



## ACCESS TO JUSTICE COMMISSION

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Access to Justice Commission Meeting Minutes  
Friday, November 15, 2019 – 2:00 p.m.

### **Commission Members Present**

Justice James Hardesty  
Justice Kristina Pickering  
Latoya Bembry  
Julie Bobzien  
James Conway  
John Desmond  
Annamarie Johnson  
Judge Joanna Kishner  
Noah Malgeri  
Judge Bridget Robb  
Judge John Schlegelmilch  
Raine Shortridge  
Doreen Spears Hartwell  
Judge E. Alan Tiras  
Sugar Vogel  
Judge Nathan Tod Young

### **Guests Present**

Barbara Buckley  
Phyllis Gurgevich  
Bridgette Reyna Meadows  
Shelly Newton  
Christine Smith

### **Staff Present**

Brad Lewis

### **Call to Order/Roll Call/Minutes**

The Access to Justice Commission (Commission) meeting was called to order. Justice Hardesty welcomed Raine Shortridge with Nevada State Bank as a first time attendee. A roll call was conducted and approval of the June 14, 2019 minutes was requested. The minutes were unanimously adopted with no changes.

### **IOLTA Status Update**

Before discussing the Fall Rate Review, Justice Hardesty requested that Brad provide a brief overview to include the first rate change in more than a decade that was implemented June 1, 2019. Brad reminded



Commission members that an update was made to SCR 217 governing IOLTA accounts that set the minimum Nevada IOLTA rate at 0.70% and allowed for tiered rates. That rule update supported the June rate change. Overall, the rate update process and rate compliance was smooth with Nevada IOLTA-participating financial institutions, with one exception. After sustained communications, Bank of America notified us on Friday, September 27 that they would not pay the new 1.0% rate on IOLTA accounts at or above \$150,000. On Monday, November 30 we notified Bank of America that we would notify the 1.0% accounts that they must move their IOLTA to another Nevada financial institution for IOLTA. All other Nevada IOLTA-participating financial institutions agreed to the new rates.

We began to notify lawyers and law firms with accounts at Bank of America, largest IOLTA account balances to smallest, on Tuesday, October 1 with the bulk of email notifications sent on Tuesday, October 8. A hard copy letter was sent in follow up on Tuesday, October 15.

Then, on Thursday, November 7, Bank of America notified us that they would, in fact, participate in Nevada IOLTA at all tiers, including at 1.0%. That same day we notified those receiving the previous communications of Bank of America's decision that allowed Nevada lawyers to be compliant.

### **IOLTA Fall Rate Review**

Brad reported that two formal IOLTA Rate Review Committee meetings were held to discuss rates along with several informal communications including Bank of Nevada, Wells Fargo and the Nevada Bankers Association. One element of that discussion was whether or not to tie the Nevada IOLTA rates to an interest rate benchmark such as the Federal Funds Target Rate (FFTR) or the six month U.S. Treasury Bill. The details were reviewed and discussed and it was agreed that rather than simply indexing the Nevada IOLTA rate to a certain benchmark, that we would proceed on the basis of using various benchmarks as guidelines and including that information in an updated Rate Review Memo issued each Spring and Fall.

Since the Spring Rate Review the FFTR rate had three 25 basis point drops affecting the interest rate market. The Commission paused potential rate changes during nine consecutive 25 basis point increases over the past two years, retaining the rate at 0.70%. This was in light of rates paid by Nevada financial institutions during a very low rate period. However, due to recent interest rate reductions, it was determined it was appropriate to reflect the new rate environment since the Spring rate implementation in the IOLTA rate during the Fall Rate Review process.

The proposed new Tier 2 rate on IOLTA accounts at or above \$150,000 of 1.0% was suggested to be reduced to 0.85%, while maintaining the Tier 1 base rate at the longstanding 0.70%. Further it was proposed that the updated rate become effective January 1, 2020. The proposal was moved and seconded and it was voted unanimously that the Commission proceed on this basis.

A brief discussion on Leadership Institutions ensued and it was determined that, at least initially, our rate update would remain silent on the Leadership Institution rates and would be discussed further.



Brad noted that the decision to reduce Nevada IOLTA interest rates does have a real effect on projected remittances. At the current 0.70% under \$150,000 and 1.0% at and above \$150,000 interest rates projected annual remittances would be \$5,051,581. At the proposed interest rates of 0.70% under \$150,000 and 0.85% at and above \$150,000 (including remaining silent on Leadership Institutions) remittances are expected to be \$4,380,214. Barbara Buckley suggested that in light of the Bank of America grants sun-setting and Nevada IOLTA projecting a reduction, that if Trustee President Connie Akridge and the Nevada Bar Foundation could take this into consideration during granting that it would be appreciated.

Phyllis Gurgevich, President and CEO of the Nevada Bankers Association noted that it's great that there is special recognition for the Leadership Institutions but also felt Sustaining Financial Institution recognition is important. Further, she likes the Oregon example of how to show value delivered in excess of market interest on similarly situated accounts.

