

**IN THE SUPREME COURT OF  
FLORIDA IN RE:  
AMENDMENTS TO THE  
RULES REGULATING THE  
FLORIDA BAR –  
MISCELLANEOUS**

**CASE NO. SC2022-1292**

**COMMENT OF THE FLORIDA CIVIL LEGAL AID  
ASSOCIATION IN RESPONSE TO THE FLORIDA BAR'S REPORT  
ON IMPLEMENTATION STATUS**

**I. Introduction**

The Florida Civil Legal Aid Association (FCLAA) files this comment and joins The Florida Bar in requesting that this Court deny the Florida Bankers Association's (Bankers Association) motion for rehearing.

The Bar's Second Report shows that, without question, the new rule is working exactly as planned and is producing much needed funds that will provide additional core legal help for Florida's poor.

Although this Court's order directs that interested parties file comment with regard to the Bars' most recent Report on how the new rule is working, FCLAA is compelled to state it unequivocally disagrees with the statement of the Bankers Association in its comment that the funding derived from the Amended IOTA Rule,

which would otherwise be deposited into the coffers of the member banks, “goes well beyond what is tenable for legal aid agencies to responsibly administer, what is legitimately needed to provide effective assistance to our underserved communities, or what can be effectively deployed without risk of waste or fraud.” (Florida Banker’s Association’s Response to the Motion to Revise Comment Schedule, at fn.1) There is simply no basis for making that claim, particularly the assertion “what is legitimately needed to provide effective assistance to our underserved communities.” The Bankers Association seems to have no idea of the scope of the problem in providing legal services to the poor in Florida.

This position by the Bankers Association blatantly ignores:

- the reality of the legal issues faced by Florida’s poor and at-risk population,
- the struggle to deliver justice to often overwhelming numbers of unrepresented litigants faced by Florida’s judiciary, and most importantly,
- the established proven record of Florida’s legal aid groups in providing quality core legal services without any prior hint of waste or fraud.

As this Court is aware, it relatively recently appointed a Task Force to review the distribution of IOTA funds. *See In Re: Amendments to Rule Regulating The Florida Bar 5-1.1(G)*, 320 So.3d 671 (Fla. 2021). That Task Force in its Report to this Court specifically praised Florida’s established network of legal service providers and recommended that IOTA funds be distributed “only to those qualified grantees who have successful experience in providing qualified legal services.” IOTA Task Force Report, Sept. 15, 2020, Page 7. It seems highly unlikely that the Task Force would recommend future IOTA funds go to those same legal aid groups the Task Force praised if the Task Force thought there was any basis to conclude the funds would be wasted or otherwise misused.

The Bankers Association’s claims lack any factual basis and are otherwise untethered from reality. The increase in funding provided pursuant to the Amended IOTA Rule will enable Florida’s legal aid groups to use those critical necessary funds to sustain efforts started with federal pandemic dollars, all of which are terminating, and will provide the civil legal aid law firms some ability to provide critical unmet core legal needs faced by poor Floridians. Still, despite this increase, as will be explained below

and as was otherwise fully discussed in the earlier filed Comment of FCLAA, huge swaths of core issues, from general family law to problem-solving courts, continue to burden Florida's civil court system.

The burden is compounded by the uncertainty caused by the pending rehearing motion. It remains difficult to make plans or commitments to expand core legal services to the poor with no certainty the funds will remain available.

Simply put, the extra funding will be put to good use funding the core legal needs of Florida's poor, without fraud or waste. It will certainly better serve Florida's poor than it will if sitting in a bank account. Not only is this true and supported by the facts, but the full need is greater than the increased funds. Florida's civil legal aid law firms would benefit from *increased* funding, above even the current amounts, given the issues faced by Florida's poor and at-risk population, many of whom are employed in the very industries which are the backbone of Florida's economy.

