



**DELAWARE BAR  
FOUNDATION**

## **Annual Report to the Membership of the Delaware Bar Foundation**

**June 30, 2020**

***Celebrating Service to the Delaware Bar For 39 Years***

Follow us on Twitter and Facebook!



@DEBarFoundation



Delaware Bar Foundation

**Delaware Bar Foundation**

100 W. 10<sup>th</sup> Street

Suite 106

Wilmington, DE 19801

302-658-0773 (phone)

302-658-0774 (fax)

[www.DelawareBarFoundation.org](http://www.DelawareBarFoundation.org)

## **Delaware Bar Foundation Overview**

The Delaware Bar Foundation (the “Foundation”), a non-profit Delaware corporation, celebrated its 39th anniversary in FY2020. 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 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. In furtherance of its mission related to 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 5 *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 Board members for FY2020 were: Judge Laurie Selber Silverstein (President), Kelly E. Farnan (President-elect), Benjamin Strauss (Treasurer), Justice Karen Valihura (Delaware Supreme Court liaison), C. Malcolm Cochran, Kyle E. Gay, Michael Houghton, Karryl Hubbard, Denise N. Nordheimer (Secretary), Jenness E. Parker and Jeffrey Young. The Foundation staff includes Megan S. Greenberg (Executive Director) and its accounts are managed by Breakwater Accounting & Advisory Corporation (Finance Manager/Accountant).

The Foundation would like to thank Jenness Parker, whose term expired on June 30, 2020, for her dedication and years of service to the Foundation both as a member of the Board and as President. She provided strong leadership to the Board and critical support to many committees. Also leaving in 2020 was Melissa Flynn who concluded her service as executive director after seven years at the Foundation. Her dedication to the Foundation will be appreciated by the underserved in Delaware for years to come. The Board wishes them both well in their future roles in Delaware and beyond.

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.

In 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 870 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 an 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 in this report and on its website, [www.delawarebarfoundation.org](http://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.

First Shore Federal Savings and Loan  
Franklin Mint Federal Credit Union

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 15, 2020)*

Artisans Bank	First Citizens Community Bank
Bancorp Bank	Fulton Bank, N.A., Delaware National Division
Bank of America	HSBC
The Bank of Delmarva	JP Morgan Chase Bank, NA
Bank of Ocean City	M&T Bank
Bryn Mawr Trust	Malvern Bank
Calvin B. Taylor Banking Co	PNC Bank
Capital Bank N.A.	Santander Bank
Citibank	Shore United Bank
Citizens Bank	TD Bank
County 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 2020, the Foundation has granted over \$32 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 has negatively impacted IOLTA revenues with dramatic decreases in the interest rates paid. We fear that IOLTA revenue will drop to extremely low levels in the months ahead. Given this uncertainty, despite very strong returns in 2019, the Board recommended, and the Delaware Supreme Court approved, an increase in funding to \$1,000,000 for distribution in FY2021.



For many years, the Foundation provided support through IOLTA grants for the Legal Help Link, a phone line to provide intake services for LSCD, DVLS and CLASI. Committed to facilitating access to justice, the Board of the Foundation worked with Pro Bono Net to develop a website to perform the services previously available through the Legal Help Link phone line that launched in spring 2018. The Foundation maintained its support of the website with a grant in FY2020. When the stay-at-home orders were issued in March 2020, the legal services agencies worked quickly to shift these services to ensure their continuation 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. Please visit [www.DELegalHelpLink.org](http://www.DELegalHelpLink.org) to explore this remarkable resource for yourself.

## **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 to support mortgage foreclosure legal assistance and community redevelopment. After careful consideration of the conditions attached to the funds, the Board granted over \$400,000.

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

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 issued a second RFP 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

## **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. 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. Due to this year's unprecedented stay-at-home orders, various programs funded by the Foundation to promote public respect for the rule of law have been impacted. From canceled speaker events to school civics competitions, various funded programs could not be held as our community stayed home to stay safe. Nevertheless, the Foundation was able to support various programs with over \$11,000 granted to community programs including.

