



A Program of the Center for Civic Values

IOLTA News

An Update from the New Mexico Interest on Lawyer Trust Accounts Program

2006 Grant Committee

Annual IOLTA grant awards are based on the recommendations of a seven-member committee composed of lawyers and nonlawyers who are appointed to serve three-year terms by the State Supreme Court, the Center for Civic Values and the State Bar of New Mexico. If you are interested in serving on the Committee, please contact one of the appointing entities.

Supreme Court Appointees

David M. Berlin, Esq.
The Hon. Petra Jimenez-Maes
The Hon. John Pope

CCV Appointees

John P. Hays, Esq.
Kathy Silva

State Bar Appointees

Kim A. Griffith, Esq.
Edward T. O'Leary

Grant Budget Up 40% Since 2005

It's great news for New Mexico nonprofits seeking IOLTA grant funding. The 2007 budget will increase by more than 15%, bringing the two-year increase to more than 40%. Applications were due November 1, and CCV received 15 of them, seeking a total of nearly half a million dollars, and ranging in request size from a low of \$6,750 to a high of \$104,639. With \$225,000 available, difficult decisions lie ahead for the Grant Committee.

IOLTA funds are generated from the pooled trust account interest of lawyers and law firms enrolled in New Mexico's opt-out IOLTA program. More than \$3.49 million has been distributed to nonprofits that provide a variety of services to about 400,000 people each year. Grants are awarded to New Mexico organizations that provide civil legal services for the poor, law-related education for the public or improvements in the administration of justice.

We've Moved

The Center for Civic Values has relocated to First Plaza Galeria. Our offices are in the North Tower at 200 Third Street NW, Suite 607, in Albuquerque. Our telephone numbers are the same: 505.764.9417 or 800.451.1941, outside Albuquerque. Thank you First Plaza for making us an offer we couldn't refuse.



Trust Account Certification and IOLTA Participation

Shortly you will receive your 2007 New Mexico State Bar Dues Form. Section 8 of the Form is your Trust Account Certification and IOLTA Participation statement. ALL New Mexico attorneys are required to: (1) complete Section 8 in its entirety, providing all requested information; and, (2) return it with the Dues Form to the State Bar.

NOTE: To opt out of IOLTA, you must also submit a declination letter to the Clerk of the Supreme Court. If you fail to submit both Section 8 and the declination letter, you will be in non-compliance with Rule 17-204(b) of the Rules Governing Discipline, and you will be reported to both the Court and the Disciplinary Board.

Grantee Focus-Senior Citizens' Law Office Tackles System for Elderly Notes from SCLO's Health Care Rights Project . . .

