



Delaware Bar Foundation

Annual Report to the Membership of the Delaware Bar Foundation

June 30, 2021

Celebrating 40 Years of Service to the Delaware Bar

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Delaware Bar Foundation Overview

The Delaware Bar Foundation (the “Foundation”), a non-profit Delaware corporation, celebrated its 40th anniversary in FY2021. Since its creation, the Foundation has focused on its mission, expressed in its charter, to improve and facilitate the administration of justice by providing support for 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. The Foundation manages and distributes funds derived from Delaware’s Interest On Lawyer Trust Accounts (IOLTA) Program.

The Foundation Board of Directors (the “Board”) consists of 12 members who 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 Board members for FY2021 were: Judge Laurie Selber Silverstein (President), Kelly E. Farnan (President-elect), Benjamin Strauss (Treasurer), Denise N. Nordheimer (Secretary), Justice Karen Valihura (Delaware Supreme Court liaison), Clarissa Chenoweth-Shook, C. Malcolm Cochran, Hon. Kyle E. Gay, Michael Houghton, Hon. Karryl Hubbard, and Jeffrey Young. The Foundation staff includes Megan S. Greenberg (Executive Director) and its accounts are managed by Breakwater Accounting & Advisory Corporation.

The Foundation would like to thank Judge Laurie S. Silverstein for her leadership as President of the Board. Her thoughtful approach and steadfast commitment to the Foundation’s mission were essential as she led the search for and transition to a new Executive Director and also reconnected with our grantees for more regular updates and conversations. Fortunately, Chief Judge Silverstein will continue to serve on the Board through this year. We also wish to thank Ben Strauss, whose term expired on June 30, 2021, for his dedication and years of service to the Foundation both as a member of the Board and as Treasurer. His wise counsel and stewardship of the Foundation’s finances were particularly beneficial during the recent economic challenges.

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, attorneys pool short-term or nominal deposits made on behalf of clients or third parties into one account. The interest generated by these accounts is remitted to the Foundation for use in grant-making to support legal aid in Delaware. 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.

Since 2010, Delaware's IOLTA program has been mandatory and requires interest rate comparability. The Foundation maintains limited discretion to exempt accounts which are not likely to generate enough interest to cover certain account fees. The Foundation also determines whether the interest rate payable by financial institutions for IOLTA accounts is comparable to rates paid by the same institution on its other accounts with similar attributes. 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 in this report and on its website, www.delawarebarfoundation.org.

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.

Artisans Bank

First Shore Federal Savings and Loan

Franklin Mint Federal Credit Union

JP Morgan Chase

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

(As of August 26, 2021)

Bancorp Bank
Bank of America
The Bank of Delmarva
Bank of Ocean City
Bryn Mawr Trust
Capital Bank N.A.
Citibank
Citizens Bank
County Bank
First Citizens Community Bank
Fulton Bank, N.A., Delaware National Division
HSBC
M&T Bank
Malvern Bank
PNC Bank
Santander Bank
Shore United Bank
Taylor Bank
TD Bank
Wells Fargo Bank
WSFS

IOLTA Grants

Each year, the Foundation recommends to the Delaware Supreme Court 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).

The IOLTA grants are made annually, commencing on July 1 of each fiscal year. From 1983 through 2021, the Foundation has granted over \$33 million to Delaware's legal services agencies to provide legal services to the poor. While the Foundation was able to generate additional interest revenue in 2019 as a result of outreach to Delaware IOLTA banks, the Covid-19 pandemic negatively impacted IOLTA revenues with dramatic decreases in the interest rates paid. Despite these challenges, the Foundation was able to grant \$1,000,000 to our legal aid partners.



Committed to facilitating access to justice, the Board of the Foundation worked with Pro Bono Net to develop a website to perform intake services previously available through the Legal Help Link phone line that launched in spring 2018. The Foundation continues that support. Since the stay-at-home orders were issued in March 2020, the legal services agencies have collaborated to ensure continuity of services even while working remotely. The Delaware Legal HelpLink team created a page dedicated to COVID-19 resources including information about emergency food distribution, COVID testing, and housing assistance and has added more self-help resources so that even those who do not qualify for aid are assisted with its resources. The Foundation continues to work with the legal aid agencies to refine and further develop the site to best meet the needs of low-income Delawareans. Please visit www.DELegalHelpLink.org to explore this resource.

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. In the first quarter of FY2016, as an IOLTA agency, the Foundation, received funds 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. The Foundation distributed these funds to LSCD.

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

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 offered a second round of grant funding for the Bank of America funds in 2018. These grant recipients include:

Delaware Community Reinvestment Action Council, Inc. - \$25,000
Delaware Consumer Pro Se Foundation - \$25,000
Legal Services Corporation of Delaware - \$275,000

A final disbursement of the Bank of America settlement funds was made in January 2021 to Legal Services Corporation of Delaware of \$258,443.00.

