

QUESTIONS AND ANSWERS
PETITION TO INCREASE THE FLORIDA BAR MEMBERSHIP FEE CAP
TO FUND LEGAL AID

1. Why is additional funding for legal aid critically needed? Because of the historic low interest rates, Interest on Trust Accounts (IOTA) revenue which is used by The Florida Bar Foundation (TFBF) to fund legal aid to the poor has been reduced from \$44 million in 2007 to \$5.58 million in 2012. TFBF has reduced its grants to legal aid programs and is projecting a reduction of 76% by the 2015-2016 grant year. In 2010 there was the equivalent of 449 attorneys working in legal aid but that number has decreased to 373 by the end of 2013. The number is continuing to decline which is already harming the critical infrastructure of legal aid in Florida.

2. What is the Petition requesting? The petition is requesting the Florida Supreme Court to increase the cap on The Florida Bar annual membership fee, currently set at \$265.00, by \$100.00 with any increase above \$265.00 to go to The Florida Bar Foundation to fund legal aid. The amount of the membership fee increase would be set by the Board of Governors of The Florida Bar. The maximum permissible membership fee would be \$365.00 per year.

3. What is the process for filing the Petition with the Florida Supreme Court? A draft of the Petition was sent to The Florida Bar as a courtesy on September 24, 2013. Pursuant to Rule 1-12.1, Rules regulating The Florida Bar, 50 or more active members of The Florida Bar must join in the petition and then it is to be filed with The Florida Bar. Ninety days after the Petition was filed with The Florida Bar on February 26, 2014, the petitioners may file it with the Florida Supreme Court.

4. Who is supporting the Petition? Over 180 attorneys have signed the Petition filed with The Florida Bar and more are expected to join before it is filed with the Court. Former Justice Raoul Cantero at White & Case is the attorney for the Petitioners which already include two (2) other former justices of the Florida Supreme Court, three (3) former presidents of The Florida Bar and nine (9) former presidents of The Florida Bar Foundation. Other active members and leaders of The Florida Bar have joined and signed the Petition.

5. Have other states increased bar membership fees to fund legal aid? Yes. Six states have increased membership dues, in different amounts, to fund legal aid: Illinois, Missouri, New York, Pennsylvania, Texas and Wisconsin.

6. How does The Florida Bar membership fee compare with other states? The Florida Bar membership fee, at \$265.00 per year, is relatively low and has not been increased since 2001. If the fee had been indexed to inflation, it would have risen by \$84.00. If the Petition is granted and the board of Governors increases the fee by the full \$100.00 to respond to the critical need, the annual membership fee would be \$365.00, a dollar a day, and would compare favorably to membership fees of, for example: Alabama (\$300), Alaska (\$660), Kentucky (\$350), Nevada

(\$450), New Hampshire (\$520), Oregon (\$522) and Wyoming (\$355). Of the 30 unified bars—meaning a mandatory membership bar, i.e., an organization established by court rule or legislation which lawyers must join in order to practice law in that jurisdiction— Florida ranks 20th nationally in the amount of its dues. If dues are raised \$100 as proposed here, Florida would rank 11th out of 30.

7. Why can't the State of Florida fund this? After passage of the Florida Access to Civil Legal Assistance Act, the Legislature has only appropriated a modest amount of funding. But during the past three years, the Governor has line item vetoed it each year. It is anticipated it will continue to be vetoed. Plus the amount appropriated the past 3 years--\$2 million in FY 2012-2013 and \$1 million in FY 2011-2012 and FY 2013-2014 -- is not nearly enough to solve the current crisis.

8. Why is this the Bar's responsibility? As attorneys, we are given the privilege to practice law, and with this privilege comes the responsibility to assist people in obtaining access to courts and our system of justice. As stated by the Florida Supreme Court "Lawyers have been given a special boon by the State of Florida- they in effect have a monopoly on the public justice system. In return, lawyers are ethically bound to help the State's poor gain access to that system." *Amendments to Rule 4-6.1 of the Rules Regulating The Florida Bar- Pro Bono Pub. Ser.*, 696 So. 2d 734 (Fla. 1997). A \$100 a year membership fee increase shared by all attorneys is a modest way to ensure the strides made over the past two decades do not deteriorate, and the justice system is not reserved only to those who can afford it.