## **II. Background**

FCLAA is a 501(c)(6) membership organization composed of the executive leadership of twenty-nine civil legal aid programs in Florida. It represents the interests of the civil legal aid firms

throughout Florida, and, by extension, the interests of the poor and at-risk Floridians served by civil legal aid. FCLAA's purpose is to promote collaboration within the legal aid community to achieve access to justice and equity in the law. All member organizations of FCLAA are also "qualified grantee organizations" as that term is defined by the IOTA Rule, Rule 5-1.1, Rules Regulating Trust Accounts.

### **III. Legal Aid's Role in the Justice System**

Civil legal aid lawyers meet routinely with local county and circuit judges (in addition to serving on the Pro Bono Committees for each judicial circuit) and regularly coordinate with elected officials, including clerks, property appraisers, county commissioners, and city councils, in support of their work narrowing the justice gap. Civil legal aid's role in meeting local requirements is codified in Florida law - Section 29.008, Florida Statutes. That statute requires the chief judge of each circuit issue a report and a tentative budget request each year, listing these local requirements, which shall include legal aid programs pursuant to Section 29.008(3)(a), Florida Statutes.

As such, legal aid lawyers are aware of the burdens placed on the judiciary in attempting to resolve cases for hundreds of

thousands of unrepresented litigants each year. This primarily includes parties in general family law cases. As former Florida Bar President Gregory W. Coleman noted in his Florida Bar Journal article, “Taking Aim at Solving Access to Justice” (2014), close to 85% of family law litigants are self-represented.

The unmet need in general family law does not include pass-through funding from the federal government for domestic violence victims, who are assisted by many civil legal aid firms. However, as noted in the FCLAA’s earlier comment, this funding, from the VOCA Trust Fund, is falling precipitously, with a 25% drop in 2022 and 2023, and a similar forecasted drop for 2024. Further, the massive influx of pandemic spending through the American Rescue Plan Act (ARPA) is drying up - all ARPA dollars must be obligated by December 2024, and certain types of ARPA funding must be spent by September 2024.

Other areas of concern, where civil legal aid lawyers are routinely asked to help and **must routinely decline** due to insufficient funding, include “problem solving” courts.<sup>1</sup> These

---

<sup>1</sup> Although the process is different in these courts, there is no question these courts are helping to solve core legal issues the courts must deal with every day.

courts, which include veterans' court and drug court are praised for their efficiency and are often staffed by legal aid lawyers in other states - but not Florida, which remains one of only two states nationally with zero general state funding. These are not areas where assisting the court would result in "waste or fraud" - these are core court functions where civil legal aid plays an integral role elsewhere, and hopefully will at some point play such a role in Florida with sufficient resources.

Other states see this, and supplement IOTA with state funding. The four states selected by the Bankers Association to discuss comparability, California, New York, Texas and Pennsylvania, all support civil legal aid with state court funding - Florida does not. Those states are thus not good models for analyzing comparability. A classic apples to oranges bad comparison.

As this Court noted in its opinion on amendments to Rule 5-1.1(g), in June 2021 there are significant needs of Florida's low-income population and significant funding gaps. This court stated it very well:

In the years since the IOTA program became operational, Florida's population, along with the need among its low-income citizens for direct civil legal services, has grown

significantly. Of Florida's approximately 7.5 million households, over 1 million live in poverty, and over 4.2 million Floridians have an income that is below 125% of the Federal Poverty Level, making them eligible for services from one of Florida's civil legal aid organizations. See Task Force on Distrib. of IOTA Funds, Final Report of the Task Force on Distribution of IOTA Funds, app. D (2020) (on file with Clerk, Fla. Sup. Ct.). Further, an estimated 5.87 million low-and-moderate income Floridians are likely to experience a civil legal issue each year, while roughly only 80,399 low-income Floridians are assisted annually by civil legal aid organizations. *Id.* At the same time, the amount of funds generated by the IOTA program on an annual basis has decreased sharply in recent years from a precipitous decline in interest rates and a host of other economic factors.

*In Re: Amendments to Rule Regulating the Florida Bar 5.1-1(g)*, 320 So.3d 671, 672 (Fla. 2021.) Those numbers show that a very, very small percentage of poor Floridians are receiving the legal help they need. Those numbers have not significantly changed since 2021.