- J.F. contacted our office upon receiving notices from Medicare that she was required to remit the balance of her Medicare Part B premium to Medicare. J.F. believed that an error must have occurred, because the amount she was billed for her Medicare premium in 2006 was nearly twice what she paid in 2005. Upon review of the matter, SCLO learned that 42 USC §1395r(f) of the Medicare Act imposes a beneficiary protection that Social Security had apparently failed to implement. Specifically, that provision requires that a recipient's Medicare premium not be increased so much that the increase reduces the amount of Social Security benefits below the amount that was payable in the year before the Medicare premium was increased. In other words, the law limits a person's Medicare Part B increase to their Social Security's cost of living adjustment. Of interest — although legislation has been introduced — there is currently no such beneficiary protection to account for rises in Part D premiums. Upon presenting the law and this argument to Medicare and Social Security, our office was successful in obtaining for our client a refund of \$740 in past Medicare premium increases.
- D.P. received a notice that her Disabled and Elderly Waiver Medicaid benefits were being terminated due to excess resources. D.P. is in assisted living and relies heavily on the services provided through the D and E Waiver program in order to live independently. Without the Waiver services, D.P. would be forced into a more restrictive living environment. Angelica Anaya Allen (SCLO's new executive director) visited her at her apartment and determined that a fair hearing request should be filed immediately to preserve D.P.'s services, while investigating the propriety of the Human Services Department's (HSD) action terminating benefits. The request has been filed and SCLO is in the process of investigating the claims, while counseling D.P. and her son about the eligibility criteria for the Medicaid Waiver, so future problems do not arise.
- A monolingual Spanish-speaking couple received a large bill from Lovelace Senior Plan. They had been unaware that they were eligible for QMB to pay their Medicare copayments, so SCLO referred them to the local ISD office to apply. For the Lovelace bill, SCLO is assisting them to work out a payment plan so they can make small, affordable remittances.
- On behalf of B.D., SCLO filed a request for a fair hearing before the HSD for denial of her application for alleged failure to provide verification of the her income, resources and Medicare eligibility. B.D. is quite elderly and frail. Her physical condition and oxygen dependence (combined with her apartment complex's broken elevator) had effectively rendered her homebound for several months. In an odd twist, HSD notified B.D. of the information it allegedly required to process her claim only *after* it had already denied her application. As grounds for appeal, SCLO argued: (1) B.D. was denied proper notice of HSD's alleged requirement for verification; (2) the verification untimely requested was, in fact, not necessary to process B.D.'s application; and, (3) HSD's insistence that B.D. supply the untimely requested information ignored her right to reasonable accommodation of her disability as a homebound, frail senior.



Congratulations to SCLO staff for their health care rights work on behalf of seniors!



CCV offers a HUGE thank you to Bank 1st, which is currently paying 3.23% on IOLTA accounts!

Making a Difference

CCV extends a very special thank you to Mary Rosner of Rosner & Chavez in Las Cruces. According to the bank rep who called us, Ms. Rosner took our Honor Roll of Financial Institutions (see below) to the firm’s bank to ask why they didn’t appear on it. As a result of her inquiry, we are pleased to announce that **Citizens Bank of Las Cruces** has joined the Honor Roll.

One person *CAN* make a difference! If your financial institution doesn’t appear on the Honor Roll, **won’t you please ask why?**

Honor Roll of Financial Institutions

Sincere thanks to the financial institutions below. Because they **waive minimum balance** requirements, **waive processing charges** to CCV or **offer competitive interest rates**, several thousand additional dollars are available annually to help the nearly 1/2 million New Mexicans who benefit from services provided by IOLTA-funded organizations.

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|---|---|------------------------------------|
| 1 st National Bank in Las Cruces | First National Bank in Las Vegas | State National Bank of Las Cruces |
| AmBank | First National Bank of Artesia | State National Bank of Ruidoso |
| Bank 1 st | First National Bank of New Mexico | State National Bank of T or C |
| Bank of Albuquerque | First National Bank of Santa Fe | Sunrise Bank of Albuquerque |
| Bank of the Rio Grande | Four Corners Community Bank | The Bank of Clovis |
| Bank of the Southwest at T or C | Grants State Bank | Union Savings Bank |
| Century Bank of Santa Fe | Ironstone Bank | US New Mexico Federal Credit Union |
| Charter Bank | Lea County State Bank | Valley Bank of Commerce |
| Citizens Bank of Las Cruces | Los Alamos National Bank | Valley National Bank |
| City Bank NM | New Mexico Educators Federal Credit Union | VectraBank |
| Community Bank of Santa Fe | Peoples Bank | Wells Fargo Bank New Mexico |
| Compass Bank | Pinnacle Bank of Gallup | Western Bank of Alamogordo |
| First Community Bank | Pioneer Bank | Western Commerce Bank |
| First Federal Bank | Portales National Bank | |
| First Financial Credit Union | State National Bank of El Paso | |
| First National Bank in Alamogordo | | |

National News and Notes

Revenue Enhancement Rule Changes in Connecticut, Massachusetts and Mississippi

The past several months have seen the high courts in three states adopt amendments to IOLTA rules and guidelines with the goal of increasing IOLTA revenues. In June, the judges of Connecticut's Superior Court endorsed a proposal for an amendment adding a comparability requirement to the state's IOLTA rule. When it takes effect on September 1, the amended rule will require banks holding IOLTA deposits to pay no less on those deposits than the highest interest rate or dividend paid to a bank's own non-IOLTA customers when the IOLTA account meets the same balance or other eligibility qualifications. The Connecticut Bar Foundation, which operates the state's IOLTA program, expects that this change will double its IOLTA revenue.

