

IN THE SUPREME COURT OF FLORIDA

SEP 1 1988

COURT
By _____
Clerk

MATTER OF INTEREST ON TRUST
ACCOUNTS; A PETITION TO AMEND
THE RULES REGULATING THE
FLORIDA BAR

CASE NO. 72,671

RESPONSE OF FLORIDA LEGAL SERVICES, INC.

AND OTHERS

Florida Legal Services is the state support program for all civil legal services providers to the poor in the state of Florida. Incorporated in the state of Florida, it provides support for both the federally funded legal services corporation (LSC) programs as well as local and Bar sponsored legal aid providers. It's support includes training functions, legislative and administrative representation on substantive issues of importance to the poor, and the coordination of statewide workgroups in a variety of substantive areas i.e. government benefits, consumer, family law, etc. It has fulfilled an amicus curiae role before this court in other civil legal matters of interest to the poor, see THE FLORIDA BAR, RE: ADVISORY OPINION HRS NONLAWYER COUNSELOR, Case No. 70,615 (Fla. Feb. 4th, 1988), Burke vs. Department of Health and Rehabilitative Services, 476 So.2d 1275 (Fla. 1985).

(FLS) files this Response in support of the Petition of the Florida Bar Foundation, Inc. (FBF) for modification of the Interest on Trust Accounts Program. This response will focus on the substantial need which exists for additional monetary and human resources to be devoted toward the delivery of legal services to people unable to afford counsel. It is FLS' belief that approval of the proposed modifications will be a substantial step in meeting this unsatisfied need.

FLS' response is divided into three parts. Part I will trace the historical connection between the unmet need of low income Floridians for legal services and the initial approval of the Interest On Trust Accounts Program (IOTA). Part II will contrast the current availability of resources for the delivery of legal services to the poor with those that existed at the time of this courts landmark decision in Matter of Interest on Trust Accounts, 402 So.2d 389 (Fla. 1981), approving the IOTA Program. Finally, Part III will emphasize how the lack of adequate resources for civil legal services to the poor which persists today poses ethical problems and how this deficiency has had and will continue to have a substantial impact on the quantity and quality of legal services available to the needy in this state.

Our conclusion will suggest that in the light of what this court has already written and authorized concerning the IOTA program and given the present inadequate resources to provide civil legal services to the poor, it should take the next logical step towards the goal of assuring that the promises of equal

rights under law and equal access to justice become a reality for all the people of Florida. That step is to grant the relief requested by the Florida Bar Foundation (FBF) in it's petition.

PART I

In its frequently cited opinions authorizing the first Interest on Trust Accounts program in the United States, this court stated that the principle objective of the IOTA program "was to enhance the capability of the legal profession to deliver legal services to the poor". Matter of Interest on Trust Accounts, 402 So.2d 389, 396, (Fla. 1981) citing In re Interest on Trust Accounts, 356 So.2d 799, 811 (Fla. 1978). The recognition by this court that the major portion of IOTA funds should be dedicated to the delivery of legal services to the poor was as significant as the IOTA concept itself. This decision was an implicit recognition of the harsh reality that the delivery of adequate legal services to the poor required a substantial infusion of money as well as volunteer and other in-kind contributions. Not coincidentally, this court's action established a pattern that was to be duplicated by the Supreme Courts and legislatures of almost all the states throughout the nation.

The court's 1981 IOTA opinion noted the perseverance and patience of the many Florida Bar leaders whose efforts had "marked the road toward an expanded access to justice". Matter of

Interest on Trust Accounts, 402 So.2d 389, 396 (Fla. 1981). This expansion of access to justice and the need to provide relief for those unable to obtain needed legal services were the crucial factors that led to the approval of Florida's IOTA program. The documentation of this unmet need as it existed at the time of the approval of I.O.T.A. is set forth in detail in Part II, see P.4-12. What is most significant, however, is that it was a belief that this unmet need must be addressed which was the primary impetus for the I.O.T.A. program. The historical purpose of I.O.T.A. then must be kept in mind in evaluating any petition to modify the program. This Court's 1981 opinion noted that the approval of IOTA marked the beginning rather than the end of a journey toward access to justice for all the people of Florida. Today this court is at a major junction on that journey. The direction it chooses will determine whether or not the poor will take substantial strides down that road.

