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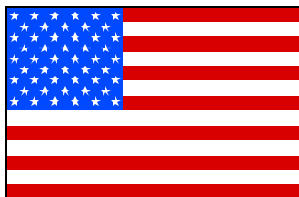
FOUNDATION PLANS FOR FUTURE

On September 6 and 7, the Ohio Legal Assistance Foundation (OLAF) board and staff participated in a strategic planning retreat. "We successfully achieved the two-fold purpose of the retreat - to affirm our existing mission and to outline our vision for the coming years," new board president, Judge Teresa Liston, said following the retreat.

In addition to an opportunity for board and staff to get to know each other better, the retreat achieved the following goals:

- Reconnection with OLAF mission statement;
- Identification of board and staff talents, skills, and knowledge; and
- Development of the vision and the future priorities for OLAF.

Continued on Page 4



Justice Must Prevail

OLAF board and staff extend our sympathies to the thousands affected by the tragic events of September 11. Our Country's pledge, "... and Justice for All," has never meant more, while also being so threatened. In the wake of these events, please do not forget those Ohioans in need of legal assistance. Your participation in the OLAF Justice for All resource development campaign will ensure that those most vulnerable in our state receive the legal services they need.

* * *

Just Dealings Fall 2001

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BOARD ADOPTS RULES FOR FOUNDATION

When the Ohio Legislature created the Ohio Legal Assistance Foundation in 1993, it also granted OLAF rule-making authority. A “rule” is a formal, written statement of policy that, once adopted, has the force of law. Following publication of proposed rules, a public hearing, and an extensive comment period, the OLAF board adopted a final of set rules for the organization at its meeting on September 6, 2001.

The Foundation is charged with administering sections 120.51 to 120.55 of the Ohio Revised Code and is granted rule-making authority in section 120.52 of the Revised Code.

The effect of the new rules is the modification and adoption of past policies and practices of the Foundation and Public Defender’s Office (which administered the legal aid fund prior to the creation of OLAF).

The rules are divided into the following sections:

- OLAF operational rules;
- Administration of the IOLTA/IOTA program relating to financial institutions;
- Administration of the IOLTA/IOTA program relating to depositors; and,
- Ohio’s legal aid societies and the legal aid fund.

OLAF Operational Rules

The operational provisions of the rules formalize the mission and structure of the Foundation. The mission of the Foundation remains the same under the new rules: OLAF “is committed to equal access to justice and will work to assure that resources, programs, and services exist statewide to serve the unmet civil legal needs of Ohio’s poor.” Additional sections formalize the private, not-for-profit status of the Foundation, detail the composition of the governing board of trustees, and summarize the authority and process to adopt, amend, or rescind rules governing the administration of the legal aid fund, which includes revenues from IOLTA, IOTA, filing fee surcharge programs, and private donations. The operational

provisions conclude with a detailed set of definitions specific to the administration of the legal aid fund.

Financial Institutions and IOLTA/IOTA

The Foundation has the statutory responsibility of administering Ohio’s Interest on Lawyers’ Trust Accounts/Interest on Trust Accounts (IOLTA/IOTA) program (see Ohio Revised Code sections 3953.231 and 4705.09 - 4705.10). The new rules provide that participation by banks in the IOLTA/IOTA program is

OLAF Rules Highlights

- ✓ Formalizes past practices and policies of OLAF.
- ✓ Requires banks to provide interest rates on IOLTA/IOTA accounts that are comparable to the highest rates paid by the bank on other similar deposit accounts.
- ✓ Requires attorneys to establish and maintain IOLTA or IOTA accounts at eligible, participating banks.
- ✓ Requires attorneys to ensure that the deposits are maintained in an account providing the greatest return.
- ✓ Details process and criteria to receive legal aid fund monies.

voluntary, but if a bank does participate in the program it must adhere to specific requirements. These requirements prescribe how the bank maintains and reports on the account, the type of banking product that the IOLTA/IOTA account must be established as, and OLAF’s monitoring responsibilities. Additionally, this section of the rules requires that the rates of interest payable on IOLTA/IOTA accounts shall not be less than the rates paid by the depository institution to other depositors. Further, the rules require that banks

Continued on page 3

treat the accounts in the most favorable way consistent with the array of similar products offered at that institution.