State Funding

Since 2004, additional funds to provide legal services for the poor have been sought by the legal aid agencies through the State's budget process. Over the years that support rose to \$600,000, a funding level that was maintained for each of FY 2014-2017. Due to deep budget cuts in FY2018, the State cut funding for legal services for the poor to \$540,000. The Foundation is grateful for the efforts made by many people to secure funding to return the State appropriation to \$600,000 in FY2020 and FY2021. The Foundation extends its appreciation to the members of the General Assembly who have enthusiastically voted to support legal services for the poor.

Community 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 FY2020. Despite ongoing Covid 19 restrictions, the Foundation was able to forge several new partnerships and support several programs with over \$12,650 granted to community programs including:

- The Warehouse for its F*(ollow) The Law Program. [The Warehouse](#) is a state of the art teen center located in Northeast Wilmington, and a service entity of the WRK (The Warehouse, REACH Riverside and Kingswood Community Center) Group. Teen members consider, evaluate and decide which programs will be offered to their peers within the center. The F*(ollow) The Law program teaches teens how to engage safely and productively with the police. From a traffic stop to encountering a police officer in the neighborhood, the program educates teens about their rights and responsibilities while guiding them on how to avoid any escalation of the encounter. Brian Alleyne, a former Wilmington police officer along with Daniel Logan, a federal prosecutor, walk the teens through various scenarios with role play to show how reactions & actions can be misinterpreted or unwittingly escalate the situation. The Foundation is proud to support The Warehouse and this program which matches the Foundation's mission to foster knowledge of rights and responsibilities and promote respect for the rule of law.
- A summer book study of the Young Adult version of [Just Mercy](#), the New York Times bestseller by Bryan Stevenson that details his founding of the Equal Justice Initiative and its efforts to defend those wrongly convicted. Offered by the [Bryan A. Stevenson School of Excellence](#), an emerging charter high school located in Sussex County, the teacher-guided, book study program will be available to students aged 13-18 in Sussex County. Over the course of four weeks, small groups of students will gather weekly to discuss conversation topics and tackle the content of the book. The Foundation is pleased to make this grant award that relates to improving the administration of justice and provides support to a school in Sussex County serving an underserved population.
- Community Legal Aid Society, Inc. to provide trial advocacy training to public interest attorneys. In 2021, Delaware has just 45 civil legal aid attorneys available to address all of the civil legal needs of Delawareans living in poverty. This program will provide a three-day training of basic advocacy skills for 24 civil legal aid attorneys who have less than ten years of experience. In partnership with the National Institute of Trial Advocacy (NITA), the program will include opening statements, closing statements, direct and cross examination, impeaching witness and introducing evidence. The Foundation is pleased to assist in offering this program.
- Delaware Center for Justice for its expungement program. The grant award will pay for the application expenses of previously justice-involved, needy Delawareans. Thus far, funds have been used for record requests, obtaining fingerprints and completing applications for expungement or pardons. The process is arduous, intimidating and expensive to obtain court records. The Foundation is pleased to support this effort by

covering application expenses. Previously, the Board awarded funds to DCJ for a juvenile expungement clinic and its annual Visions of Justice conference.

- Continued support of additional programs administered by the Delaware Law Related Education Center, Inc. These programs include *We The People* and Project Citizen which were modified to be offered virtually to social studies students working remotely.

The Foundation now has a formal grant 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 Executive Director directs an annual appeal letter to Delaware lawyers for Foundation membership dues and additional contributions. This year the Foundation also participated in the second annual statewide fundraising campaign, DoMore24DE, an online giving day that was held in early March 2021. We were thrilled to raise additional funds and elevate the Foundation's profile through our participation. The response from the Bar continues to be generous. Over the past ten years, the Foundation has raised over \$280,000 toward support of the Foundation and its community programming.

The Foundation has 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 donors for their cumulative gifts (since 2002):

*Serjeants-At-Law*¹

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
Michael Houghton
William M. Lafferty
William J. Martin, III
Elizabeth M. McGeever
Saul Ewing LLP

¹ A tribute to the English Order of Barristers.

+ In memory of Myrna Lomish Rubenstein

* Deceased.

Wendie C. Stabler
William H. Sudell, Jr.
Thomas P. Sweeney

Justice Fellows

Bayard P.A.
Kathi A. Karsnitz
David C. McBride
Hon. Andrew G.T. Moore II
Francis J. Murphy, Jr.
Hon. E. Norman Veasey

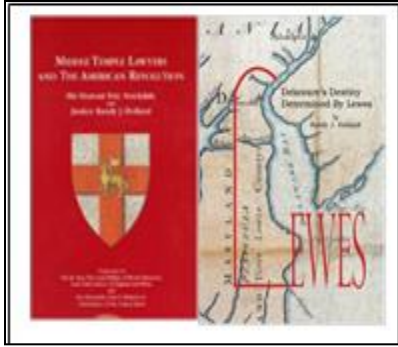
Foundation Fellows

Anonymous Friend of the Foundation
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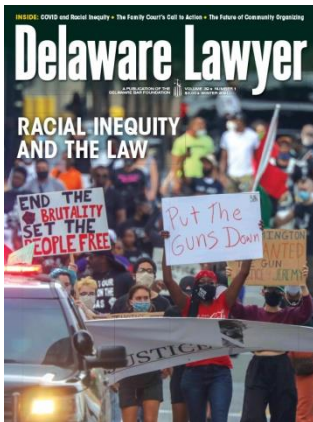
These generous donations allow the Foundation to fulfill its broad mission. The Board thanks these individuals whose gifts today are helping build a stronger Foundation for tomorrow. If you are interested in contributing to the Delaware Bar Foundation, you may contact the Foundation offices at 302-658-0773, 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.