On May 18, the Supreme Court of Mississippi amended the state's IOLTA rule to convert the IOLTA program from opt-out to mandatory status. The new rule will require Mississippi attorneys who handle client funds to participate in IOLTA starting January 1, 2007. The move to mandatory is expected to boost IOLTA revenues. The new rule also contains comparability and other provisions that have the potential to further increase revenues as they are implemented. Mississippi will become the 32nd mandatory IOLTA program in the United States, and it is the fifth state to adopt mandatory IOLTA since 2004, following Oklahoma, South Carolina, Utah and Indiana.

In late July the Supreme Judicial Court of Massachusetts ordered the revision of guidelines for the Massachusetts IOLTA Committee. The revisions are intended to "assure fair and reasonable interest rates" on IOLTA accounts and utilize comparability provisions similar to those adopted in Connecticut, Mississippi and elsewhere. The IOLTA committee has been authorized by the court to begin implementing the new requirements on or before January 1, 2007.

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Thanks for Your Interest!

Thank you and congratulations to the following attorneys and firms for opening new/additional IOLTA accounts or converting existing trust accounts to IOLTA. You are making a difference in the lives of nearly half a million New Mexicans who receive services from IOLTA-funded programs. (Law firm names are listed according to the information provided by their financial institutions.)

Anne H. Assink Attorney at Law

Barbara Ann Michael

Beate Boudro Attorney at Law

Booth & Simpson

Butler & Hosch

Carlos A. Ibarra-Aguirre Atty at Law

Christopher L. Graeser, Attorney at Law

Comeau Maldegen Templeman

& Indall LLP

Consultants United

Darrell M. Allen

Davis & Kelly LLC

Everett Law

Frederick H. Sherman Trustee

Fredlund & Bryan

Harry N. Relkin

Jacquelyn Robins Attorney at Law

Jarner Law Offices

Jay Goodman Attorney at Law PC

Joanna D. Aguilar

Joel A. Davis

Karlos Ulibarri Attorney at Law

Khalsa Law Office

Lance Himmelberger Esq.

Law Office of Meshell A. Bell

Law Office of Rod D. Baker

Law Offices of Andrew P. Ortiz PC

Law Offices of Rebecca C. Branch

Lawrence P. Zamzok Atty at Law

Leslee Christine Petersen PC Trust

Littlejohn Law Office

Luebben Johnson & Barnhouse LLP

Marcus J. Cameron IOLTA

Martin M. Martinez Attorney at Law

Melissa Reeves

Michele Huff Client IOLTA account

Michelle Bowdon

Mickale C. Carter

Miller Stratvert PA

Pamela B. Dobbs

Patricia L. Simpson PC

Paul W. Grace, Esq.

Philip Saltz

Pickett & Murphy

Ramos Law Office

Randall S. Roberts PC

Richard C. Cauble Law Office

Robert L. McIntyre

Robert L. Scavron Attorney at Law

Robert M. Hall PC

Rothstein Donatelli Hughes Dahlstrom

Schoenburg & Bienvenu LLP

Samantha Dunning Esq.

Sandra Engel, Attorney at Law

Santistevan & Associates

Scott C. Cameron

Sidney Childress Trust Account

Stevan J. Schoen, P.A.

Susan C. Little & Associates

Suzanna R. Valdez

Timothy V. Flynn-O'Brien

Tova Indritz Attorney at Law

Yarbro & Associates PA