Attorneys and IOLTA/IOTA

This section of the rules requires every attorney, law firm or legal professional association, or other ancillary business related to the practice of law depositing client funds in a common escrow or trust account to establish and maintain an IOLTA or IOTA account in an eligible, participating bank. The rule prescribes which client funds must be deposited in an IOLTA or IOTA account for the deposit of those funds. The section also prescribes when and how the attorney must establish the account and how to notify OLAF once the account has been established. It also requires that the depositing attorney cooperate with and assist the Foundation to ensure that the deposits are maintained in an account providing the greatest return. Finally, this section of the rules summarizes the consequences for an attorney who fails to comply with these provisions.

Ohio's Legal Aid Societies

Ohio's community-based legal aid societies are the direct legal service providers in the state and the primary beneficiaries of the legal aid fund. The new rules outline the process and criteria for legal aid societies to receive financial assistance from OLAF. Consistent with past practice, the rules mandate an application process for funding and annual reporting by legal aid fund grantees of its prior year's activities. The rules also permit the legal aid society to establish income criteria to determine an applicant's eligibility for legal assistance.

Over the coming months, OLAF staff will work with the state and local bars and the banking community to implement these rules, which are scheduled to become effective January 1, 2002.

**Visit our Web site for the full
text of the rules.
www.olaf.org**

MAXIMIZING IOLTA/IOTA RETURNS

The Ohio Legal Assistance Foundation has the statutory responsibility of administering Ohio's Interest on Lawyers' Trust Accounts/Interest on Trust Accounts (IOLTA/IOTA) program. The interest on these accounts is a vital source of revenue for Ohio's legal aid societies, which provide needed legal services to Ohio's poor.

The OLAF board has long been concerned about the rates paid on IOLTA/IOTA accounts. Over the last year, the amount on deposit in these accounts statewide averaged nearly \$420 million. The yield on IOLTA/IOTA deposits (interest net of service charges) varies greatly among financial institutions, significantly impacting the resources available to support civil legal services in this state. In addition to the implementation of the Foundation rules (see article on page 2), OLAF board and staff will continue their account rate analysis, on a bank-by-bank and account-by-account basis, to ensure that each account achieves the highest rate of return possible.

A+ IOLTA/IOTA Performers

- | | |
|----------------------------------|--------------------------------------|
| • National City Bank | • First Bremen Bank |
| • Key Bank | • North Valley Bank |
| • Provident Bank | • North Side Bank and Trust |
| • First National Bank of SW Ohio | • Security National Bank & Trust |
| • Wayne County National Bank | • Citizens National Bank of Bluffton |
| • Metropolitan Bank & Trust | • Mid American National Bank & Trust |

There are several ways that you can help us in this effort. As an attorney, bank at an IOLTA/IOTA-friendly institution. As a financial institution, treat IOLTA/IOTA accounts in the most favorable way consistent with similar deposit accounts held at your bank. Contact OLAF for more information.

5TH CIRCUIT RULES ON TEXAS IOLTA PROGRAM

On October 15, 2001, the 5th U.S. Circuit Court of Appeals, in a 2-1 decision, held that the Texas IOLTA program violates the Fifth Amendment's Takings Clause (*Washington Legal Found. v. Texas Equal Access to Justice Found.*, No. 00-50139). The 5th Circuit majority held that there has been a "per se taking" of clients' interest earned on IOLTA accounts; that the Texas program makes no provision for payment to clients of just compensation for the taking; and, therefore held the program to be invalid. The dissent in the case argued that the Takings Clause is violated only when there is a taking of property without just compensation; that, individually, a client's IOLTA account would earn no interest; that even if there is a taking, as the majority suggests, "just compensation for zero [interest earned] is zero;" and, therefore, since there would normally be no interest to return to the client, then there is no violation of the client's rights.

The Texas Equal Access to Justice Foundation (TEAJF), which administers the Texas IOLTA program, is the only state IOLTA program directly affected by the decision. The 5th Circuit ruling represents the law of just the three states constituting that Circuit (Texas, Louisiana, and Mississippi). The Appellees, the Texas Supreme Court and TEAJF, will petition the 5th Circuit for a rehearing en banc, resulting in an automatic stay of the Circuit Court of Appeals decision.

The 5th Circuit decision has no effect on Ohio's IOLTA program, which differs from Texas in several ways. Perhaps most importantly, Ohio's IOLTA system is statutory (i.e., enacted into law by the Ohio General Assembly). The Texas Supreme Court initiated the Texas IOLTA program through court rule. It is important, now more than ever, that banks and lawyers continue to honor their IOLTA commitments. If you have any questions or know of any special problems with the IOLTA program within the legal or banking community where you live, please contact OLAF.

