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct, as it relates to its IOLTA program, in two ways. First, the amendment mandated that lawyers who hold IOLTA-eligible funds maintain all those funds in IOLTA accounts. Although participation by Delaware lawyers is now required, the Foundation maintains limited discretion to exempt accounts which are not likely to generate enough interest to cover certain account fees. As a result of this rule change, Delaware's number of IOLTA accounts has increased by more than 40% – from 619 accounts in 2009 to 887 accounts currently. Second, the amendment to Rule 1.15 required that IOLTA funds be maintained in financial institutions that provide so-called “interest rate comparability” for IOLTA accounts. Interest rate comparability means that the interest rate payable by financial institutions for IOLTA accounts must be comparable to rates paid by the same institution on its other accounts with similar attributes. Delaware was the 43rd jurisdiction to convert its IOLTA program from opt-out to mandatory status, and the 33rd jurisdiction to adopt interest rate comparability.

As a consequence of the mandatory nature of IOLTA and the rate comparability component of the new rule, in 2010 the Board recommended, and the Court approved, a substantial modernization of the IOLTA Program, including a new IOLTA software data management system that allows the Foundation to track lawyer IOLTA participation and bank compliance with the new IOLTA rules. The costs associated with this effort increased the Foundation's operating expenses relating to its administration of IOLTA. The Foundation is grateful that the Court continues to reimburse it for the software costs related to this modernization.

IOLTA accounts may be maintained only at “eligible” financial institutions (*i.e.*, those which offer interest rate comparable IOLTA accounts). As the Court's designated administrator of the IOLTA program, the Delaware Bar Foundation certifies institutions eligible to hold IOLTA accounts and maintains a list of such eligible financial institutions on its website, www.delawarebarfoundation.org, as seen below.

IOLTA Eligible Financial Institutions - *The following financial institutions have been certified by the Foundation as eligible to participate in Delaware's IOLTA Program.*

Prime Partner Banks

Delaware's Prime Partner Banks, listed below, have elected to offer a premium rate on IOLTA Accounts, going above and beyond the rule requirements and partnering with the Foundation to ensure the success of the IOLTA Program.

First Shore Federal Savings and Loan
Franklin Mint Federal Credit Union
Fulton Bank, N.A., Delaware National Division

IOLTA accounts maintained at these Prime Partner institutions generate additional funds to provide civil legal services to citizens in need in Delaware. The Foundation extends a special thanks to these banks for their support of the IOLTA Program.

Other Eligible Financial Institutions

The following institutions have also been certified as eligible to participate in Delaware's IOLTA Program:

Artisans Bank
Bancorp Bank
Bank of America
The Bank of Delmarva
BNYMellon
Bryn Mawr Trust
Calvin B. Taylor Banking Co
Christiana Bank & Trust Co.
Citibank
Citizens Bank
County Bank
HSBC
M&T Bank
MidCoast Community Bank
PNC Bank
Santander Bank
Shore United Bank
TD Bank
Wells Fargo Bank
WSFS

IOLTA Grants

Each year, the Foundation recommends to the Delaware Supreme Court amounts an allotment of IOLTA funds, which the Court then authorizes. The grantees receiving IOLTA funds each year are: Community Legal Aid Society (CLASI), Legal Services Corporation of Delaware (LSCD), and Delaware Volunteer Legal Services (DVLS). A grant is also given each year to the Legal Help Link (LHL), a centralized intake system for callers with legal issues.

The IOLTA grants are made annually, commencing on July 1 of each fiscal year. From 1983 through 2015, the Foundation has granted over \$26 million to Delaware's legal services agencies to provide legal services to the poor. While the Foundation was able to distribute \$1.5 million in IOLTA grants for FY2007, the IOLTA funds have unfortunately eroded as a result of the economic downturn after 2007. The Foundation was able to distribute only \$300,000 to the legal services agencies in each of FY2010 and FY2011. As the economy slowly rebounded, the Foundation made grants of \$400,000 in FY2012, \$500,000 in FY2013, \$800,000 in FY2014, \$650,000 in FY2015 and FY2016, and \$700,000 in FY2017. The Board is pleased to announce that it has recommended, and the Delaware Supreme Court has approved, an increase in funding to \$800,000 for distribution in FY2018. If interest rates rise in response to improving economic conditions, the Foundation expects to see a correlating increase in IOLTA funding for civil legal services for the poor.

Legal Help Link

For many years, the Foundation has provided support through IOLTA grants for the Legal Help Link, a phone line which provides intake services for LSCD, DVLS and CLASI. Due to increasing costs, the Help Link has not been able to operate at full capacity for the past year. Since the Foundation is committed to access to justice, it became clear that a better solution was necessary. With the current technological advancements, the Board of the Foundation has been working over the past year with Pro Bono Net to develop a website to perform the services of the Legal Help Link. This resource has an anticipated launch date for fall 2017.

