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June 10, 2004

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Indiana Pro Bono Commission Passes Resolution Advocating a Mandatory IOLTA Program and the Inclusion of Title Companies

On June 7th the Indiana Pro Bono Commission passed a resolution advocating the conversion of Indiana's Interest on Lawyers' Trust Account (IOLTA) program from opt-out participation to mandatory participation for Indiana lawyers. The IPBC also passed a resolution supporting the inclusion of title companies in the IOLTA program.

Indiana is currently one of a minority of states that operates an opt-out IOLTA program. Opt-out IOLTA programs allow lawyers to choose whether they wish to participate. The majority of states have adopted mandatory IOLTA programs. Mandatory IOLTA programs require all lawyers within the state who maintain client trust accounts to participate in the program by depositing client funds in a pooled interest-bearing trust account, with interest earned going to the IOLTA program. Such client funds can otherwise not earn income for the client in excess of the costs incurred. In 2003 the United States Supreme Court upheld the constitutionality of the structure of mandatory IOLTA programs in the Brown v. Washington Legal Foundation case.

The Indiana Pro Bono Commission was established by the Indiana Supreme Court under Rule 6.5 to help address the need for trained pro bono attorneys to provide quality civil legal representation for low-income individuals and families. To fund this initiative, the Court decided in 1999 to become the 50th state in the nation to establish an IOLTA program and designated the Indiana Bar Foundation as the administrator of the IOLTA program and made the Indiana Pro Bono Commission a program of the Foundation. The Commission advocates the conversion to a mandatory IOLTA program and encourages other legal organizations as well as attorneys statewide to demonstrate to the Indiana Supreme Court endorsement for the conversion from the legal community.

“Conversion of Indiana's IOLTA program from opt-out to mandatory would significantly enhance the ability of the Indiana Bar Foundation and the Indiana Pro Bono Commission to fund the pro bono initiatives and law related education throughout Indiana,” stated Charles Dunlap, Executive Director of the Indiana Bar Foundation. Dunlap also stated that inclusion of title companies in the IOLTA program would help generate funds to further programs that improve the administration of justice. “Those states that have title companies participating in their IOLTA program have seen increases in IOLTA revenue where the rest of the states have seen significant declines due to the historically low interest rates banks offer on IOLTA accounts. Diversification of funding sources in IOLTA is crucial to protecting the long-term financial stability of Indiana's statewide pro bono network.”

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