#### **IV. Legal Aid's Support Role for Government Functions**

In addition to directly supporting the third branch of government in its core functions, legal aid plays an outsized role in combating those issues that burden our city and county governments. Following a disaster, for example, low-income families experience numerous legal challenges that legal aid regularly assists with, including access to FEMA assistance and insurance benefits, evictions and housing issues, document

replacement and fraud type scams. The pandemic did not make things easier for anyone, including local governments struggling to meet needs. For example, the percentage of children living in poverty more than doubled in 2022, and city and county governments throughout Florida are grappling with a well-publicized affordable housing crisis.

Here, too, civil legal aid assists in reducing that burden: represented tenants are more than twice as likely to remain housed or receive more time to avoid having an eviction, and 4 times less likely to use shelters.

## **V. Florida's Outsized Reliance on the Federal Government**

Because of Florida's extreme outlier status in the realm of state funding support, (again, one of only two states without general state funding) civil legal aid, and its integral role in supporting Florida's judicial system, is overly reliant on federal funding. In addition to funding for survivors of domestic violence (all pass-through federal dollars), critical funding for Florida's seniors is also federally based (pass-through Title III dollars,) as is the majority of the funding for civil legal aid in Florida, (federal funding provided by the Legal Services Corporation). Federal dollars mean federal strings and federal control, rather than the ability to direct funding

in-state to critical legal areas Floridians and Florida's court system want to focus on. Plus, as discussed above, many federal pass-through dollars are shrinking, while others (ARPA) are expiring.

## **VI. Conclusion**

This Court has a long history of supporting civil legal aid's role within the Florida justice system, and Florida's civil legal aid groups appreciate the Court's guidance and assistance. Without question Florida's civil legal aid groups will work with Funding Florida Legal Aid to ensure that the IOTA funds being generated as of the result of the Amendments to the IOTA rule adopted by the court in this case will go to funding core legal issues the poor in Florida face every day, without fraud or waste.

The Florida Civil Legal Aid Association supports the Report on Implementation Status filed by The Florida Bar and joins the Bar in requesting the Court accept The Bar's Report and deny the pending motion for rehearing of the Florida Bankers Association.

Respectfully submitted,

/s/Thomas D. Hall

Thomas D. Hall  
Florida Bar Number 310751  
thall@bishopmills.com  
service@bishopmills.com  
Bishop & Mills PLLC  
510 N. Julia Street

Jacksonville, Fl 32202  
(904) 598 0034

*Counsel for Florida Civil Legal Aid  
Association*

### **CERTIFICATE OF TYPE SIZE AND STYLE**

I HEREBY CERTIFY that this petition is typed in 14-point Bookman Old Style font.

/s/Thomas D. Hall  
Thomas D. Hall  
Florida Bar Number 310751

### **CERTIFICATE OF SERVICE**

I certify that on May 15, 2024, the foregoing was filed and served via the State of Florida's E-Filing Portal to:

Bethanie A. Barber, Legal Aid Society of the Orange County Bar Association, Inc. ([bbarber@legalaidocba.org](mailto:bbarber@legalaidocba.org))

Joshua K. Brown ([jkbserve@petersonmyers.com](mailto:jkbserve@petersonmyers.com))

E. Ginnette Childs, for Florida Bankers Association  
([ginny.childs@akerman.com](mailto:ginny.childs@akerman.com))([kathry.odom@akerman.com](mailto:kathry.odom@akerman.com))

Thomas H. Dart ([tom.dart@arlaw.com](mailto:tom.dart@arlaw.com))

Diane G. Dewolf, for Florida Bankers Association  
([diane.dewolf@akerman.com](mailto:diane.dewolf@akerman.com))([elisa.miller@akerman.com](mailto:elisa.miller@akerman.com)  
[myndi.qualls@akerman.com](mailto:myndi.qualls@akerman.com))

Rebecca Dolman ([becky@dolmanlaw.com](mailto:becky@dolmanlaw.com))

