



*February Marked the
27th Anniversary of Nevada Legal Services
Serving Those in Need.*

During these hard economic times, business has never been better for Nevada Legal Services. Most businesses would be thrilled with overwhelming numbers of customers, but the staff of Nevada Legal Services views this increase and accompanying demand with dismay and sadness. Hard times hit our clients the hardest and force those on the margin of economic survival to make impossible decisions:

*Do I feed my children or do I pay my rent?
Do I seek the medical care my child needs
when I know there is no way I can pay for it?*

The State of Nevada has cut back on support systems for its poorer residents. As a result, Nevada Legal Services is the last bastion of hope for those who have been denied medical services, those who are facing homelessness, those who need food, and those whose financial support is being terminated.

February marked the 27th anniversary of Nevada Legal Services ("NLS") serving those in need. For those 27 years, the staff of Nevada Legal Services has been representing clients in federal courts, state courts, and in administrative hearings. Staff has negotiated on behalf of our clients to resolve matters without the need for litigation and provided letters or pleadings for clients when the client simply needs a little assistance to handle the matter on their own.

Nevada Legal Services provides assistance in a large variety of legal areas. We assist people with housing issues, including assisting the recipients of the many federally-subsidized housing programs. We help people with evictions, utility shut-offs, illegal lock-outs, uninhabitable living conditions, and terminations of housing subsidies. It should be no surprise that NLS has an increasing demand for assistance from those facing mortgage foreclosures. NLS also provides assistance to individuals who have been denied or have been terminated from public benefits, including Medicaid/Medicare, Food Stamps, Unemployment

Insurance, Social Security, Supplemental Security Income, state welfare benefits, and county welfare benefits. Other service areas include consumer law, elder law, and a limited amount of family law.

A number of specialty projects have been created during the last 27 years to better serve the residents of Nevada. Our Indian Law Project provides legal assistance to tribes in Nevada and to individual tribal members who have Indian status issues. NLS created a Low-Income Tax Clinic that represents those with cases and controversies with the IRS and to provide free tax preparation during tax season. A majority of low-income Nevadans who could have benefited from the Earned Income Tax Credit didn't file for the credit. Our tax program has brought in hundreds of thousands of dollars in income to low-income Nevadans since it began in 2004.

Nevada Legal Services created a Senior Legal Helpline that provides legal advice and brief service to all those 60 years old and older throughout Nevada. The Helpline does not

continued on page 7

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Ask a Bank or Ask a Lawyer

By David G. McElhinney

If you are a lawyer in Nevada please keep reading. I need your help. To be precise, the entire Nevada Law Foundation and the legal service providers who provide legally related services to the poor and disenfranchised (including victims of domestic violence, and children in need of protection) all need your help. As lawyers you know that pursuant to a Supreme Court Rule, with which you have to comply, you deposit client funds which can reasonably be expected to earn only nominal interest into a pooled interest-bearing trust account. It is the interest from these pooled trust accounts, from each of you, that assist in the funding of valuable legal programs throughout the state of Nevada.

To put that in perspective for you ladies and gentlemen, the interest from your pooled trust accounts made it possible for a woman (let's call this woman Mary for purposes of this discussion) to seek legal aid and to successfully obtain court ordered protection from her abusive husband for herself and her two small children. Had Mary not received these legal services, had the provider not been there for her, then both she and her children would, today, remain trapped in an environment wherein both she and the children are being subjected to repeated instances of abuse and extreme cruelty. This is just one example, out of hundreds of instances in our State of your IOLTA account dollars at work; providing legal protection to the ever growing portion of our population that otherwise could not afford it. And make no mistake, a significant number of our Nevada legal aid providers in both the north and south look to receipt of IOLTA funds as a source of funding their annual operating budget.

So this is where you come in and why I need your help. Do you know what bank is servicing your IOLTA account? Do you know what interest rate that bank is paying on your IOLTA account? These are important questions and here is why: Interest rate returns on Nevada IOLTA accounts vary tremendously from bank to bank. Collectively, Nevada lawyers have anywhere from \$75 to \$100 million at any given time in these accounts and taking steps to increase the rate of return on these accounts can make a tremendous difference in available IOLTA funds for the service providers. And the more IOLTA dollars we can earn and distribute to the legal providers, more "Mary's" can get much needed help. The Nevada Law Foundation, along with members of the Access to Justice Commission and Nevada Supreme Court Justices have launched a major endeavor and have approached a number of banks doing business in Nevada and asked those banks to increase their IOLTA interest rates to two or three percent. I am pleased to tell you that at the time of my writing this article, 13 Nevada banks have agreed to raise their IOLTA interest rates to at least two percent or higher. We refer to this as our list of "Preferred Banks." However, despite our efforts to date, there is at least one major national bank doing business in Nevada that holds more than 400 of the total IOLTA accounts in existence in Nevada. This major national bank is paying approximately 0.0005 percent on its IOLTA accounts, and, at least so far, they are refusing to raise their IOLTA interest rates, despite our repeated requests that they do so.