Other Fundraisers



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 \$17,000. The Foundation greatly appreciates Justice Holland's support and generosity.

Delaware Lawyer



Established in the first year of the Foundation's existence by The Honorable E. Norman Veasey and Victor Battaglia, Esquire, the Foundation's quarterly journal, *Delaware Lawyer* endeavors to address issues of interest to members of the Delaware Bar. Charles Durante is the Chair of the Board of Editors. This year topics covered Racial Inequity and the Law, Legal Memory – The Changing Face of Research from colonial times to the present day, and How Covid is Changing Delaware. A digital edition of the magazine is also available, along with past issues on the Foundation's website at <https://www.delawarebarfoundation.org/about-us/our-magazine>.

Annual DSBA/DBF Seminar

The Delaware Bar Foundation is proud to partner with the Delaware State Bar Association on an annual seminar. The Eleventh Annual Seminar was held virtually on October 29, 2020. Addressing *The Effects of the Coronavirus Pandemic*, the event reflects ongoing collaboration 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, to Judge Andrea Rocanelli and Yvonne Saville for their five years of leadership in organizing the recent programs and to Susan Simmons of the Delaware State Bar Association for all of her efforts to coordinate and host this event annually. Half of the net proceeds from this year's seminar were 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 \$38,440.29 from proceeds from this Seminar.

IOLTA
Financial Overview (unaudited)

| | <u>FY2021</u> | <u>FY2020</u> | <u>FY 2019</u> |
|--------------------|-----------------|-----------------|-----------------|
| Income | \$937,444 | \$2,024,501 | \$1,190,772 |
| Expenses | | | |
| Grants Distributed | \$1,271,163 | \$926,350 | \$817,595 |
| Operating Expense | <u>\$90,464</u> | <u>\$97,848</u> | <u>\$93,755</u> |
| Net Income | \$424,183 | \$1,000,303 | \$279,422 |

IOLTA
Financial Position (unaudited)

| | <u>FY2021</u> | <u>FY2020</u> | <u>FY 2019</u> |
|-----------------------|---------------|---------------|----------------|
| Current Assets (cash) | \$2,502,160 | \$2,929,170 | \$2,196,347 |
| Liabilities | \$0 | \$0 | (\$275,000) |
| Equity | \$2,502,160 | \$2,929,170 | \$2,471,347 |

**Delaware Bar Foundation - Financial Overview
(Unaudited)**

| | <u>FY2021</u> | <u>FY2020</u> | <u>FY 2019</u> |
|---------------------------------|------------------|------------------|------------------|
| Income | | | |
| Dues & Contributions & Other | \$23,842 | \$37,934 | \$67,133 |
| DE State Appropriation | \$600,000 | \$60,000 | \$600,000 |
| Stargatt Endowment | \$15,721 | \$4,470 | \$13,875 |
| | <u>\$639,563</u> | <u>\$102,404</u> | <u>\$681,008</u> |
| Expenses | | | |
| Operating Expense | \$25,948 | \$24,743 | \$26,959 |
| Grants | \$12,653 | \$11,000 | \$52,364 |
| State Funding Grants | \$600,000 | \$60,000 | \$600,000 |
| | <u>\$600,000</u> | <u>\$60,000</u> | <u>\$600,000</u> |
| Net Income | \$962 | \$6,661 | 1,685 |

Delaware Bar Foundation - Financial Position (Unaudited)

| | <u>FY2021</u> | <u>FY 2020</u> | <u>FY 2019</u> |
|---------------------------------------|------------------|------------------|------------------|
| Assets | | | |
| Current Assets (cash) | <u>\$81,008</u> | <u>\$93,580</u> | <u>\$99,856</u> |
| Restricted Assets | | | |
| Stargatt Endowment | \$301,533 | \$252,181 | \$245,209 |
| Reserve Account | \$241,613 | \$235,220 | \$234,282 |
| Endowment Fund | \$120,550 | \$99,012 | \$98,416 |
| DE Lawyer Magazine | \$17,340 | \$15,833 | \$14,323 |
| | <u>\$17,340</u> | <u>\$15,833</u> | <u>\$14,323</u> |
| Total Assets | \$762,044 | \$695,826 | \$692,086 |
| Liabilities & Equity | | | |
| Liabilities | \$1,389 | \$809 | \$3,433 |
| Equity | \$760,655 | \$695,017 | \$688,653 |
| Total Liabilities & Equity | <u>\$762,044</u> | <u>\$695,826</u> | <u>\$692,086</u> |