

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEP 05 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

IN THE MATTER OF)
AMENDMENTS TO SUPREME)
COURT RULE 216: *client interest*)
bearing trust accounts: creation)
of foundation)

ADKT NO. 0479

In accordance with N.R.A.D. 3.2, the board of governors of the State Bar of Nevada and the Nevada Law Foundation (Foundation) hereby jointly petition this honorable Court to amend Supreme Court Rule 216, as fully set forth in Exhibit 1 and further explained herein, to (1) decrease the mandatory size of the Foundation board and (2) provide that vacancies are filled by the original appointing entity.

DISCUSSION OF PROPOSED RULE CHANGES

The first change requested by the Foundation concerns the size of the Foundation board. Presently, as it has been for the past twenty years, the Nevada Law Foundation is the designated tax-exempt foundation responsible for the administration of the IOLTA program (interest on lawyer trust accounts).

The Foundation is an independent 501(c)(3) whose mission statement includes the fiduciary responsibilities entrusted to it by the Court and the State Bar for the administration of IOLTA funds, in addition to the broader goal of supporting the administration of justice and all programs providing civil services in the continuum of care to the indigent and needy in the state.

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CLERK OF SUPREME COURT
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1 As part of ongoing efforts to improve efficiencies and meet the needs of
2 the Foundation's beneficiaries, the Foundation Board has in collaboration with
3 the State Bar, the Court, and the Access to Justice Commission made several
4 changes over the past few years including changes to its organizational
5 structure.

6 Now that the Foundation is well established under its new management
7 modality, it is apparent that efficiencies would be better served with somewhat
8 flexible board parameters. Quorums can be difficult to attain at higher numbers
9 when dealing with a board comprised of busy professionals, who despite their
10 dedication to the Foundation still nonetheless have other obligations that
11 occasionally take precedence.

12 Under the proposed new model with a minimum of eleven and a
13 maximum of nineteen members, the Court and the Bar will maintain oversight
14 of the Foundation Board through the member appointment process without
15 requiring a rule change every time the size requirements of the board fluctuate
16 with the changing needs of its mission.

17 **Rule 216. Creation of foundation.**

18

19 2. The governing body of the designated bar foundation shall be
20 composed of [~~twenty-one~~] **a minimum of eleven and no more than
seventeen** members. **At maximum capacity, [Fourteen] twelve** of
the members shall be members in good standing of the state bar, and

1 [seven] **five** shall be lay persons who have knowledge of and are
2 acquainted with the needs of the poor, victims of domestic violence,
3 and children protected by or in need of protection of the juvenile
4 court. **The Board shall include at least four lay persons at all**
5 **times.**

6

7 ~~[4.—In even numbered years, the supreme court shall appoint for~~
8 ~~two year terms, commencing June 30th, seven attorneys and four lay~~
9 ~~persons as members of the governing body of the bar foundation.~~

10 ~~5.—In odd numbered years, the board of governors of the state bar~~
11 ~~shall appoint for two year terms, commencing June 30th seven~~
12 ~~attorneys and four lay persons as members of the governing body of~~
13 ~~the bar foundation.]~~

14 **4. All appointments shall be for a term of two years**
15 **commencing June 30th, to be made by the supreme court in even-**
16 **numbered years and by the state bar board of governors in odd-**
17 **numbered years.**

18 The second proposed change provides that vacancies are filled by the
19 entity which filled the original appointment, either the Court or the State Bar
20 respectively. This simplifies housekeeping and keeps the spirit of the Rule
providing that the Court and the Bar share in the nomination process. Whereas

1 all appointments are ultimately filed with the Court, this does not present a
2 substantive change in process.

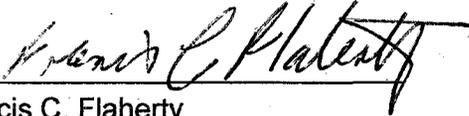
3
4 6. Vacancies on the governing body of the bar foundation shall be
5 filled by [~~the supreme court~~] the original appointing entity by
6 appointment.