I am asking every Nevada lawyer who reads this article to do the following:
(1) Find out the name of the bank that is



*David McElhinney, Esq.
Chairperson*

servicing your IOLTA trust account.

(2) Call me or our Executive Director, Suzan Baucum and ask us what interest rate that bank is paying on your IOLTA trust account. (We know because the banks have to report their IOLTA rates of return to the Nevada Law Foundation on a regular basis.) (3) In the event, after talking to us, you find out that your IOLTA rate of return is less than two percent then we respectfully request you call your banking representative and insist that they raise the rate of return on your IOLTA account to at least two percent in order to be competitive with Preferred Banks' rates of return in Nevada.

There is strength in numbers. If enough of us make the call, the banks will succumb to the pressure and will raise their IOLTA interest rates.

By the way, you can reach me, David McElhinney, at (775) 823-2900 and you can reach our Executive Director, Ms. Baucum, at (702) 384-1204. And if you can't make that call I completely understand. I'll just tell Mary you were too busy.



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* FDIC deposit insurance for interest bearing accounts temporarily increased from \$100,000 to \$250,000 per depositor and provides full coverage for non-interest bearing transaction deposit accounts, regardless of dollar amount, until December 31, 2009. Individual circumstances may vary. Other accounts and ownership categories may affect insurance limits. To calculate your insurance coverage, please visit www.fdic.gov/edie.

** (APY) Annual Percentage Yield is effective as of 1/26/09 and is subject to change without notice. There is a \$2,000 minimum opening deposit and monthly balance requirement to earn stated APY. Other terms and conditions may apply. Fees may reduce earnings.

Senior Law Project

Much Needed Help for Nevada's Seniors

Twenty-eight years ago, Washoe County, through a contract with Henry Cavallera Esq., began providing free legal services to vulnerable and poor Washoe County senior citizens. Nine years later the County determined to operate the Washoe County Senior Law Project as part of its Department of Senior Services and further increased its commitment to assure access to civil justice for seniors. The Project has grown and now routinely provides representation in matters that are essential for the continued independence, health and safety of seniors. Every day the Senior Law Project helps seniors avoid foreclosure, retain or acquire necessary support services to enable them to stay in their home, protect against or assist in ending exploitation, and contest illegal nursing home discharges and discriminatory admission denials. Prioritizing services to poor, vulnerable and minority seniors, the Project provides representation and other legal services in the areas of basic needs as outlined below.

The Senior Law Project accommodates the homebound, provides community legal clinics and maintains a robust pro bono program. As a result of its direct legal services, the Project informs policymakers in areas in which the Senior Law Project has developed expertise. It is a partner with the Division for Aging Services and Nevada Legal Services in an evolving senior legal hotline program in which seniors with problems, in described areas of the law, can get immediate legal advice and, in some cases, brief services such as negotiating with a merchant. Because the Project is located in the Washoe County Senior Center, its clients have great access to the project attorneys



and paralegals. Because of its location, the Project is able to engage needed social services and mental health services from programs also operated by the Center.

The Washoe County Senior Law Project through its 2.6 attorneys, two paralegals, two housing counselors, 2.6 legal secretaries, one part-time volunteer paralegal and other volunteers, provides direct one-on-one legal services to an average of more than 1,400 seniors per year. Many Senior Law Project clients, because of age and disability, are faced with once-in-a-lifetime transitions, whether facing death with dignity, attempting to retain independence while becoming dependent on supportive services or facing institutionalization while recognizing that one's lifetime of activity is over. These are the contexts in which many of the Senior Law Project's clients find themselves.

The Senior law Project major areas of focus are:

Elder Rights

Children, as horrible as it sounds, sometimes, through powers of attorney and other means, take their parents' home stripping it of equity, or by virtue of their relationship use their parents' life time of savings. The Senior Law Project provides representation when the home or some of the estate can be recovered.