### **Pro Bono Campaign Refresh**

Brad highlighted the key actions recommended from seven previous pro bono refresh calls that were determined would make a difference, increasing pro bono participation. That listing is available from the Commission. It was reinforced that the "Pro Bono Check Up" is an important element, as it assures we continually stay in touch with firms encouraging pro bono participation and support. Justice Hardesty asked Commission members if they were prepared to help with general agreement being shared.

A key item of discussion included revising how we plan to handle the "kick-off" of *One Campaign: 2020*. The main suggestions include:

- Reformulating the initial "kick-off" events to begin with inviting law firms to a CLE and pro bono pitch, North and South.
  - Presented by select Justice(s) and Judge(s), the CLE would be focused on "views from the bench" along with skills-based tips, tricks and practice pointers to improve performance. It was noted that an ethics CLE might also be a draw.
  - It was suggested that it's been long enough since we've done such events that perhaps the moment has returned to leverage this formerly successful way to attract targeted law firms, deliver value, and gain pro bono participation and support.
  - These CLEs would target key firms identified by legal aid providers statewide that can have a positive impact on pro bono efforts. Discussion centered on targeted large and medium sized firms.
    - Further, pitch could be to attorneys with fewer than five years of experience, with partner support.
  - These events would happen early in 2020.
  - Scheduling around en bancs has previously worked.



- An alternative to this is for heads of firms to have a private lunch with Justices. However, the focus initially was on the law firm CLE concept.
- Then, in the spirit of the “kick-off” concept, later in 2020, similar events would happen North and South that targeted solo and small practitioners.
- For all events, it was suggested that the State Bar of Nevada CLE rooms, along with courts, perhaps, North and South could be used to hold down costs – or – depending on funding, a sponsor, etc., these could be luncheon sessions at the Bar or other venues pending finances.
- All pitches would be focused on “taking one case” (*One Campaign: 2020*), but if not, donating.
- An email should be sent announcing campaign and it should be promoted in legal publications.

### **CLE for Pro Bono ADKT**

Brad walked through the draft of the CLE for Pro Bono ADKT in development to seek input and advice from the full Commission. Discussion ensued related to potential language updates. It was believed the introduction was suitable but there were several decisions to be made within the actual rule itself.

It was agreed that CLE credit would apply to both legal representation and service, that the rule should include court-based versus solely legal aid provider advice, included language related to legal help being provided only in Nevada, that pro bono CLEs would be awarded without fees, and that one CLE credit hour would be awarded for every four hours of pro bono services delivered with a maximum of four hours of CLE credit per year.

### **Reports**

Judge Tiras reported on the new Virtual Traffic Court at the Incline Village – Crystal Bay Justice Court. The program allows defendants to appear in court using their computer, tablet or phone making it easier and more likely to appear. This avoids non-appearance issues and reduces costs, lost wages, and time off work, improving access to justice.

Annamarie Johnson of Nevada Legal Services (NLS) updated the Commission on the new eviction clinic. NLS lawyers are onsite at the courthouse to assist in landlord/tenant issues including document reviews, answering questions and accompanying parties in court. NLS has hired two new lawyers and two housing consultants to support the program. The program began in Las Vegas and will begin in Washoe County on December 1, 2019.

Barbara Buckley shared that the Legal Aid Center of Southern Nevada named Wesley Su the inaugural Paul Padda Fellow. Additionally, that Legal Aid Center is now representing all kids in foster care within their region. Justice Pickering shared her praises and noted that Legal Aid Center was awarded the Outstanding Children’s Law Office Award from the National Association of Counsel for Children.



### **Commission Membership Nomination and Vote**

The following nomination and vote was taken and passed: Raine Shortridge to fulfill the term of Randy Boesch under SCR 15(2)(i) through 7/1/21.

### **Informational Items**

Informational items included the following. Details upon request from the Commission:

- Legal Aid Provider Highlights
- Legal Aid Provider Quarterly Meeting Recap 7/19/19
- IOLTA Program Highlights
  - IOLTA Rate Review Committee 10/21/19 and 11/4/19
  - New financial institution: Lexicon Bank
  - New Leadership Institution: First Foundation Bank (paying 1.25% as of 11/8)
  - Continue *The IOLTA Report: Justice for All?* in NV Bankers Assoc. eNews
- Pro Bono Program Reinvigoration Planning Calls 9/17/19, 10/11/19
- State Bar of Nevada dues check-off for pro bono promo program, “Check Yes”
- Language Access Cmte. recommendation, Judicial Council of the State of Nevada
- E-Filing by Non-Lawyers
- Nevada Legal Services Eviction Clinic
- ATJC received Champion of Justice Award, No. Region, from Nevada Legal Services
- Self-Help Center Statistics
- Public Awareness
  - Celebrate Pro Bono
    - Media Release
    - Events Listing
    - Media Placements
  - Social Media