Bank Settlement Funds

In the spring of 2015, Bank of America, N.A. notified IOLTA programs throughout the nation of a settlement with the United States Department of Justice. As part of the settlement, Bank of America donated funds to IOLTA programs to be used specifically for foreclosure prevention legal assistance and community redevelopment legal assistance. The Foundation received a \$241,207.50 donation from Bank of America, which it granted to LSCD.

In the first quarter of FY2016, as an IOLTA agency, the Foundation, received \$540,000 from CitiCorp in connection with CitiCorp's settlement of litigation with the Department of Justice. These funds are to be used only for foreclosure prevention legal assistance and community redevelopment legal assistance and have also been distributed to LSCD.

Also in FY2016, the Foundation, received approximately one million dollars for mortgage foreclosure legal assistance and community redevelopment. After careful consideration of the conditions attached to the funds, the Board granted over \$400,000 to the following agencies:

Bank of America Mortgage Foreclosure Legal Assistance and Community Redevelopment Grant Recipients:

Interfaith Community Housing of Delaware, Inc. - \$50,000
Delaware Community Reinvestment Action Council, Inc. - \$50,000
Delaware Consumer Pro Se Foundation - \$50,000
Legal Services Corporation of Delaware - \$275,000

The Foundation plans to issue a second RFP for the remaining funds in 2018.

State Funding

The Foundation has actively sought additional funding to supplement interest generated on the IOLTA funds. Due to its efforts, the Foundation has received over \$4,000,000 through a line item in the State's budget since first requesting the appropriation in 2004. These funds are restricted to providing legal services for the poor. The line item in FY2006 was \$275,000 and has increased over the years to \$600,000. The State has maintained the \$600,000 funding level for each of FY 2014-2017. Due to deep budget cuts, the State cut funding for legal services for the poor to \$540,000 in FY2018. The Foundation is grateful for the efforts made by many people to secure this additional funding, and to the members of the General Assembly who have voted to support legal services for the poor.

Programs

Consistent with its mission of fostering knowledge of citizenship rights and responsibilities, and enhancing the public's respect for the rule of law, the Foundation continued to support various programs throughout Delaware during FY2016, with over \$15,000 granted to community programs.

- In 2015 the family of the late Bruce M. Stargatt, Esquire, one of Delaware's beloved and preeminent practitioners, established a writing competition through a generous gift to the Delaware Bar Foundation. The winning entry of the 2017 competition will be published in Delaware Lawyer magazine and its author will receive a generous prize.
- The Foundation continued to support the www.deletebullying.org website, which contains materials and resources on bullying prevention, as well as local contact information for students, parents, teachers and school administration officials in an effort to help deal with bullying issues. The teen-focused website is Delaware-based, but provides links national websites on bullying prevention and teen support. The

Foundation looks forward to transitioning this website to Prevent Child Abuse Delaware later in 2017.

- As it has done annually since 2012, the Foundation partnered last fall with Howard High School of Technology to provide its Legal Administrative Assisting Program's students with placement in local law firms for a job shadowing day. Each year, this program places between 15 and 20 students in a variety of legal environments.
- The Foundation continued to provide funding for the Senior Lawyer Video Project. This project, pursued by the Senior Lawyer Committee of the Delaware Bar Association, captures the recollections of some of Delaware's most prominent attorneys and judges. Videos previously created can be found on the DSBA.org website. All new videos will also be available on the Delaware Bar Foundation website, as they are completed.
- As it has done annually since the Fall of 2013, the Foundation, together with the Delaware State Educational Association, supported Liberty Day. This program provides all fifth graders in the public school system with a pocket Constitution. In addition, all fifth grade teachers received specialized curriculum to teach their students about our Constitution. This educational opportunity spreads the message of the founding of our country and provides children with the knowledge of their rights and responsibilities as citizens of the United States of America.
- Project New Start received a grant this year to support its work in prevention of recidivism for high risk prisoners by helping them secure employment.
- Funding for a new website to help the Combined Campaign for Justice increase donations for legal services for the poor.
- Other past grant recipients include: Sisters in Success, St. Thomas More Academy, the Combined Campaign for Justice golf outing, the Delaware Law Related Education Center, Inc., and the Delaware Council on Gambling Problems, Inc.

The Foundation now has a formal grants application, which it uses to assess grant requests. Please see our website for additional information and to apply for funds for your organization.