The Senior Law Project often finds itself insisting that a landlord provide accommodations to a senior pursuant to the Fair Housing Act. The Project acts to remove requirements that are impossible for the senior to perform and more often the action is to provide dedicated parking proximate to the senior's unit.

Some Senior Law Project clients have mental illnesses, sometimes derived from dementia, and without adequate mental health service, the client is without proper medical care. The

continued on next page

resulting aggressive or hoarding behaviors cause landlords to initiate evictions to which the Project responds, again, often engaging the Fair Housing Act and the mental health service infrastructure.

The Project represents clients in matters in which a merchant or lender took advantage of a senior's vulnerability when the merchant or lender was or should have been aware of the inability of the senior to understand the complex contractual terms.

Much of the Senior Law Project practice in this area concerns Guardianships. Supported by funding from Nevada's "Independent Living Grants" through the Division for Aging Services, the courts routinely appoint the Senior Law Project, pursuant to NRS 159.0485, to represent seniors who are subject to a guardianship petition. These are seniors who have very little in their estate. The primary outcomes of such representation are that guardianships are not ordered and more commonly, the loss of the senior's civil rights are restricted to only those areas where cognitive and functional deficits require substituted decision making. These are sometimes referred to as limited ("special") guardianships. Often the case is about placement. A typical conflict is between the proposed guardian's desire to institutionalize the proposed ward and the client's desire to remain or go back home with care provided by a willing relative. The project generally finds a way to avoid nursing home placement. This also yields a societal benefit through reduced Medicaid costs.

Housing

Housing is a fundamental need for low income seniors who have no hope of increasing their income. Thus, much of the Senior Law Project housing work is focused on contesting the termination of rental subsidies and on foreclosure prevention. As described above, the Fair Housing Act is a significant legal tool as many of the Senior Law Project clients suffer from one or more disabilities.

Because the demand is so great, the Senior Law Project is increasingly turning to self-help materials such as the Supreme Court's Landlord Tenant forms which many legal service advocates participated in developing. However such alternative is often not adequate for non-English speaking persons or for seniors who are frail.

Since 1998 Senior Law Project has been a certified HUD housing agency which supplements its legal work in housing. Situations which can be resolved by negotiation with landlords, thereby avoiding the engagement of the courts, are generally supported by such funds. HUD funds, as well as National Foreclosure Mitigation Counseling funds through the Nevada Housing Division, support the Senior Law Project's Foreclosure Prevention program which employs two and one half housing counselors. Those foreclosure matters that cannot be resolved through loan servicer negotiation are further screened and the Project then evaluates those cases that meet pre-described criteria for legal action. If appropriate, the Project provides representation in the courts.

Government Benefits and Health Care

The Senior Law Project provides assistance with Social Security, Medicaid and Medicare issues and pursues resources for its clients when health services are otherwise not easily available. Much of this work may be resolved through unwinding red tape while contested matters are resolved through adjudicatory hearings within the relevant administrative agency. Primary issues, in addition to contesting loss of public income programs, contest reduction in services provided through programs such as the community-based care waivers associated with Medicaid. These services are provided to allow the recipient to avoid institutionalization and, thus, are essential for many frail seniors.

Consumer

The Senior Law Project clients are affected by consumer issues in many ways. Frequently, brief service, a phone

call with or letter to a bank, will resolve the issue. Issues do run in cycles. Two years ago, many seniors needed legal assistance to contest the purchase of automobiles, often involving clients with seriously diminished capacity.

Currently, the issues involving consumer law focus on predatory lending, primarily pay day loan matters, and mortgage loans. As always, the Project asserts Fair Debt Collection Practice Act and Fair Debt Reporting Act defenses and claims related to collection matters.

The Senior Law Project has set up internal protocols to triage the many clients who have been sued for credit card, medical and other debts. Problems persist in that many plaintiff purchasers of debt fail to identify the original creditor and account numbers. Such cases pose dilemmas even for seniors who are judgment proof who do not want to unnecessarily become a judgment debtor.

The Project does assist many clients to interpose their claims that garnished bank accounts contain only exempt Social Security funds. The project has represented many clients in cases scrutinizing and, hopefully resolving, various components of that process.

Life Planning

The Senior Law Project creates documents for seniors such as general powers of attorney, living wills, durable powers of attorney for health care (all of which help avoid guardianships) as well as documents associated with real estate such as homesteads and terminations of joint tenancies. Some of these documents such as living wills are provided through clinics

The project operates a successful pro bono program for the creation of Wills with more than 15 participating pro bono attorneys.