- In 2015 the family of the late Bruce M. Stargatt, Esquire, one of Delaware's beloved and preeminent practitioners, provided a generous gift to the Delaware Bar Foundation. This year in consultation with the Stargatt family, the Foundation was to sponsor a speaker at the Joint Inns of Court dinner which was to be held in April 2020.
- 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 including public interest, state legal agencies, and private firms of all sizes.
- Since 2013, the Foundation, together with the Delaware State Educational Association, has supported Liberty Lives Forever. This program provides all fifth graders in the public school system with a pocket Constitution. In addition, all fifth grade teachers receive specialized curriculum to teach students about the U.S. 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.
- The Foundation supported additional programs this year which are administered by the Delaware Law Related Education Center, Inc. These programs include *We The People* which was to send a middle school team to the national competition which was canceled due to the pandemic and increased its support of the annual High School Mock Trial Competition which was held in February 2020.
- Other past grant recipients include: Randy J. Holland Family Law Chair Fund, St. Thomas More Academy, the Combined Campaign for Justice golf outing, Ferris School Book Club, the Seaford District Library and Delaware Center for Justice.

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. Please note that applications are no longer considered on a rolling basis. Grant applications will be considered on or about April 1 and October 1 of each year.

## **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. The response from the Bar has been generous. Over the past ten years, the Foundation has raised over \$340,000 toward 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 donors for their cumulative gifts (since 2002):

### *Serjeants-At-Law*<sup>1</sup>

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  
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

---

<sup>1</sup> A tribute to the English Order of Barristers.

+ In memory of Myrna Lomish Rubenstein

\* Deceased.



*Foundation Fellows*

Anonymous Friend of the Foundation  
Carol J. Antoff  
Victor F. Battaglia, Sr.  
O. Francis Biondi  
Jack B. Blumenfeld  
Edmund N. Carpenter II\*  
T. Victor Clark  
Mary E. Copper\*  
Mark Desgrosseilliers  
Steven R. Director  
DLA Piper LLP  
Kelly Farnan  
Laurence L. Fitchett, Jr.  
N. Scott Fletcher  
C. Barr Flinn  
Anne Churchill Foster  
Frederick S. Freibott  
Hon. Kathy Gravell  
Michael Houghton  
Richard D. Kirk  
Robert J. Krapf  
Hon. Stephen Lamb

Richard A. Levine  
Charles S. McDowell  
Hon. Vivian L. Medinilla  
Irving Morris\*  
Regina Mullen  
A. Zachary Naylor  
Hon. Donald F. Parsons, Jr.  
L. Vincent Ramunno  
B. Wilson Redfearn  
Nicholas H. Rodriguez  
John F. Schmutz  
Carl Schnee  
John H. Small  
Bruce M. Stargatt\*  
Barbara H. Stratton  
Hon. William J. Sweet  
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](http://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.

### *Corporate Sponsors*

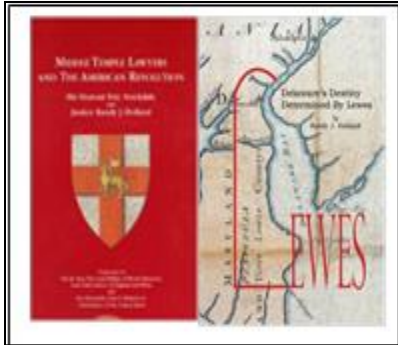
The Foundation would also like to thank the following company who has supported its programming over the past year.