Fundraising

In furtherance of the Foundation's broader mission, the Foundation President directs an annual appeal letter each year to Delaware lawyers for Foundation membership dues and additional contributions. The response from the Bar has been generous. Over the past ten years, the Foundation has raised over \$300,000 towards support of the Foundation and its community programming.

In 2002, 13 members of the Delaware Bar, working with the Foundation, created an endowment fund entitled "Legacy of Giving." Since then, a number of Delaware lawyers have made significant contributions to the Foundation's endowment. The Foundation established

categories of giving to recognize those who contribute substantially to the Foundation: 1) Serjeants-At-Law honors those who contribute gifts that meet or exceed \$10,000; 2) Justice Partners honors those who contribute gifts that meet or exceed \$5,000; 3) Justice Fellows honors those who contribute gifts that meet or exceed \$3,000; and 4) Foundation Fellows honors those who contribute gifts that meet or exceed \$1,000. The Foundation is grateful to the following donor for their cumulative gifts (since 2002):

*Serjeants-At-Law*²

Delaware State Bar Insurance Services, Inc.
Harvey Bernard Rubenstein+
Harold Schmittinger*
Hon. Karen L. Valihura
Skadden Arps Slate Meagher & Flom LLP

Justice Partners

Chesapeake Utilities Corporation
William M. Lafferty
William J. Martin, III
Saul Ewing LLP
Wendie C. Stabler
William H. Sudell, Jr.

Justice Fellows

Bayard P.A.
Elizabeth M. McGeever
Hon. Andrew G.T. Moore II
Francis J. Murphy, Jr.
Hon. E. Norman Veasey

Foundation Fellows

Anonymous Friend of the Foundation	Irving Morris
Carol J. Antoff	Regina Mullen
Victor F. Battaglia, Sr.	A.Zachary Naylor
O. Francis Biondi	Hon. Donald F. Parsons, Jr.
Jack B. Blumenfeld	L. Vincent Ramunno
Edmund N. Carpenter II*	B. Wilson Redfearn
T. Victor Clark	Nicholas H. Rodriguez
Mary E. Copper*	John F. Schmutz
DLA Piper LLP	Carl Schnee
Mark L. Desgrosseilliers	John H. Small
Laurence L. Fitchett, Jr.	Bruce M. Stargatt*
N. Scott Fletcher	Barbara H. Stratton
Anne Churchill Foster	Thomas P. Sweeney
Frederick S. Freibott	Hon. William J. Sweet

² A tribute to the English Order of Barristers.

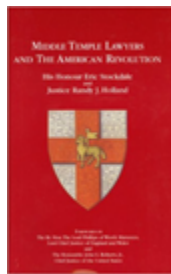
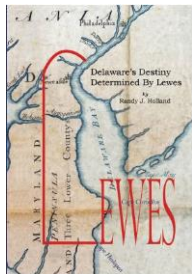
+ In memory of Myrna Lomish Rubenstein

* Deceased.

Hon. Kathy Gravell
Michael Houghton
Kathi Karsnitz
Richard D. Kirk
Robert J. Krapf
Hon. Stephen Lamb
David C. McBride
Charles S. McDowell
Hon. Vivian L. Medinilla

Robert L. Thomas
Robert Valihura
Gregory P. Williams
John Legare Williams
Hon. Robert B. Young
Jeffrey A. Young

These generous donations allow the Foundation to fulfill its broad mission. The Board thanks these individuals whose gifts today are helping build a stronger Foundation for tomorrow. If you are interested in contributing to the Delaware Bar Foundation, you may contact the Foundation offices at 302-658-0773, or visit its website, www.delawarebarfoundation.org, where donations can be made online. The Delaware Bar Foundation is a 501(c)(3) charitable organization and all contributions are tax deductible within the limits of the law.



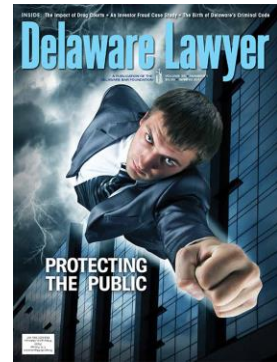
Starting in 2015, the Foundation was the recipient of a generous donation from Justice Randy J. Holland, in the form of proceeds from his book entitled *Delaware's Destiny Determined by Lewes*. Additionally, the Foundation has been honored to sell *Middle Temple Lawyers* as a fundraiser for the Foundation. To date, the funds the Foundation has received from book sales have exceeded \$16,350. The Foundation greatly appreciates Justice Holland's support and generosity.

The Foundation would also like to thank the following companies who have supported its programming over the past year.