PART II

It is important to examine the need for and the availability of civil legal services for the poor in 1981, the date of this court's initial IOTA opinion, to fully appreciate the role this issue played in the courts earlier decision approving IOTA. After this review, the situation as it existed at that time regarding the availability of civil legal services to the poor will be compared to the situation which exists today. FLS suggests that

this comparison will demonstrate that while significant strides have been made in assuring access to justice for the poor in civil matters, the problems and deficiencies which were prevalent at the beginning of the decade have grown rather than diminished.

Throughout the late 1960's and the 1970's, many, both in the academic community and The Bar, attempted to measure the unmet legal needs of low and middle income Floridians and to offer suggestions for dealing with this problem. In 1971, what has come to be referred to as the Levinson Study¹ reported on the both the supply and need for civil legal services to the poor in Florida. Professor Levinson specifically reported finding ample evidence that many seeking civil legal assistance were being turned away from legal aid² and federally funded legal services offices³ because of high caseloads and inadequate resources.

Approximately seven years later, the issue of the availability of civil legal services to the poor indirectly came

¹ Levinson, Legal Services Currently Available To The Indigent in Florida (1971). In 1971, Levinson was a law professor at the University of Florida College of Law. He now teaches at Vanderbilt Law School. The study was in part sponsored by The Florida Bar and the University of Florida - see also Maher, "No Bono: The efforts of the Supreme Court of Florida to promote the full availability of legal services," 41 U. Miami L. Rev 973 at 975-976 (1987), hereafter cited as Maher, which discusses the Levinson Report.

² Levinson & Strong, Methods of Increasing the Supply of Legal Services to the Indigent in Florida (February 7, 1972) at 48. (Summarizing a study for the Board of Governors of The Florida Bar).

³ Id., at 44.

before this court in The Fla. Bar v. Furman.⁴ Rosemary Furman, a non-lawyer, was helping individuals of limited means in obtaining divorces. The specific question was whether she was engaged in the unauthorized practice of law. However, the court recognized that the case was symptomatic of a larger problem, the unavailability of counsel for the indigent.⁵ As a result, the Court directed The Florida Bar to conduct a study to determine the best way to serve the legal needs of the poor.⁶

The ensuing Furman Study,⁷ resulting from the court's directive, made a number of findings.

It noted that:

"[W]hile there is a gap between needs and services for all levels of income, the need is most critical for the poor. Whereas many legal issues are left unresolved for middle income groups, the unmet needs for the poor usually have more severe consequences in terms of effects on their property, health, and lives." ⁸

In conclusion, it emphasized that:

... there are substantial deficiencies in the delivery of legal services to both middle income and poor persons in Florida, and that the bar has an ethical duty to attempt to

⁴ 376 So.2d. 378 (Fla.1979)

⁵ See Maher supra, at 976

⁶ The Florida Bar v. Furman 376 So.2d.378, 382(Fla. 1979)

⁷ The study was prepared by the Center for Governmental Responsibility at the University of Florida Law School. It was Titled "The Legal Needs of the Poor and Underrepresented Citizens of Florida: An Overview" (1980). John Mills was the principal person responsible for the report.

⁸ Id., at page 5.

fulfill those unmet needs ⁹

Given the Levinson study and the extensive Furman Report, prior to this Court's approval of IOTA, the unmet legal needs of low and moderate income people in Florida had been well studied and documented. The obligation of the practicing Bar and the judiciary to address this problem had also been acknowledged. IOTA was a recognition of the Bar and Judiciary's responsibilities in this area.