7
8 CONCLUSION

9 The Nevada Law Foundation and its beneficiaries would be better served
10 with a smaller mandated board and some limited flexibility in the required
11 maximum number of members. Whereas under the changes recommended
12 herein the Court and the State Bar maintain the necessary oversight of IOLTA
13 administration mandated by the Rule, the Board of Governors joins the
14 Foundation in requesting that this honorable Court approve the amendments set
15 forth in Exhibit 1.

16
17 RESPECTFULLY SUBMITTED THIS 20 DAY OF August 2012.

18 By: 
19 Dara Goldsmith, Esq.
20 Chairperson
Nevada Law Foundation
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By: 
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1
2 **EXHIBIT 1**

3 **Rule 216. Creation of foundation.**

4 1. The board of governors, with the approval of the supreme court, shall
5 designate a tax-exempt bar foundation for the purposes of providing legally-
6 related services to the poor, to the victims of domestic violence, and to children
7 protected by or in need of protection of the juvenile court; promoting or
8 providing law-related educational programs for members of the public; and
9 providing similar programs which qualify for tax-exempt status by the United
10 States Internal Revenue Service under I.R.C. section 501(c)(3) or any additions
11 thereto or amendments thereof. To carry out these purposes, the bar foundation
12 may utilize the income accrued from interest-bearing client's trust accounts
(IOLTA funds) as authorized by Rules 216 through 221, and as the supreme
court may otherwise order.

13 (a) A major portion of all IOLTA funds shall be disbursed for the purposes of
14 providing legally-related services to the poor, to victims of domestic violence,
15 and to children protected by or in need of protection of the juvenile court. The
16 remainder of the IOLTA funds shall be spent as the bar foundation deems
appropriate, keeping in mind the purposes set forth in this rule.

17 (b) Among factors to be considered in disbursing the funds should be the
18 geographic origin of the funds.

19 2. The governing body of the designated bar foundation shall be
20 composed of [~~twenty one~~] **a minimum of eleven and no more than**

1 seventeen members. At maximum capacity, [Fourteen] twelve of the
2 members shall be members in good standing of the state bar, and [seven]
3 five shall be lay persons who have knowledge of and are acquainted with
4 the needs of the poor, victims of domestic violence, and children protected
5 by or in need of protection of the juvenile court. The Board shall include
6 at least four lay persons at all times.

7 (a) None of the members of the bar foundations' governing body shall also be
8 a member of the board of governors of the state bar or be related to any member
9 of the board of governors within the third degree of consanguinity.

10 (b) The members of the bar foundations' governing body shall not be members
11 of the governing body or employees of grantee organizations.

12 3. The terms of office of the members of the governing body of the bar
13 foundation shall be staggered. Each member shall be appointed for a term of
14 two years. No member may serve on the governing body for more than a
15 lifetime total of ten years. The time served in filling a partial term created by a
16 vacancy shall not be included in computing the ten year lifetime limit.

17 4. All appointments shall be for a term of two years commencing June
18 30th, to be made by the supreme court in even-numbered years and by
19 the state bar board of governors in odd-numbered years.

20 ~~[4. In even-numbered years, the supreme court shall appoint for two year~~
~~terms, commencing June 30th, seven attorneys and four lay persons as~~
~~members of the governing body of the bar foundation.~~

1 ~~5. In odd numbered years, the board of governors of the state bar shall~~
2 ~~appoint for two year terms, commencing June 30th seven attorneys and four~~
3 ~~lay persons as members of the governing body of the bar foundation.]~~

4 [6] 5. Vacancies on the governing body of the bar foundation shall be filled
5 by [the supreme court] the original appointing entity by appointment.

6 [7] 6. The principal office of the bar foundation shall be situated in Clark
7 County.

8 Deleted material noted in [bracketed ~~strikeout~~] and new language **bold**
9 **underscored**