

# LISP NEWSLETTER

## A Publication of the Legal Information Services to the Public Special Interest Section of the American Association of Law Libraries

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### From the Editor

Ahhhh, Spring has sprung! The cherry blossoms are ready to pop and the warmer weather is upon us. I, for one, am looking forward to summer—even with the humidity of D.C—after one of the snowiest winters around here on record. I hope that the Spring finds you all well and hearty.

Welcome Pam Tull as our new webmaster. She's done a terrific job of updating the website. The newsletter will now be published in pdf so you may find a different look and feel to future issues.

See you in Seattle!

Debby Norwood  
Editor

### Volunteer in Seattle at AALL

We need you! Join the group of interesting and dedicated people volunteering their time to help make the 2003 Annual Meeting a great success!

How can you help? There are a variety of activities available -- pick the ones that interest you most! For example:

- meet new people and see old friends while working at the
- Registration Desk
- write articles for the daily newspaper, "Coffee Talk"
- help "stuff" conference tote bags (Friday July 11)
- take tickets and seat individuals at the Association luncheon
- and
- closing banquet
- work with children at the Family Social Hour (Saturday July 12)

Volunteers really help the conference run smoothly, and it's a lot of fun! Thanks in advance!

Please complete the Volunteer Opportunities Form available on the AALL website (<http://www.aallnet.org/committee/local03/>) and in the Preliminary Program by June 1, 2003, and fax/send/email it to:

Ann Hemmens  
University of Washington  
Gallagher Law Library  
1100 NE Campus Pkwy.  
Seattle, WA 98105  
FAX: (206) 685-2165  
PHONE (206) 543-7672  
[hemmens@u.washington.edu](mailto:hemmens@u.washington.edu)

## **RESEARCH GRANTS AVAILABLE**

The Research Committee of the American Association of Law Libraries is accepting applications through **May 5** for grants from the AALL Research Fund. The committee will award one or more grants totaling up to \$5,000 to library professionals who want to conduct research that affects librarianship.

Established with an endowment from LexisNexis™ in July 2000, the annual grants fund projects that create, disseminate or use legal and law-related information. The Association's Research Agenda offers suggestions for research projects that cover the profession of law librarianship, law library patrons, law library services, legal research and bibliography, legal information resources and law library facilities. However, projects are not limited to those described in the agenda; the committee will consider all applications and research projects. To review AALL's complete Research Agenda, please go to: [http://www.aallnet.org/about/research\\_fund.asp](http://www.aallnet.org/about/research_fund.asp).

To apply for the grants, all applicants must provide resumes and statements of their qualifications for carrying out their projects. The applications must demonstrate experience with research projects and an understanding of the dissemination and use of legal and law-related information. Priority will be given to practicing law librarians and AALL members, working individually or in partnership with other information professionals. The grant application and complete guidelines are available at [http://www.aallnet.org/about/research\\_fund.asp](http://www.aallnet.org/about/research_fund.asp).

The submission deadline for applications is **May 5**. Grants will be awarded and announced by July 1. Allocation of the research grants will be at the sole discretion of the AALL Research Committee.

**For more information** Kumar Percy, Chair of the AALL Research Committee, by email at [kpercy@mail.law.utexas.edu](mailto:kpercy@mail.law.utexas.edu) or by phone at 512-232-1568.

### **SWALL Legal Information Services to the Public Committee**

The SWALL Legal Information Services to the Public Committee, held its annual pre-conference program, "Basic Legal Research for the Non-Law Librarian," on Thursday, April 3 in Kansas City. The Committee sponsors the program before the SWALL Annual Meeting for public and academic librarians in the city where the meeting is held. The program covers: conducting the legal reference interview, statutes, case law and the court system, and legal resources on the internet. The program always draws rave reviews. We charge a \$5.00 registration as a means of knowing how many people will attend. The money is applied to the cost of refreshments.

### **IOLTA DECISION, by Beth Schneider**

On March 26, 2003, in Brown v. Legal Foundation of Washington, 71 U.S.L.W. 4221, the United State Supreme Court held that Interest on Lawyer Trust Accounts (IOLTA) programs do not violate the Fifth Amendment taking clause because a client whose money is held in such an account suffers no pecuniary loss. The 5-4 decision, which brings to a close years of litigation, is seen by IOLTA supporters as a victory for the poor who need legal representation.

Lawyers are required to deposit certain client funds, retainers not yet earned, or funds received on behalf of clients, money from a settlement, in trust accounts. The use of trust accounts prevents the commingling of client money with the attorney's personal or professional funds. Initially banks kept the interest earned on pooled client accounts. However, changes in the federal banking law allowed banks to pay interest on demand deposits. The new procedures provided the impetus for the idea that the interest generated by clients' funds could be used to raise money for legal aid projects when the interest is paid directly to state programs which then provide funding grants for nonprofit legal aid organizations.

Florida established the first IOLTA program in 1981. Other states developed programs and now all 50 states and the District of Columbia have IOLTA programs. According to the New York Times, IOLTA programs now provide \$160 million annually in funding to legal services organizations.

The Washington Legal Foundation, a conservative, District of Columbia based public law firm, first challenged the Massachusetts IOLTA program. The First Circuit upheld the Massachusetts program in Washington Legal Foundation v. Massachusetts Bar Foundation, 993 F2d 962 (1<sup>st</sup> cir. 1993). However, rather than appeal, the Washington Legal Foundation focused its attention on Texas. Washington Legal Foundation v. Texas Equal Access to Justice (Texas Equal Access to Justice) began its journey through the Federal Courts. The first series of decisions culminated in Phillips v. Washington Legal Foundation, 524 U.S. 156, 118 S. Ct. 1925 (1998), which held that interest earned on

IOLTA accounts constituted client property, but remanded the case for determination on whether a compensable taking occurred.

As the Fifth Circuit was considering on remand whether a compensable taking occurred, the Ninth Circuit was also considering the issue in Washington Legal Foundation v. Legal Foundation of Washington. The resulting decisions resulted in a split in the Circuits. The Fifth Circuit held in Texas Equal Access to Justice, 270 F3d 180 (5<sup>th</sup> cir. 2001), that an unconstitutional taking did occur. In Legal Foundation of Washington, 271 F3d 835 (9<sup>th</sup> Cir. 2001), the Ninth Circuit determined that there was no unconstitutional taking. The United States Supreme Court granted certiorari in the consolidated cases, resulting in the opinion released in March in Brown v. Legal Foundation of Washington.

The impact of the decision is that legal services organizations, which have seen their budgets reduced, will continue to receive IOLTA funding. The IOLTA funding constitutes approximately 15% of their budgets. As a result, people who would otherwise be unable to afford legal services will be able to obtain them. The number of poor people who need legal services but cannot afford to hire an attorney is clear evidence that traditional pro bono efforts do not come close to meeting the demand. While IOLTA funding does not and cannot solve the supply problem, IOLTA proponents see it as making a substantial and important contribution to ensuring that those who cannot afford to retain an attorney are not denied legal representation.