In its 1981 opinion approving the IOTA program, the court noted that there was then occurring in Washington an intense debate over the continued existence of the Legal Services Corporation and funding for it. The Legal Services Corporation is the primary source of funding for programs providing civil legal services to the poor in this state. In 1981 when IOTA was approved, Florida programs received \$9,393,000.¹⁰ Although the LSC survived the debate in Washington, it did so at a level of funding 25% less than the previous year. For Florida, that meant an immediate loss of some \$2,348,000 in 1982. In practical terms that meant, for example, that two legal services offices in Dade County were closed, 40% of that program's staff was laid off, and intake also had to be drastically reduced to the point that only cases involving "survival issues" were accepted.¹¹

⁹ Id., at page 6

¹⁰ Legal Services Corporation, "1981 Field Program Data" (1981) at 3.

¹¹ Telephone interview with Marcia K. Cypen, Executive Director, Legal Services of Greater Miami, Inc. (August 25, 1988).

The political struggle over the fate of the Legal Services Corporation continued after 1982. But despite the efforts of the Reagan administration to abolish the Corporation or severely cut it's appropriation, federal support for the delivery of legal services to the poor through the LSC has survived. This has been due largely to the efforts of the leadership of the American Bar Association, The Florida Bar, and other state and local Bar associations. Notwithstanding the efforts of these organizations, however, funding on a national level has never returned to the level it was at when IOTA was first approved.

The available evidence today suggests that resources for legal services for the poor in Florida are less available than they were in 1981. In 1981, LSC funding for Florida's basic field programs, of which there are 12,¹² was approximately \$7.30 per poor person.¹³ At about this time, the Furman Report noted the availability of one lawyer for each 350 residents of Florida, but only one lawyer for every 6,500 poor citizens.¹⁴ Another study

¹² Central Florida Legal Services, Inc., Greater Orlando Area Legal Services, Inc., Gulfcoast Legal Services, Inc., Legal Services of Greater Miami, Inc., Florida Rural Legal Services, Inc., Three Rivers Legal Services, Inc., Northwest Florida Legal Services, Inc., Legal Aid Services of Broward County, Inc., Legal Services of North Florida, Inc., Withlacoochee Area Legal Services, Inc., Jacksonville Area Legal Aid, Inc. and Bay Area Legal Services, Inc.

¹³ LSC basic field funding of \$9,393,299 divided by a 1980 census based poverty population of 1,287,056.

¹⁴ supra, note 7 at p.4.

done in 1986 estimated that in 1985 dollars it would take over \$21 million dollars to provide minimum access to civil legal services to Florida's poverty population as measured by 1980 census data.¹⁵ However, in 1985,¹⁶ Florida only received \$10,037,667, in federal dollars.¹⁷ Although the study suggested then that the poor person funding level in Florida should be \$16.44,¹⁸ in fact it was only \$5.43.¹⁹ When the additional IOTA funds distributed in 1985 are added into the equation, the funding per poor person increased to only \$6.70.²⁰ This means that despite estimates that in 1985 it would cost \$16.44 per poor person to provide a minimal level of legal services, Florida's providers were being asked to do so on approximately 40% of that

¹⁵ Roche, "The National Commitment to Civil Legal Services For The Poor", Bar Leaders Speak Out In Support of Civil Legal Services for the Poor (1986), at 5. This figure was extrapolated from the national estimate of the amount needed of \$529 million. With approximately 4% of the national poverty population, Florida's share of the \$529 million would be \$21,160,000.

¹⁶ This is the latest year for which reliable figures on both poverty population and funding are available.

¹⁷ Legal Services Corporation, "1985 Field Program Data" (1985) at 6.

¹⁸ The \$16.44 figure is arrived at by dividing \$21,160,000 into the 1980 Florida poverty population of 1,287,056. Legal Services Corporation Annual Report, 1981, Pages 23-24 and 1980 Census of the Population, Social and Economic Characteristics - Florida, Table 72.

¹⁹ The \$5.43 figure is based on an internal report developed by Florida Legal Services using 1980 Census of the Population, Social and Economic Characteristics - Florida, Table 72; and Current Population Reports, Series P.60, No.149, August 1985.