Board Retreat (Continued from page 1)

The day and a half retreat was held at Mohican Resort and Conference Center and followed the September quarterly meeting of the board. The retreat built upon the Foundation's strategic planning documents completed in 1996.

Board members and staff were encouraged to come prepared to share and discuss their individual strengths and talents; the past effectiveness of the board and staff; and trends and implications influencing the future success of OLAF. The strategic planning process included various individual, small group, and large group exercises.

With an understanding of the history of OLAF and the opportunities and threats facing the organization, retreat participants spent the majority of the second day identifying vision priorities for the Foundation. The vision priorities (listed below) provide the Foundation with a priority list of themes on which staff and board will focus during the next several years.

Each theme will require an action plan that identifies strategies, stakeholders, and deadlines. Key board members have volunteered to lead a work group for each theme and have agreed to present a draft action plan to the board at its December meeting.

OLAF Mission Statement

The Ohio Legal Assistance Foundation is committed to equal access to justice and will work to assure that resources, programs, and services exist statewide to serve the unmet civil legal needs of Ohio's poor.

OLAF Vision Priorities

- Larger and more diversified funding
- Organizational effectiveness
- Strengthened partnership with legal aid societies
- Building partnerships with courts, pro bono, bar association, retired lawyers
- Marketing strategy and marketing plan

Full summary available at www.olaf.org

PRO BONO INITIATIVES FILLING NEED

The private bar plays a crucial role in the delivery of legal services to Ohio's poor. Lawyers who provide pro bono services are representing the highest ideals of the profession. Since the legal needs of the poor often center on critical areas of life -- family, security, health, and housing -- pro bono lawyers are able to apply the skills of their profession in a way that changes people lives.

Statewide pro bono coordination by OLAF staff directly supports the mission of OLAF and complements the primary function of the Foundation, which is resource development. Each local legal aid society works with its local bar association to increase participation in pro bono services by the local bar members. OLAF staff focuses on statewide efforts and pilot projects that expand opportunities for Ohio's lawyers who are interested in volunteering their legal expertise in a way that makes a real difference in the lives of the poor. To learn more about pro bono opportunities with OLAF or in your community, please contact the Ohio Legal Assistance Foundation.

OLAF Pro Bono Initiatives

- ❖ The **Attorney General's Elder Project**, in partnership with the Ohio Attorney General's office, links assistant attorneys general with low-income senior citizens and individuals facing end-of-life issues.
- ❖ The **Governor's Executive Branch Project** implements Governor Taft's pro bono policy that urges all government lawyers to abide by the American Bar Association goal of 50 hours of pro bono service annually.
- ❖ The **Interfaith Legal Services (ILS)** program works with clergy who are asked to recruit attorney members of their congregation to volunteer to serve at pro bono legal clinics.
- ❖ The **Charitable Organizations Representation Project (CORP)** links nonprofit organizations serving the poor with lawyers who can assist with business-related questions critical to the nonprofit's operations.



OLAF Web Site Updates:

- Adopted OLAF Rules
- OLAF Strategic Planning Summary
- Updated IOLTA/IOTA Operations Handbook for Financial Institutions (January 2002)
- 2000 OLAF Annual Report
- Fiscal Year 2001 Completed Financial Audit
- 1976-2000 Ohio Legal Services Funding Summary

If you have not already subscribed to OLAF E-News Briefs, please visit the OLAF Web site to sign up in order to receive timely notices on state and national news and information affecting the delivery of legal services.

www.olaf.org



NEW STAFF JOIN FOUNDATION OFFICE



Deborah Rotonda

Following two years in a contract capacity with OLAF, Debbie joined the staff as a part-time accountant.

Debbie is a graduate of the Columbus Public Schools and a life long resident of the central Ohio area. Debbie attended Ohio State University, and graduated from Franklin University in 1979. She has also taken postgraduate work in accounting from Ohio University.

Debbie's experience in accounting includes 15 years of corporate accounting. During this time she progressed from staff accountant to the sole accountant for a multi-million dollar corporation. She was instrumental in revising the accounting procedures, computerizing the process, developing software and computer programs to organize the estimation and tracking of individual items contained in the formulation of bid pricing, and also identifying the human resource costs for each item in production.

Following 17 years of successful experience, Debbie took a year off and returned to accounting again as the accountant for a public service non-profit organization. Similar organizational and developmental goals were accomplished during her 3 years at FIRSTLINK, a central Ohio organization that provides information, resources, and training to individuals and families in need, and links volunteers to opportunities to serve the community.

