



# THE SUPREME COURT *of* OHIO



## ATTORNEY SERVICES FUND 2016 ANNUAL REPORT



# THE SUPREME COURT *of* OHIO

## ATTORNEY SERVICES FUND ANNUAL REPORT

Summary of Activity for Fiscal Year 2016  
and Report on Allocations for Fiscal Year 2017

OCTOBER 2016



PRESENTED TO

**MAUREEN O'CONNOR**

CHIEF JUSTICE

**PAUL E. PFEIFER**

**TERRENCE O'DONNELL**

**JUDITH ANN LANZINGER**

**SHARON L. KENNEDY**

**JUDITH L. FRENCH**

**WILLIAM M. O'NEILL**

JUSTICES

PRESENTED BY

**MICHAEL L. BUENGER**

ADMINISTRATIVE DIRECTOR

**SUSAN B. CHRISTOFF**

DIRECTOR OF ATTORNEY SERVICES

# OFFICE OF ATTORNEY SERVICES

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# THE SUPREME COURT *of* OHIO

To: Chief Justice Maureen O'Connor and Justices  
Members of the Ohio Bar  
Members of the Public

This Annual Report on the Attorney Services Fund provides a summary of the activity of the Attorney Services Fund for Fiscal Year 2016 (July 1, 2015 – June 30, 2016), and sets out budget allocations from the fund as approved by the Supreme Court for Fiscal Year 2017 (July 1, 2016 – June 30, 2017).

The report includes a review of the fund's balance and projections, audit information, and investment policy. This information is provided for informational purposes only and is not to be considered a final or complete audit or financial statement of fund activity during the period covered in the report. The Auditor of State conducts an audit of the fund as part of the regular biennial audit of the Supreme Court of Ohio.

Respectfully submitted,



Michael L. Buenger, Esq.  
Administrative Director



Susan B. Christoff, Esq.  
Director of Attorney Services



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## I. Attorney Services Fund; Registration Requirements and Fees

Article IV of the Ohio Constitution vests plenary authority with the Supreme Court of Ohio to regulate all aspects of the practice of law in Ohio, including admission to the practice of law, the discipline of persons admitted to the practice of law, and all other matters relating to the practice of law. In furtherance of this responsibility and in order to maintain an independent and self-funded regulatory system, the Supreme Court assesses and collects various fees and other moneys pursuant to the Supreme Court Rules for the Government of the Bar of Ohio. All moneys collected pursuant to the rules, other than those related to the bar admissions process and pro hac vice admission, are deposited in the Attorney Services Fund.

### Biennial Registration Requirements and Fees

Rule VI of the Supreme Court Rules for the Government of the Bar of Ohio (Gov.Bar R. VI) imposes a biennial registration requirement on each attorney practicing law in the state of Ohio. Each attorney licensed to practice law in the state, except for attorneys who are on inactive or retired status, and each non-Ohio attorney registered for corporate status, must register with the Court on or before the first day of September in each odd-numbered year and pay a \$350 registration fee. Registration fees are reduced or waived for attorneys who are admitted to practice in the second year of the registration biennium. Revenues from attorney registration fees are significantly lower in odd-numbered fiscal years because attorneys are required to register with the Supreme Court during even-numbered fiscal years.

The Supreme Court imposes monetary sanctions on attorneys who fail to register timely. Gov.Bar R. VI imposes a late registration fee of \$50 on any attorney who fails to register by the due date. An attorney who remains unregistered more than sixty days after the due date is summarily suspended from the practice of law and must register, pay all outstanding registration fees, and pay a \$300 reinstatement fee in order to be reinstated to the practice of law.

### Attorney Services Fund

Gov.Bar R. VI registration, late registration, and reinstatement fees are paid into the fund. The fund also receives revenue from other sources pursuant to the Rules for the Government of the Bar, including cost reimbursements from disciplined attorneys and civil penalties and costs assessed against persons who are found to have engaged in the unauthorized practice of law.

Pursuant to Gov.Bar R. VI, Section 14, the moneys in the fund are used to (1) investigate complaints alleging misconduct pursuant to Gov.Bar R. V or Gov.Jud. R. II and alleging unauthorized practice of law pursuant to Gov.Bar R. VII, (2) support the activities of the Lawyers' Fund for Client Protection, the Commission on Continuing Legal Education, and the Board on the Unauthorized Practice of Law; (3) fund any activity considered necessary by the Supreme Court for the government of the bar and the judiciary of Ohio; and (4) support any activities related to the administration of justice considered necessary by the Supreme Court.

*Schedule 1* of this Report contains a summary of fund expenditures for Fiscal Years 2015 and 2016 and allocations for Fiscal Years 2016 and 2017.

## II. Summary of Fund Activity in Fiscal Year 2016

In Fiscal Year 2016, \$8,932,212 was expended from the Attorney Services Fund.