²⁰ \$10,037,667 plus the \$3,093,529 IOTA fund available for 1985 divided by the 1985 poverty population equals \$6.70 per poor person.

amount.

The concern over the availability of legal services to the poor given stagnant resources and an ever expanding state population lead in the mid 80's to the creation of a special Commission on Access to the Legal System.²¹ In it's final report it stated:

" For those who were unconvinced by the Levinson Study of 1971, or the Furman Study of 1980, we report the overwhelming testimony of lawyers and lay citizens ... concerning the unmet need for legal services within the state. If anything, the overwhelming statistics of need have been exacerbated by recent cutbacks in federal programs"²²

The Commission's recommendations did not equivocate as to the most reasonable means of addressing the problems about which it reported:

" We see only two solutions which can provide any real relief to this need: (1) Money to hire lawyers to represent the poor: (2) Time devoted by private lawyers to representation of those who cannot pay. Other solutions ... cannot come close to addressing the need. Unless we are willing to take steps to obtain funding or donated time, we should admit to ourselves and the public that we have no real solution."²³

The findings of the special commission, coupled with the per capita funding figures highlighted earlier, clearly suggest that

²¹ The commission, composed of 16 members, who were appointed by the Governor, the Chief Justice of the Florida Supreme Court, and the President of The Florida Bar was asked to explore various alternatives to access to the legal system, see Maher supra 985-986.

²² Recommendations of the Special Commission on Access to the Legal System (1985) at 1.

²³ Id., 1.

the most basic civil legal needs of the Florida poverty population are not being met. The unmet need remains notwithstanding the significant increase in the level of pro bono work by the private bar during the 1980's. This increase has been more than offset by the increasing poverty population in Florida given the fixed level of federal and IOTA funds.

It is of course true that the funds received through the IOTA program and to some extent from local governments has helped cushion the shock of the deep cuts in federal funding and helped deal with the increased demands flowing from an increase in the poverty population. However, the Florida Bar Foundation is presently projecting a decline of nearly half a million dollars in its collections for FY 1987-88 with a possible corresponding reduction in its grant awards to legal aid providers. Also, project directors of Florida programs funded by the LSC are now forecasting a combined deficit of \$ 1.5 million for the coming year.²⁴ Legal aid programs operating without federal funds are feeling similar pressures. In Dade County the demand for guardianship services is increasing at a rapid pace in great part because of the drug crisis. This increase calls into the question the ability of the program to provide all eligible clients with this service.²⁵ The Legal Aid Society of Palm Beach County

²⁴ Florida Project Directors Association, "Legal Delivery to the Poor -- On the Brink" (A position paper supporting mandatory IOTA legislation filed during the 1988 Florida Legislative Session).

²⁵ Telephone interview with Sharon Langer, Director, Legal Aid of the Dade County Bar Association (August 29, 1988).

reports that for the first time in recent memory it is projecting an operating deficit of \$ 45,000 for the current fiscal year.²⁶

There are other indicia, which although they do not provide a direct measure of the poor's civil legal needs, do point to a huge inventory of human problems the solutions to which will invariably require the assistance of a lawyer. For example, the State Comprehensive Plan committee, known as the Zwick Commission²⁷ after its chairperson, found that nearly one and a half million Floridians are suffering from hunger and that 13% of Florida's school children are not getting enough to eat at home.²⁸ They also found that some 400,000 low income families need rental housing and at least 10,000 Floridians are homeless.²⁹ It estimated that there are 1.4 million medically indigent Floridians not covered by Medicaid, Medicare or any other form of health insurance³⁰ and that a quarter of Florida's children - and half of the states non-white children - live in poverty.³¹ The commission particularly emphasized that the child

²⁶ Telephone interview with Robert A. Bertisch, Director, Legal Aid Society of Palm Beach County (August 25, 1988).