Jeffrey D. Fortkamp



Jeffrey joined the staff in August as the Associate Director responsible for communications and development. He brings to the Foundation proven program and team leadership; extensive experience in all aspects of project development and implementation; excellent organizational, interpersonal, and communication skills; and strong technical, creative, and professional writing skills.

Prior to joining the Foundation, Jeffrey worked with the city of Columbus and the state of Ohio, and held several graduate-level internships in federal and state government. He also spent a very influential year in St. Louis, Missouri with the Jesuit Volunteer Corp working with young men in a transitional group home.

Jeffrey is entering his final year of law school at Capital University and is expected to graduate and take the Bar Exam in 2002. He is a graduate of both the Ohio State University School of Public Policy and Management, having earned a Masters Degree in Public Administration, and Wittenberg University, having earned a Bachelors of Arts Degree with a double major in Business and Psychology.

A native of Columbus, Jeffrey still resides in the city of Columbus/Columbus Public School District with his wife Tracey and 22-month-old son Riley.

Ohio Legal Assistance Foundation Staff

Robert M. Clyde, Esq.
Executive Director

Charles Cook
Operations

Karen McCall
Financial Manager

Jeffrey Fortkamp
Public Affairs

Dave T. Ball, Esq.
Pro Bono

Ty Acker
Data Entry Coordinator

Jacqueline Norvet
Administrative Assistant

Shirley Baldeh
Administrative Assistant

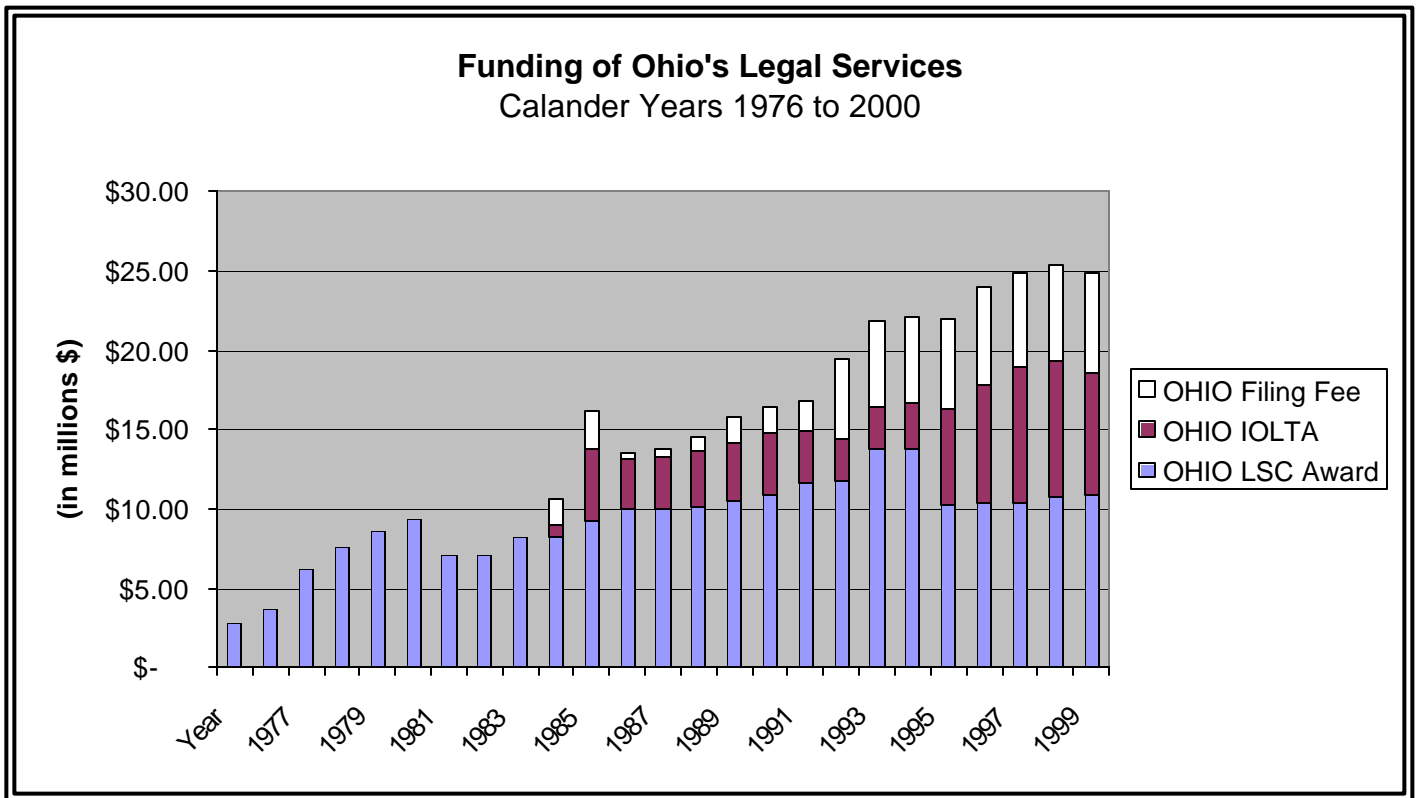
Deborah Rotonda
Accountant

Mark Malcolm
Legal Intern

ANALYSIS DETAILS OHIO'S LEGAL FUNDING

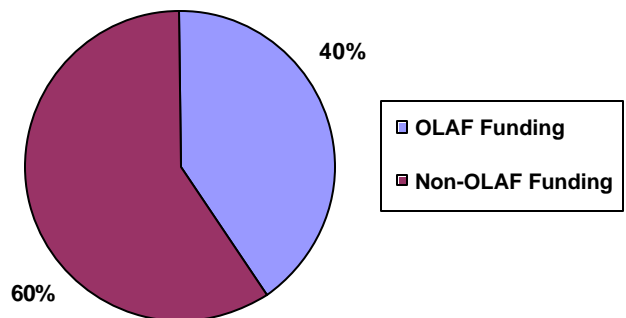
Research and analysis recently completed by OLAF staff documents the changing dynamics of state and federal funding for legal services in Ohio. The analysis reviews over 24 years of funding allocations to the state of Ohio from the federal Legal Services Corporation and over 16 years of funding of Ohio's legal aid fund. Not included, however, in this analysis is the significant private (e.g., United Way, individual donations) and other public (e.g., federal and state discretionary grants) dollars received by both the Ohio

Legal Assistance Foundation and the local legal aid societies. A companion document to the funding allocation analysis chronicles the funding history of state and federal funding for Ohio legal services. Combined, these documents exhibit the success we have achieved in increasing funding for legal services and remind us of how fragile these sources of funding truly are. *The full report may be obtained at our Web site (www.olaf.org).*