### Disciplinary-Related Expenses

In Fiscal Year 2016, \$5,383,415 was used to fund the disciplinary process established by the Court in Gov.Bar R. V and Gov.Jud. R. II, "Disciplinary Procedure." This is 60.27 percent of total fund expenditures in FY 2016. Of this amount, \$2,887,559 was expended by the Office of Disciplinary Counsel, which accounts for the entire operational budget of that office.

A total of \$682,474 was expended by the Board on Professional Conduct to fund the operations of the Board. An additional \$1,810,419 was expended by the Board to reimburse local bar association certified grievance committees for disciplinary related activities.

An additional \$2,963 was expended for costs related to proceedings under Rule II of the Supreme Court Rules for the Government of the Judiciary, "Disciplinary Proceedings." This amount was not included in the original FY 2016 budget.

### Lawyers' Fund for Client Protection

Since 1985, the Supreme Court has allocated moneys from the Attorney Services Fund to compensate clients who are victims of theft, embezzlement, or misappropriation by dishonest attorneys. The Lawyers' Fund for Client Protection is established in Gov.Bar R. VIII and is administered by an independent Board of Commissioners appointed by the Court. By rule, the Board may award a client up to \$75,000 to reimburse the client financial losses incurred as a result of the misconduct of his or her attorney. In Fiscal Year 2016, \$411,033 was expended by the Board of Commissioners of the Lawyers' Fund for Client Protection for its operations. In addition, the Supreme Court allocated \$1,400,000 to the Lawyers' Fund for Client Protection Trust Fund to replenish that fund. Together, these amounts represent 20.27 percent of Attorney Services Fund expenditures.

In Fiscal Year 2016, the Board awarded a total of \$782,290 from the Trust Fund to reimburse 150 eligible claimants. As of June 30, 2016, there were 215 claims pending representing a potential liability to the fund of \$1,678,659. For more information regarding claims filed with the Lawyers' Fund for Client Protection, please see the most recent annual report prepared by the Board of Commissioners of the Lawyers' Fund for Client Protection.

### Attorney Services Administration

The Attorney Services Division of the Supreme Court is comprised of the Office of Attorney Services and the Office of Bar Admissions. These two offices are charged with supporting the Court in the exercise of its constitutional responsibility to regulate the practice of law in Ohio. The Office of Attorney Services has many responsibilities, including registering attorneys each biennium, verifying attorneys' statuses and issuing certificates of good standing, administering the Lawyer To Lawyer Mentoring Program, and maintaining attorney and judge attorney registration and continuing legal education records.

A total of \$652,764 was expended for the Attorney Services Division in Fiscal Year 2016. These moneys, which represent 7.31 percent of total fund expenditures, supported the Office of Attorney Services (\$575,428), the Commission on Certification of Attorneys as Specialists (\$805), the Commission on Professionalism (\$12,397), and the Board on the Unauthorized Practice of Law

(\$1,704). Further, \$62,430 was expended on reimbursement of expenses related to investigation and prosecution of unauthorized practice of law matters.

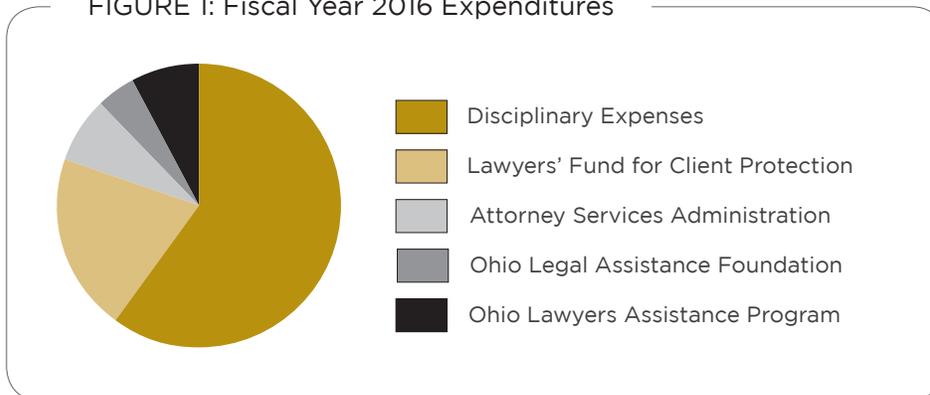
#### Discretionary Grants

The remaining \$1,085,000 in expenditures from the fund represented grants to two nonprofit organizations that assist the Supreme Court in providing oversight of the Ohio bench and bar and in the administration of justice. In Fiscal Year 2016, the Court awarded grants of \$400,000 to the Ohio Legal Assistance Foundation and \$685,000 to the Ohio Lawyers Assistance Program. These grants represent 4.48 percent and 7.67 percent respectively, of the expenditures from the fund.