²⁷ The committee, chaired by Charles J. Zwick was appointed by the Governor, Speaker of the House and President of the Senate in 1985. It is charged with calculating the costs of implementing the State Comprehensive Plan, a plan developed by the Florida legislature, see Chapter 187 Fla. Stat.

²⁸ Id., 18

²⁹ Id., 19.

³⁰ Id., 20.

³¹ Id., 19.

poverty trend showed a dramatic increase between 1980 and 1986. Finally, it's report pointed out that the State of Florida ranks 50th out of the 50 states in per capita spending on human services.³²

Unfortunately, these sad statistics are not abstractions. They represent real human beings who present themselves and their problems in the offices of civil legal services and civil legal aid programs throughout the state. Because federal funding for the delivery of legal services to the poor has essentially remained static and is based upon 1980 census data and because IOTA funds have remained constant and most recently decreased, Florida legal services providers must operate under the tremendous burden of our state's rapid population explosion without any corresponding adjustment in resources available to provide civil legal services to the poor. Inadequate resources coupled with increased demand for services means more and more people are being turned away without services. While a person of average means may be able to avoid or delay a legal problem until they are able to pay a lawyer, poor people rarely have such an option. On the contrary, what for many persons may be a matter to address later, for a poor person may constitute an immediate and a major life crisis. As the Furman Report emphasized:

"[T]he unmet needs for the poor usually have more severe consequences in terms of effects on their property, health and lives."³³

³² Id., 20

³³ Note 7, supra, at p. 5.

The availability of funds today then to provide civil legal services to the poor as contrasted with the situation when this court first approved IOTA in 1981 calls out for an infusion of resources. Approving this petition is a way to do so which is both justified and consistent with the historical purpose of IOTA.

PART III

The pressure placed on legal services providers resulting from inadequate resources has had and will continue to have an effect on the quality as well as the quantity of legal services delivered to the poor. This pressure will undoubtedly also take a toll on those who work in the legal aid provider community. Many of the budgetary pressures confronted by legal services programs on a daily basis have an ethical as well as practical dimension. This Part examines some of those questions in an effort to emphasize why the unmet civil legal needs of the poor mandate that this court approve the requested modifications in the IOTA Program.

In 1986, the ABA House of Delegates adopted a set of Standards For Providers Of Civil Legal Services To The Poor. The introduction to the standards provides:

"... the Standards represent the current combined and distilled judgement of a number of persons who have substantial experience in the area. Their adoption by the American Bar Association stands as a recommendation to legal services providers and practitioners regarding how they should operate in order to maximize their capacity to provide high quality legal services to

their clients in the face of scarce resources." 34

Two essential concerns shaped the Standards; (1) quality representation and (2) zealous representation of client interests. With respect to each of these concerns, the ABA approached them with the following in mind:

" High Quality. The Standards are based on the competency standard which is stated as a minimum in the Model Rules of Professional Conduct.... [T]herefore, they address issues of practitioner qualifications and training, supervision systems that support quality, specific quality assurance control mechanisms, and the fundamental elements of effective representation."

"Zealous Representation of Client Interests. All lawyers have an ethical responsibility to pursue their clients' interests zealously within the confines of the law and applicable standards of professional conduct. This has particular implications for legal services providers which represent the poor." 35

The Standards for Providers of Civil Legal Services, while characterized as recommendations rather than rules, are based on the same ethical consideration that permeate the Rules of Professional Conduct that became effective in Florida on January 1, 1987.³⁶ Even a cursory examination of these Standards suggests that the lack of resources for civil legal services to

³⁴ American Bar Association, "Standards for Providers of Civil Legal Services to the Poor" (1986) at page v.

³⁵ Id.

³⁶ For example see Fla. Bar Code Prof. Resp., D.R. 4-1.3

the poor are resulting in a number of problem areas for the provider community with significant ethical as well as practical dimensions. The Court's decision in this case will have a direct impact of how these problems will be addressed in the future.