The Chahalis Ward Group

at



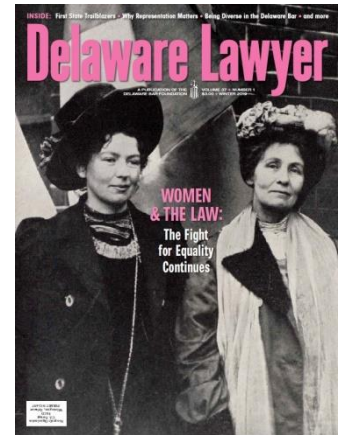
### *Other Fundraisers*



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**

In the first year of the Foundation's existence, The Honorable E. Norman Veasey and Victor Battaglia, Esquire took the lead in creating the first Board of Editors for the Foundation's quarterly journal, *Delaware Lawyer*. Over the past 38 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. In 2020, topics covered by *Delaware Lawyer* included Corporate Law Developments, Topics in Data Privacy and the Delaware bar's response to the challenges presented by Covid-19. The Board of Editors has also instituted a digital edition of the magazine, allowing for better readability. Past issues of *Delaware Lawyer* magazine are available on the Foundation's website at [www.delawarebarfoundation.org/delaware-lawyer-publication/](http://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 was initially organized and moderated by Justice Randy Holland and Harvey Rubenstein, Esquire, a former president of both organizations. Past keynote speakers have included James Silkenat, Esquire, a former ABA president, Justice Antonin Scalia of the United States Supreme Court, Robert Bennett, Esquire, Floyd Abrams, Esquire and Dean Strang, Esquire.

The Tenth Annual Seminar was held on November 14, 2019 at the DSBA Conference Center in Wilmington, Delaware and was webcast to registered attendees in Kent and Sussex Counties.. Addressing *How the RICO Act Brought Down the US Mafia* on the 50<sup>th</sup> anniversary of the publication of Mario Puzo's *The Godfather*, the event 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, to Judge Andrea Rocanelli and Yvonne Saville for their current leadership and to Susan Simmons of the Delaware State Bar Association for all of her efforts to coordinate and host this event. A portion 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 \$36,902.64 from proceeds from this Seminar.

**IOLTA**  
**Financial Overview (unaudited)**

	<u>FY2020</u>	<u>FY2019</u>	<u>FY 2018</u>
<b>Income</b>	\$2,024,501	\$1,190,772	\$976,407
<b>Expenses</b>			
Grants Distributed	\$926,350	\$817,595	\$1,319,400
Operating Expense	\$97,848	\$93,755	\$86,602
<b>Net Income</b>	\$1,000,303	\$279,422	(\$429,595)

**IOLTA**  
**Financial Position (unaudited)**

	<u>FY2020</u>	<u>FY2019</u>	<u>FY 2018</u>
Current Assets (cash)	\$2,929,170	\$2,196,347	\$1,930,296
Liabilities	\$0	(\$275,000)	\$160,981
Equity	\$2,929,170	\$2,471,347	\$2,091,277

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

	<u>FY2020</u>	<u>FY2019</u>	<u>FY 2018</u>
<b>Income</b>			
Dues & Contributions & Other	\$37,934	\$67,133	\$97,761
DE State Appropriation	\$60,000	\$600,000	\$600,000
Stargatt Endowment	\$4,470	\$13,875	\$19,679
	\$102,404	\$681,008	\$717,440
<b>Expenses</b>			
Operating Expense	\$24,743	\$26,959	\$24,694
Grants	\$11,000	\$52,364	\$30,211
State Funding Grants	\$60,000	\$600,000	\$600,000
	\$60,000	\$600,000	\$600,000
<b>Net Income</b>	\$6,661	\$1,685	\$62,535

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

	<u>FY2020</u>	<u>FY 2019</u>	<u>FY 2018</u>
<b>Assets</b>			
Current Assets (cash)	\$93,580	\$99,856	\$115,256
<b>Restricted Assets</b>			
Stargatt Endowment	\$252,181	\$245,209	\$238,724
Reserve Account	\$235,220	\$234,282	\$230,369
Endowment Fund	\$99,012	\$98,416	\$95,317
DE Lawyer Magazine	\$15,833	\$14,323	\$13,822
	\$15,833	\$14,323	\$13,822
<b>Total Assets</b>	\$695,826	\$692,086	\$693,488
<b>Liabilities &amp; Equity</b>			
Liabilities	\$809	\$3,433	\$10,135
Equity	\$695,017	\$688,653	\$683,353
<b>Total Liabilities &amp; Equity</b>	\$695,826	\$692,086	\$693,488