Nevada Banks Increase Rates

by Suzan Baucum, Esq.

In May of 2008, the Supreme Court of Nevada and the State Bar adopted rules making participation in the IOLTA Program mandatory. Mandatory participation in IOLTA means many things for our organization, the most promising being that we will be able to significantly increase funding to our grantees, which will, in turn, help countless needy Nevadans. At a time where our state and our country is suffering from an unnerving economic crisis that threatens to cripple the wherewithal of even the most stalwart among us, mandatory participation minimizes the likelihood of cuts from the Foundation in the most difficult of predicaments. The Nevada Law Foundation is committed to seeing to it that every Nevadan, regardless of socioeconomic status, has equal access to justice, and with the help of our Preferred Banking Partners our goal will be much easier to achieve.

In an effort to increase IOLTA funds, the Nevada Law Foundation, the Supreme Court of Nevada and the Access to Justice Commission have been working tirelessly with financial institutions to increase interest rates being paid on IOLTA accounts. Sadly, some bank's rates have been extraordinarily low in recent years, which can and does hamper our hard work to provide as much funding to our grantees as we can. We have worked hard to create as many "Preferred Banking Partners" as possible. These are banks that have committed themselves to the goals of the Nevada Law Foundation, agreeing

to raise IOLTA interest rates to a minimum 2.0% for the calendar year, and working with us to see that interest rates remain competitive in the future.

Many Nevada banks have responded to our call for increased competitiveness and have been deemed "Preferred Banking Partners." These banks include:

- Bank of George**
- Bank of Nevada**
- Community Bank of Nevada**
- First Independent Bank**
- First Asian Bank**
- Irwin Union Bank**
- Meadows Bank**
- Mutual of Omaha Bank**
- Nevada Commerce Bank**
- Nevada State Bank**
- Red Rock Community Bank**
- Service 1st Bank of Nevada**
- U.S. Bank**

These banks have dedicated themselves to our cause in an exemplary manner, and I encourage each attorney in Nevada to reward this service by working with "Preferred Banking Partners." If your banking institution is not listed above, I urge you to encourage them into becoming a Preferred Banking Partner. "Preferred Banking Partners" have access to mailing lists, and advertising opportunities at little or no cost. These partners are also listed on the Nevada Law Foundation, State Bar of Nevada, and Access to Justice Commission Websites, respectively, and receive



*Suzan Baucum, Esq.
Executive Director*

acknowledgement in the Nevada Law Foundation's Perspective and Silver Ball publications.

Many thanks to all of you who have helped the Nevada Law Foundation in our efforts. I look forward to future cooperation and collaboration, and I know that we can and will increase participation and funding to our grantees.

Along those lines, I look forward to seeing all of you at the Foundation's annual Silver Ball, to be held at the Four Seasons Hotel on April 4th. This event is held each year to honor our newly elected Colleagues of the Foundation, exemplary men and women in the Nevada legal community who have dedicated themselves to our cause. If you would like to attend, please call the Foundation at (702) 384-1204.

have any income or asset restrictions. All Seniors in Nevada can make a call to the Helpline and receive assistance. Two projects that assist nearly 200,000 people each year are our Family Law Self-Help Center and our Tenants' Rights Center in Clark County. These Centers were established to help the overwhelming numbers of Clark County residents who need help with family law issues and private landlord/tenant issues, but who cannot receive assistance due to our lack of resources to assist so many people. Finally, there are all those who receive information from our community presentations, our outreach events around the state, and our publications.

In 2008, all of the combined projects of NLS assisted nearly 250,000 people. The following are stories from a few:

"Susie" (she asked that her real name not be used) had emigrated to the U.S. for the opportunity to make a better life for herself. She worked hard and was able to help members of her family come to the U.S. as well. After working hard for many years, she was laid off. She had to get food stamps and rely on friends to help her pay rent, buy gas, and pay for other necessities. During this time, she was embarrassed and ashamed she could not support herself. When she found a job at a casino she was happy she would now be able to support herself and no longer needed food stamps. After about a year of working at the casino, she had only good reviews from her supervisors. One day, a customer was incredibly rude to a new co-worker. After he left the area, "Susie" went over to the new co-worker and made a comment about how rude the customer had been, hoping to make her feel better. Instead, this co-worker reported "Susie" to a manager and Susie was fired. When she applied for unemployment benefits, she was denied because she had been fired for misconduct. Since she was no longer receiving any income, she had to go back on food stamps and "Susie" became very depressed. A friend brought

her to NLS to see about appealing the decision. At the unemployment hearing, the hearing officer found she did not commit misconduct and was eligible for her unemployment benefits. She told our staff attorney that assisted her that whatever happened in the future, just knowing that when she was at her lowest, there was someone there to fight for her gave her her hope back.