For example, Standard 1.6 speaks of the need to make services accessible to the eligible client community. This obviously means locating offices near places where potential clients live and work. Not surprisingly, Professor Levinson had made a similar observation some sixteen years ago.³⁷ Yet many programs have had to close neighborhood offices opting for more economical centralized locations. For example, Legal Services of Greater Miami was forced to close its Miami Beach and Perrine offices as a result of the large cut in LSC funding in 1982.³⁸ Florida Rural Legal Services closed offices during the same funding crisis.³⁹ In many rural delivery areas, the nearest legal aid office is miles away. Legal services offices are clearly not accessible to all potential clients. And when a poor person has no meaningful access to an office, he or she of course has no access to the courts or to justice.

Standard 2.2 stresses the need for providers to develop a limit on the number of clients that can be represented without

³⁷ Levinson, supra, note 1, at 49.

³⁸ Telephone interview with Marcia K. Cypen, Executive Director, Legal Services of Greater Miami, Inc. (August 25, 1988).

³⁹ Telephone interview with Paul Doyle, Executive Director, Florida Rural Legal Services, Inc. (August 29, 1988).

sacrificing quality. When adequate funds are available, the tension between providing quality representation and serving the entire eligible client community can be reconciled. However, when resources are static or shrinking, and the pressure to serve more people is increasing, competent legal work is placed at risk. What for the average practitioner may be routine decisions about expenditures for investigation or discovery are for the legal aid attorney or director a major decision with ethical dimensions. Several directors of providers report that they may be forced to refuse cases involving complex litigation because of their potential drain on limited resources.⁴⁰

Standard 3.1 underscores the importance of competent, sensitive and committed staff. Many programs however cannot allocate sufficient resources to attract highly qualified individuals or to keep experienced people on staff. In Miami, starting kindergarten teachers and trash truck drivers earn a higher salary than a starting legal aid lawyer who has been admitted to the Bar.⁴¹ In St. Petersburg, job candidates with three years experience can expect a salary some \$8000 higher in public sector jobs than what is available for an attorney of

⁴⁰ Telephone interviews with Rick Culbertson, Executive Director, Greater Orlando Area Legal Services, Inc. (August 25, 1988) and Paul Doyle, Executive Director, Florida Rural Legal Services, Inc. (August 29, 1988).

⁴¹ Telephone interview with Sharon Langer, Executive Director, Legal Aid of Dade County Bar Association (August 29, 1988).

similar experience in the local legal service office.⁴² In Pensacola, the legal services program lost one of its brightest and most experienced lawyers when the program could not match a 7,000 dollar increase in salary offered the attorney by the local county attorney office.⁴³ The largest legal aid provider program in the state, Legal Services of Greater Miami, is budgeting for fewer lawyers in 1989 than in 1988,⁴⁴ while another will begin laying off staff effective October 1, 1988.⁴⁵ Here again the standard and its attendant ethical concerns collide with reality.

The Florida Project Directors, an association of thirteen legal aid providers, who receive federal funding to provide legal services to the poor, report that many legal services attorneys are working for half of what is paid for comparable private sector attorney positions and 68% of that paid for comparable public sector jobs.⁴⁶ It is of course true that some lawyers join legal aid programs for experience and plan to move on in a few years. But many are dedicated and committed professionals

⁴² Telephone interview with John P. Cunningham, Executive Director, Gulfcoast Legal Services, Inc. (August 25, 1988).

⁴³ Telephone interview with Mark Haydu, Executive Director, Legal Services of Northwest Florida (August 30, 1988).

⁴⁴ Telephone interview with Marcia K. Cypen, Executive Director, Legal Services of Greater Miami, Inc. (August 25, 1988).

⁴⁵ Telephone interview with Rick Culbertson, Executive Director, Greater Orlando Area Legal Services, Inc. (August 25, 1988).