Jason Gonzalez for Florida Chamber of Commerce  
([jason@lawsonhuckgonzalez.com](mailto:jason@lawsonhuckgonzalez.com))  
([marsha@lawsonhuckgonzalez.com](mailto:marsha@lawsonhuckgonzalez.com))([michelle@lawsonhuckgonzalez.com](mailto:michelle@lawsonhuckgonzalez.com))

Jeffrey D. Harvey ([jeffh@clsmf.org](mailto:jeffh@clsmf.org))([sandrac@clsmf.org](mailto:sandrac@clsmf.org))  
[jeffrey.harvey@me.com](mailto:jeffrey.harvey@me.com))

Joseph D. Hudgins ([joseph.hudgins@gmail.com](mailto:joseph.hudgins@gmail.com))

Jeffry R. Jontz ([jjontz@fishbacklaw.com](mailto:jjontz@fishbacklaw.com))

Richard M. Klitenick ([richard@rmkpa.com](mailto:richard@rmkpa.com))

Karen J. Ladis, Dade Legal Aid ([kladis@dadelegalaid.org](mailto:kladis@dadelegalaid.org))

Dominic C. MacKenzie, FFLA ([dmackenzie@flabarfndn.org](mailto:dmackenzie@flabarfndn.org))

Lesley S. Mendoza, CABA Pro Bono Legal Services  
([Lesley@cabaprobono.com](mailto:Lesley@cabaprobono.com))

Seth E. Miller, Florida Innocence Project  
([smiller@floridainnocence.org](mailto:smiller@floridainnocence.org))

Colleen Mullen, Florida Pro Bono Coordinators Association  
([Fpbca4u@gmail.com](mailto:Fpbca4u@gmail.com))

Mariana Munoz ([mariana.munoz@akerman.com](mailto:mariana.munoz@akerman.com);  
[ann.lambert@akerman.com](mailto:ann.lambert@akerman.com))

Anthony C. Musto for The Florida Bar Public Interest Law Section  
([amusto@stu.edu](mailto:amusto@stu.edu))([villeanddale@gmail.com](mailto:villeanddale@gmail.com))

Jimmy Patronis, Chief Financial Officer, State of Florida  
([CFO.Patronis@myfloridacfo.com](mailto:CFO.Patronis@myfloridacfo.com))

Stephen R. Senn for FFLA  
([srsservice@petersonmyers.com](mailto:srsservice@petersonmyers.com))([ssenn@petersonmyers.com](mailto:ssenn@petersonmyers.com))

Jodi Siegel, Southern Legal Counsel, Inc.  
([jodi.siegel@southernlegal.org](mailto:jodi.siegel@southernlegal.org))

Katherine DeBriere, Florida Health Justice Project  
([debriere@floridahealthjustice.org](mailto:debriere@floridahealthjustice.org))

Sharlene C. Stanford, IDignity ([sharlene.stanford@idignity.org](mailto:sharlene.stanford@idignity.org))

Michael G. Tanner ([mtanner@gunster.com](mailto:mtanner@gunster.com))

W. Douglas White, Northwest Florida Legal Services, Inc.  
([whited@nwfls.org](mailto:whited@nwfls.org))

Richard C. Woltmann, Bay Area Legal Services  
([dwoltmann@bals.org](mailto:dwoltmann@bals.org))

Chris W. Altenbernd, for The Florida Bar  
([servicecaltenbernd@bankerlopez.com](mailto:servicecaltenbernd@bankerlopez.com))

Joshua E. Doyle, Florida Bar ([jdoyle@floridabar.org](mailto:jdoyle@floridabar.org))

F. Scott Westheimer ([rules@floridabar.org](mailto:rules@floridabar.org))

Roland Sanchez-Medina ([rules@floridabar.org](mailto:rules@floridabar.org))

Rosalyn Sia Baker Barnes ([rules@floridabar.org](mailto:rules@floridabar.org))

Elizabeth Clark Tarbert ([rules@floridabar.org](mailto:rules@floridabar.org))

Service was separately mailed to: Frederick G. Pullum, One Florida  
Bank, 33 West Pineloch Avenue, Suite A, Orlando, FL 32806

/s/Thomas D. Hall

Thomas D. Hall

Florida Bar Number 310751