A Pahrump senior (PS) called the Helpline requesting a will. PS had a disabled daughter and PS wanted to give her home to the daughter in the will. Because the daughter received Medicaid, we advised PS that the home might disqualify the daughter from Medicaid assistance if the daughter did not live in the home. Since the disabled daughter did not want to move from her subsidized housing, we drafted documents to help this client avoid jeopardizing her daughter's Medicaid and housing assistance, while still providing for her disabled daughter.

The downturn in the economy has only increased the number of people who are

being denied benefits of all types; who are losing their homes; and who are homeless. NLS staff members see people at their times of crisis and just a little help can make a huge difference in the lives of our clients. NLS' challenge in the coming year is to find ways to provide help to the increasing numbers needing our assistance while our own resources are declining. The creation of our Helpline and the Self-Help Centers are two ways NLS tries to serve as many as possible. Another way in which NLS can assist more people is through our various Pro Bono projects. Volunteer opportunities range from answering questions on our Helpline, to providing limited representation in housing cases, mortgage modifications, and tax issues.

With the generous help of private attorneys willing to donate their time, and with the dedication of our staff, NLS will continue to be that last bastion of hope for low-income Nevadans.

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IOLTA FORM

INSTRUCTIONS: (1) COMPLETE THIS FORM, (2) TAKE THIS FORM TO A FINANCIAL INSTITUTION ELIGIBLE TO OFFER IOLTA ACCOUNTS, (3) SEND A COPY OF THE COMPLETED FORM TO THE NEVADA LAW FOUNDATION WITH A LIST OF ALL LAWYERS IN LAW FIRM.

Please note that in order for the Nevada Law Foundation to receive the interest off you client's trust account, it is crucial that you inform the bank that the account is to be set up as an IOLTA account.

To: The Nevada Law Foundation
500 S. Seventh Street
Las Vegas, NV 89101

Phone: 702-384-1204
Fax: 702-384-4149
Email: sbaucumnlf@aol.com

The undersigned hereby enrolls in the Nevada Law Foundation's Interest On Lawyers' Trust Account (IOLTA) Program established by the Supreme Court of Nevada. Under this program, please open (if new), or change the status of my/our law firm's existing trust account to an interest-bearing account of a type authorized by Supreme Court Rules 216-221.

FIRM NAME: _____

ATTORNEY NAME: _____

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: _____

FINANCIAL INSTITUTION NAME: _____

ACCOUNT NUMBER: _____

FINANCIAL INSTITUTION INFORMATION

We are required to participate in the IOLTA Program established by the Supreme Court of Nevada, under which a law firm of individual lawyer must deposit client funds in an interest-bearing checking account with the interest payable to the Nevada Law Foundation, a qualified charitable organization.

We presently have a non interest-bearing client trust account, Account No. _____, which we request that you convert to an interest-bearing IOLTA checking account bearing the same number, so we can continue to use our existing checks. No change is made in the authorized signatures on file with your institution.

We presently do not have a checking account for our client trust funds and must establish an IOLTA checking account for those funds.

Please advise us what you need, in addition to agreeing to the following conditions governing our IOLTA account:

1. Funds deposited in this negotiable order of withdrawal account will be kept separate from the law firm or individual lawyers' general account.
2. Interest earned (net of customary service charges of fees, if any) will be remitted at least quarterly to the Nevada Law Foundation.
3. Information Returns (1099's) if required will show the Nevada Law Foundation, Tax I.D. No. 88-0191854 as recipient of interest.
4. With each remittance of interest to the Nevada Law Foundation, a statement or other document will be forwarded showing the name of the law firm and individual lawyer's trust account on which interest was earned.
5. The law firm or individual lawyer in whose name this account is carried will receive a regular monthly statement customary to the account.

AUTHORIZED SIGNATORIES

DATE

ROBERT AND TRACY EGLET, CO-CHAIRPERSONS

and

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Nevada Law Foundation

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The logo features a large, stylized number '25' with a decorative, cracked or marbled texture. To the right of the '5' is a small 'th' in a cursive font. Below the '25th' is the word 'ANNIVERSARY' in a bold, serif, all-caps font.

ANNIVERSARY

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