⁴⁶ Florida Project Directors Association, "Legal Delivery to the Poor--On the Brink" (A position paper supporting legislation introduced during the 1988 legislative session which would make participation in IOTA mandatory).

who would like to make a career of legal representation of the poor. Florida is fortunate to have some such individuals. But many of these attorneys are in their 40's, and have children approaching college age. They work long hours, often in primitive working conditions and often with very little recognition for their efforts. Given all these considerations, without more resources, it should not be surprising to find that it will be increasingly difficult to retain them in legal services.⁴⁷

Standards 3.3, 3.4 and 3.5 address work supervision, evaluation and training. They are designed to assure quality representation of clients. But investment in training and supervision aimed at building a competent staff is a risky proposition when funds are lacking to retain that staff. Also, the attorneys that can best provide supervision, evaluation and training are often the most experienced and productive. When their time is used for these purposes, their ability to provide direct service to the client community is reduced or eliminated. Allocating resources consistent with meeting these standards may also mean fewer resources for litigation expenses or staff travel to client outreach sites. Many programs are already reporting cutbacks in each of these latter areas.⁴⁸ The provider community

⁴⁷ Telephone interview with Paul Doyle, Executive Director, Florida Rural Legal Services, Inc. (August 29, 1988) reflecting on this reality.

⁴⁸ Telephone interviews with Marcia K. Cypen, Executive Director, Legal Services of Greater Miami, Inc. (August 25, 1988), Rick Culbertson, Executive Director, Greater Orlando Area Legal Services, Inc. (August 25, 1988), Paul Doyle, Executive Director, Florida Rural Legal Services, Inc. (August 29, 1988),

should not be forced to choose between the allocation of resources to direct services and the need to invest in the quality of future service. These choices are difficult ones with obvious ethical dimensions.

The above are just an example of the many choices that confront the legal services provider community on a daily basis as they try to provide service in a manner consistent with their ethical responsibilities. As the pressure on the provider community grows, the stress increases. This is simply not fair to poor people who must bear the consequences of whatever choices are made, nor is it fair to the providers who must look the poor in the face and deny them assistance. It is also not fair to expect even more from the private pro bono lawyers who year after year give countless hours in service to the poor. Society as a whole has a responsibility to address the problem of the availability of civil legal services for the poor. As this court observed in it's decision denying a request to require attorneys, as a condition of their right to practice, that they donate time, money or participate in the IOTA program (The Mandatory Pro Bono Case)

" The assurance that effective legal services are available to all is not the sole responsibility of lawyers but is one to be shared by the government and society" ⁴⁹

and Sharon Langer, Director, Legal Aid of the Dade County Bar Association (August 29, 1988).

⁴⁹ The Florida Bar: In Re Emergency Delivery of Legal Services to the Poor, 432 So.2d 39, 41 (Fla. 1983).

The court's response to this petition provides an important opportunity for it to act in a manner consistent with its admonition set out above. If the proposed modifications are approved, the Court will have taken a great stride designed to assure equal access to justice for all of our citizens. Of course, it is true that a comprehensive IOTA program will by no means solve all of the problems of the legal services delivery system, but it will provide substantial assistance in doing so.

CONCLUSION

The driving force behind the creation of the IOTA program in Florida was a recognition that the available resources to deliver civil legal assistance to those without means was inadequate. This Court, in authorizing the IOTA Program, acted boldly to address that concern. Once again bold action is required. All the evidence indicates that despite the progress made in the past seven years, the needs of the poor for legal services is close to overwhelming the delivery system. The legal aid provider community must have relief if they are to provide services in a competent and ethical manner. A comprehensive IOTA program can provide much needed relief. It should be unequivocally endorsed by this court.

Respectfully submitted,

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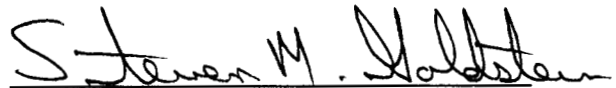
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been delivered by U.S. mail to THE FLORIDA BAR, Florida Bar Center, Tallahassee, Florida 32301 and FLORIDA BAR FOUNDATION, 880 North Orange Avenue, Suite 102, Orlando, Florida 32801-1023 this 1st day of September, 1988.



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