In 2000, funding from the Ohio Legal Assistance Foundation matched an additional \$21.5 million in private (e.g., United Way, foundations, and individual donations) and other public (e.g., Legal Services Corporation, other federal and state discretionary grants) dollars for the delivery of legal services in the state of Ohio. OLAF allocated \$14.6 million from the Ohio legal aid fund to local legal service providers. A total of over \$36 million supported the critical work of local legal aid societies. The need remains great and OLAF will continue to strive to develop additional resources to meet this need.

Ohio Legal Aid Societies Revenue Sources (2000)



ROUND TWO GRANTEE ASSESSMENT INITIATED

Over the past four years OLAF has conducted an assessment of all the legal aid societies it funds. The Foundation is now embarking on a second round of legal services grantee evaluations.

The intent of the program assessment process is to assist legal services providers to operate in a more effective manner in meeting the needs of its clients and community. At the same time, the Foundation also seeks to insure that providers are operating in conformance with agreements, policies, and legal requirements, which the Foundation has a duty to enforce. The assessment process also gives the Foundation the opportunity to identify innovative projects undertaken by providers and to share them with other service providers throughout the state.

During the week of September 10, 2001, OLAF coordinated the first site visit of the second round of grantee assessments. OLAF staff and evaluation consultants in the field of legal services, who made up the review team, visited the Ohio State Legal Services Association to assess Southeast Ohio Legal Services. Site assessments for other grantees are currently being scheduled.

The overall format for each assessment includes review team meetings with the program director, staff members, and local bar leaders, judges, and social service providers, in order to discuss program accomplishments, significant challenges facing the program, and any other issues specific to the legal aid society. An exit interview at the close of an assessment visit provides the grantee with tentative findings and conclusions.

A final report of the OSLSA/SEOLS assessment should be completed by the end of the year. For more information on the Grantee Assessment process, please contact OLAF.



Legal Aid Society Profile

Ohio State Legal Services Association (OSLSA)

555 Butles Avenue
Columbus, OH 43215
(614) 221-7201
(614) 221-7625 FAX
Web site: <http://www.oslsa.org>

Thomas W. Weeks, Director

OSLSA is a legal provider with two components: 1) state support, which provides assistance to all of Ohio's legal aid societies; and, 2) Southeastern Ohio Legal Services (SEOLS), which provides direct legal services to eligible clients in 29 counties throughout central and southeast Ohio.