The Ohio Legal Assistance Foundation is established pursuant to statutory authority and has, as its primary responsibility, the duty of administering and allocating various funds for Ohio's legal aid programs. These programs provide direct civil legal assistance to low income Ohioans who qualify for services. The moneys contributed from the fund to the foundation are used for pro bono development and enhancement, technology enhancement and support, and performance assessments of legal aid programs.

The Ohio Lawyers Assistance Program provides intervention and monitoring assistance to Ohio lawyers, judges, and law students who are suffering from alcoholism, substance abuse, or mental illness. In addition to moneys allocated from the fund, the program receives contributions from the Ohio State Bar Association, the Ohio Bar Liability Insurance Company, and other entities.

FIGURE 1: Fiscal Year 2016 Expenditures



#### Transfer of Pro Hac Vice Fees to Admissions Fund

Effective January 1, 2014, Gov.Bar R. XII (Pro Hac Vice Admission) was amended to provide that pro hac vice registration fees are deposited in the Admissions Fund. Pursuant to this amended rule, \$338,850 in pro hac vice registration fees was transferred from the Attorney Services Fund to the Admissions Fund to support the operations of the Office of Bar Admissions in FY 2016.

### Fund Income and Balance

The fund realized income and revenue of \$16,839,705 in Fiscal Year 2016 from the following sources:

- Biennial registration fees, including late fees, reinstatement fees, and fees collected pursuant to Gov.Bar R. XIV (Certification of Attorneys as Specialists) (\$15,965,450)
- Reimbursement of costs in Gov.Bar R. V (Disciplinary Procedure) and reimbursement of costs and payment of civil penalties in Gov.Bar R. VII (Unauthorized Practice of Law) cases (\$99,706)
- Investment income (\$39,552)
- Revenue collected pursuant to Gov.Bar R. X (Attorney Continuing Legal Education) (\$396,147)
- Revenue collected pursuant to Gov.Bar R. XII (Pro Hac Vice registration fees transferred to the Admissions Fund) (\$338,850)

The fund had an estimated average monthly cash and investment balance of \$17,088,049 in Fiscal Year 2016.

### III. Report on Allocations for Fiscal Year 2017

The Supreme Court allocated \$9,604,760 from the Attorney Services Fund for the fiscal year beginning July 1, 2016. The allocations are made to nine entities representing twelve separate funds or activities.

#### Disciplinary-Related Expenses

The Court allocated \$5,911,043 (61.54 percent of total fund allocations) to support the operation of the disciplinary process. This figure includes separate allocations of \$3,115,821 to fund the Office of Disciplinary Counsel; \$845,222 to fund the operations of the Board on Professional Conduct; and \$1,950,000 to reimburse certified local grievance committees for their work in investigating and prosecuting disciplinary matters.

#### Lawyers' Fund for Client Protection

The operations of the Lawyers' Fund for Client Protection is funded by an allocation of \$425,769. An additional \$1,400,000 is allocated to replenish that entity's Trust Fund and ensure a sufficient fund balance. These allocations represent 19.01 percent of the total fund allocations.

#### Attorney Services Administration

A total of \$782,948 (8.15 percent of total fund allocations) was allocated to fund the activities of the Attorney Services Division of the Supreme Court. This allocation includes: (1) \$618,228 to the Office of Attorney Services; (2) \$13,500 to support the operation of the Board on the Unauthorized Practice of Law and an additional \$90,000 to reimburse bar associations for costs incurred in

investigating and prosecuting allegations of the unauthorized practice of law; (3) \$56,020 to support the activities of the Commission on Professionalism; and (4) \$5,200 to support the activities of the Commission on Certification of Attorneys as Specialists.

#### Discretionary Grants

The Court approved a grant of \$400,000 to the Ohio Legal Assistance Foundation for its work in supporting the delivery of civil legal services to indigent persons. The Court also awarded a grant of \$685,000 to the Ohio Lawyers Assistance Program for alcohol, substance abuse, and mental health intervention programs. Together, these grants represent 4.16 percent and 7.13 percent, respectively, of the fund allocations for Fiscal Year 2017.

## IV. Fund Balance and Projections

On June 30, 2016, the fund had a balance of \$15,067,011. In Fiscal Year 2017, the fund is projected to realize income of \$1,365,894 (including fees, reimbursements, and interest income) and expend an estimated \$9,604,760. On June 30, 2017, the fund will have an estimated balance of \$6,828,145.

FIGURE 2: Fiscal Year 2017 Allocations



## V. Audit

The auditor of state conducts a complete audit of the Attorney Services Fund on a regular basis. The audit occurs at the same time as the audit of other funds that are appropriated to or collected by the Supreme Court. The most recent audit was conducted in the spring and summer of 2016. The audit report should be released in late 2016.