Delaware Lawyer

In the first year of the Foundation's existence, The Honorable E. Norman Veasey and Victor Battaglia took the lead in creating the first Board of Editors for the Foundation's quarterly journal, *Delaware Lawyer*. Over the past 35 years, many distinguished lawyers have served as editors and contributed outstanding articles to this publication. *Delaware Lawyer* endeavors to address issues of interest to members of the Delaware Bar, including issues faced by women in the Bar, notable changes in Delaware corporation law, and the pursuit of work-life balance for lawyers.



Charles Durante is the Chair of the Board of Editors. The Spring/Summer 2012 issue (Volume 30, Number 1), the 113th edition of *Delaware Lawyer*, celebrated the magazine's 30th anniversary. In 2017, topics covered by *Delaware Lawyer* included Data Security and Protecting the Public. Past topics have ranged from work life balance, the emergence of civil unions and the changing face of healthcare.

All past issues of *Delaware Lawyer* magazine are available on the Foundation's website at www.delawarebarfoundation.org/delaware-lawyer-publication/.

Annual DSBA/DBF Seminar

Since 2009, the Delaware Bar Foundation has been fortunate to partner with the Delaware State Bar Association on an annual seminar. The seminar is organized and moderated by Justice Randy Holland and Harvey Rubenstein, a former president of both organizations. Past keynote speakers have included James Silkenat, a former ABA president, Justice Antonin Scalia of the United States Supreme Court, Robert Bennett, Esquire, Floyd Abrams, Esquire and Dean Strang, Esquire.

The Eighth Annual Seminar will be held on October 13, 2017 at the Chase Center on the Riverfront in Wilmington, Delaware. Half of the net proceeds from each year's seminar are donated to the Foundation. These funds are maintained in a separate account to be used to further the Foundation's broad mission. To date, the Foundation has received \$28,419 from proceeds from this Seminar. The Seminar reflects valuable cooperative efforts between the Delaware State Bar Association and the Delaware Bar Foundation. The Foundation would like to express our deep gratitude to Justice Randy Holland and Mr. Harvey B. Rubenstein for the creation of this seminar and to Judge Andrea Rocanelli and Yvonne Saville for their current leadership.

IOLTA
Financial Overview

	<u>FY2017</u>	<u>FY 2016</u>	<u>FY 2016</u>	<u>FY 2015</u>
Income	\$931,586	\$2,275,974	\$883,742	\$780,470
Expenses				
Grants Distributed	\$710,000	\$1,431,208	\$661,000	\$800,000
Operating Expense	<u>\$82,120</u>	<u>\$83,386</u>	<u>\$80,639</u>	<u>\$77,430</u>
Net Income	\$139,466	\$761,380	\$142,103	(\$96,960)

IOLTA
Financial Position

	<u>FY2017</u>	<u>FY 2016</u>	<u>FY 2015</u>	<u>FY 2014</u>
Current Assets (cash)	\$2,367,208	\$2,223,149	\$1,446,537	\$1,298,511
Liabilities	\$8,058	\$21,156	\$5,923	\$0
Equity	\$2,359,150	\$2,201,993	\$1,440,614	\$1,298,511

Delaware Bar Foundation - Financial Overview

	<u>FY 2017</u>	<u>FY 2016</u>	<u>FY 2015</u>
Income			
Dues & Contributions	\$61,729	\$40,300	\$41,965
DE State Appropriation	\$600,000	\$600,000	\$600,000
Stargatt Endowment	\$26,148	\$203,884	0
	\$687,877	\$844,184	\$641,965
Expenses			
Operating Expense	\$23,123	\$20,186	\$20,707
Grants	\$17,569	\$15,749	\$17,619
State Funding Grants	\$600,000	\$600,000	\$600,000
	\$600,000	\$600,000	\$600,000
Net Income	\$47,185	\$208,249	\$3,639

Delaware Bar Foundation - Financial Position

	<u>FY 2017</u>	<u>FY 2016</u>	<u>FY 2015</u>
Assets			
Current Assets (cash)	\$76,517	\$75,360	\$67,583
Restricted Assets			
Stargatt Endowment	\$227,556	\$203,545	0
Reserve Account	\$229,451	\$225,680	\$223,761
Endowment Fund	\$90,614	\$81,153	\$84,053
DE Lawyer Magazine	\$13,099	\$11,407	\$10,273
	\$13,099	\$11,407	\$10,273
Total Assets	\$637,237	\$597,145	\$350,670
Liabilities & Equity			
Liabilities	\$16,207	\$23,300	\$19,925
Equity	\$621,030	\$573,845	\$365,745
	\$621,030	\$573,845	\$365,745
Total Liabilities & Equity	\$637,237	\$597,145	\$385,670