SEOLS branch offices are located in the following communities:

1. Athens
2. Chilllicothe
3. Lancaster
4. Marietta
5. Newark
6. New Philadelphia
7. Portsmouth
8. Steubenville
9. Zanesville

Counties served by SEOLS:

Adams, Athens, Belmont, Carroll, Coshocton, Fairfield, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Knox, Lawrence, Licking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Scioto, Tuscarawas, Vinton, Washington

Cases closed in 2000: 8,898

Number of staff attorneys: 33

Also see SEOLS client profiles on page 9.

Additional legal aid society profiles will be provided in future Just Dealings editions.

CLIENT PROFILES

The following client profiles were provided by Southeastern Ohio Legal Services (SEOLS) and provide a snapshot of the civil legal needs faced by many in our state. The profiles also evidence the importance of the Foundation in developing resources for local legal services providers. (Also see SEOLS Legal Aid Society Profile on page 8.)

Ms. T. is a disabled woman who had purchased a used car for more than \$3000 from a Fairfield County used car dealer. Despite promises by the salesman that the car was in good working condition, Ms. T experienced numerous problems with the car, culminating in the engine blowing within 3 months of her purchasing it. SEOLS commenced litigation, and negotiated a settlement payment of \$4,000 to Ms. T. This amount reimbursed Ms. T for all monies she had paid for the car and subsequent repairs, and compensated her for the inconvenience and humiliation she endured throughout the ordeal.



Ms. K. came to the SEOLS office as a victim of domestic violence. Staff was able to obtain a Civil Protective Order against Ms. K.'s husband. Subsequently, as a result of the domestic violence, Ms. K. suffered from several mental health problems. Children Services immediately acted to take the children from Ms. K. rather than working with her. Staff was able to intervene and force Children Services to provide appropriate services for the family and assist Ms. K. in keeping her children with her. Although not all of the family's issues have been resolved, Ms. K. and her children are receiving the appropriate services at this time and hopefully are on their way to a more stable home environment.

The M's were victims of a predatory lending

scam by a mortgage broker in Harrison County. The M's are simple farmers who were taken advantage of by the unscrupulous broker. The Broker took compensation from both clients and the lender. Following SEOLS action, judgment was rendered against the broker for about \$70,000 in compensatory and punitive damages for breach of fiduciary duty and breach of contract.

Participate in the Justice for All Campaign

Fortunately these individuals and families had access to legal services. There are numerous ways that you can help those that are not so fortunate:

- **Pro bono participation,**
- **Banking at an IOLTA-friendly institution, and**
- **Tax-deductible contribution to the Ohio Legal Assistance Foundation.**

Please indicate your participation preference by using the enclosed envelope, calling our office, or accessing our Web site (www.olaf.org).



***More than 80% of the civil
legal needs of Ohio's
poor go unmet.***

NEW PRESIDENT SETS AGENDA FOR BOARD



As board president of the Ohio Legal Assistance Foundation and a judge with the Franklin County Municipal Court, Judge Teresa Liston, knows well the many challenges and opportunities facing legal services for the poor in Ohio. “It is only through a strategic and unified approach will OLAF overcome challenges and maximize opportunities in our pursuit of justice for all Ohioans,” stated Judge Liston on her focus as board president. Her first priority as president was to convene board and staff to strategically plan for the future (see article on the front cover). The retreat unified the board and generated several vision priorities that will be achieved in partnership with other Ohio legal services stakeholders.

Judge Liston also appreciates the importance and value of the board and its committees in the effective and efficient operation of the Foundation. “We have a strong and diverse board that individually and collectively brings an incredible level of knowledge and talent to our efforts, so it is through the board’s regular meetings and committee work that we can accomplish many things,” stated Judge Liston on her focus for the board. In addition to promoting regular and active participation by board members at quarterly meetings, Judge Liston hopes to expand the efforts of the board’s standing and ad hoc committees.

Judge Liston, during her term as board president, also desires a very active and visible presence statewide as an advocate for the Foundation and for legal services for the poor. Outreach efforts include meetings with state and local bar associations and elected officials in the legislative, judicial, and executive branches.

Judge Liston welcomes your comments and questions. Please feel free to contact her at (614) 645-8280 or visit her Web site at: <http://www.fcmclerk.com/officials/>.



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