## VI. Investment Policy

Attorney registration fees are deposited directly into a bank lockbox maintained by U.S. Bank where they are invested in financial instruments. U.S. Bank was selected to maintain the fund's lockbox through a competitive bid process for moneys deposited and collected in FY 2016.

The fund's moneys are managed in a conservative, risk-adverse manner through investments made in compliance with the Uniform Depository Act, as set forth in Ohio Revised Code Chapter 135, and amended by the Investment Reform Act of 1996. These and other state and federal laws require that the fund's moneys not be placed at risk in the marketplace through investments in derivatives, reverse purchase agreements, or any method of leveraging.

The fund's investments are primarily in federal money market accounts avoiding high bank insurance charges. The fund continues to seek more optimal investment options, as permitted by statute.

## **VII. Summary**

The Attorney Services Fund allows the Supreme Court to maintain an effective and efficient system for licensing attorneys and regulating post-admission aspects of the practice of law, consistent with its responsibility under the Ohio Constitution. The fund also provides important financial resources to organizations that aid in the provision of legal services to the poor and assist lawyers who are suffering from alcoholism, substance abuse, or mental illness. All activities supported by the fund are invaluable in ensuring the public's continued trust and confidence in our legal system.

The fund is in a solid financial position and it is expected that it will maintain that position throughout Fiscal Year 2017.

## **VIII. Comments and Inquiries**

Any comments and inquiries regarding this report or the fund may be directed to Michael L. Buenger, Administrative Director, or Susan B. Christoff, Director of Attorney Services, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215-3431.

## SCHEDULE 1

### Fund Expenditures FY 2015 and 2016/Allocations FY 2017

Office, Board, Commission	FY 2015 Expenditures	FY 2016 Allocations	FY 2016 Expenditures	% of FY 2016 Allocations Expended	FY 2017 Allocations	% of Total FY 2017 Allocations
<b>Office of Disciplinary Counsel</b>						
Operations Budget	\$2,744,133	\$3,072,345	\$2,887,559	93.99%	\$3,115,821	32.44%
<b>Board of Professional Conduct</b>						
Operations Budget	\$676,394	\$947,081	\$682,474	72.06%	\$845,222	8.80%
Reimbursement of Certified Local Grievance Committees	\$1,914,883	\$1,900,000	\$1,810,419	95.29%	\$1,950,000	20.30%
<b>Lawyers' Fund for Client Protection</b>						
Operations Budget <sup>1</sup>	\$372,193	\$413,037	\$411,033	99.51%	\$425,769	4.43%
Trust Fund	\$1,400,000	\$1,400,000	\$1,400,000	100.00%	\$1,400,000	14.58%
<b>Office of Reporter of Decisions</b>						
Publication of Legal Notice in Discipline Cases	\$21,862	\$0	\$0	0.00%	\$0	0.00%
<b>Office of Attorney Services</b>						
Operations Budget	\$545,051	\$794,400	\$575,428	72.44%	\$618,228	6.44%
Pro Hac Vice Transfer <sup>2</sup>	\$339,900					
<b>Board on Unauthorized Practice of Law</b>						
Operations Budget	\$5,316	\$17,075	\$1,704	9.98%	\$13,500	0.14%
Reimbursement of Expenses	\$33,580	\$100,328	\$62,430	62.23%	\$90,000	.94%
<b>Commission on Professionalism</b>						
Operations Budget (Total)	\$23,039	\$56,020	\$12,397	22.13%	\$56,020	0.58%
<b>Commisson on Certification of Attorneys as Specialists</b>						
Operations Budget	\$183	\$25,800	\$805	3.12%	\$5,200	0.05%
<b>Ohio Legal Assistance Foundation</b>						
Grant	\$400,000	\$400,000	\$355,000	88.75%	\$400,000	4.16%
Encumbrance			\$45,000			
<b>Ohio Lawyers Assistance Program</b>						
Grant	\$685,000	\$685,000	\$513,750	75.00%	\$685,000	7.13%
Encumbrance			\$171,250			
<b>General/Miscellaneous</b>						
Supplement Admissions Fund	\$0	\$0	\$0	0.00%	\$0	
Gov.Jud. R. II <sup>3</sup>	\$0	\$0	\$2,963	0.00%	\$0	
<b>TOTAL</b>	<b>\$9,161,534</b>	<b>\$9,811,086</b>	<b>\$8,932,212</b>	<b>91.04%</b>	<b>\$9,604,760</b>	<b>100.00%</b>

<sup>1</sup> Operations Budget was adjusted upward from original allocation to account for salary adjustments.

<sup>2</sup> Pursuant to Gov.Bar R. XII, Sec. 7, eff. 1-1-14, pro hac vice registration fees are deposited in the Admissions Fund.

<sup>3</sup> Expenses related to investigation conducted pursuant to Gov.Jud. R. II.



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