

Celebrating **25**
years

THE CLIENT PROTECTION WEBB*

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National Client
Protection Organization*

In This Issue

- Finding the Road Less Traveled
- Des Moines Delegates Enhance “Gold Standard” for Funds
- Mark Your Calendars
- NCPO Works on Strategic Plan Update
- NCPO Welcomes New Regional Vice Presidents
- 2023 Hecht Award Recipient - Michael Miyahira
- New Jersey Fund hit with first major post-pandemic loss
- Affordable CMS Platforms and Client Protection
- Virginia Fund Awards \$130,014
- Well-Being in Law Conference



**The Client Protection Webb is published in memory of Gilbert A. Webb, Esq., who served as Assistant Client Protection Counsel for the American Bar Association's Center for Professional Responsibility. Mr. Webb was dedicated to protecting the welfare of clients victimized by their attorneys and served as an editor of the ABA's first client protection newsletter.*

Submissions to the Webb are always welcome. Please send them to the editor, Mike McCormick at Michael.McCormick@judiciary.state.nj.us.

Finding the Road Less Traveled

By Michael T. McCormick, Esq.
NCPO President

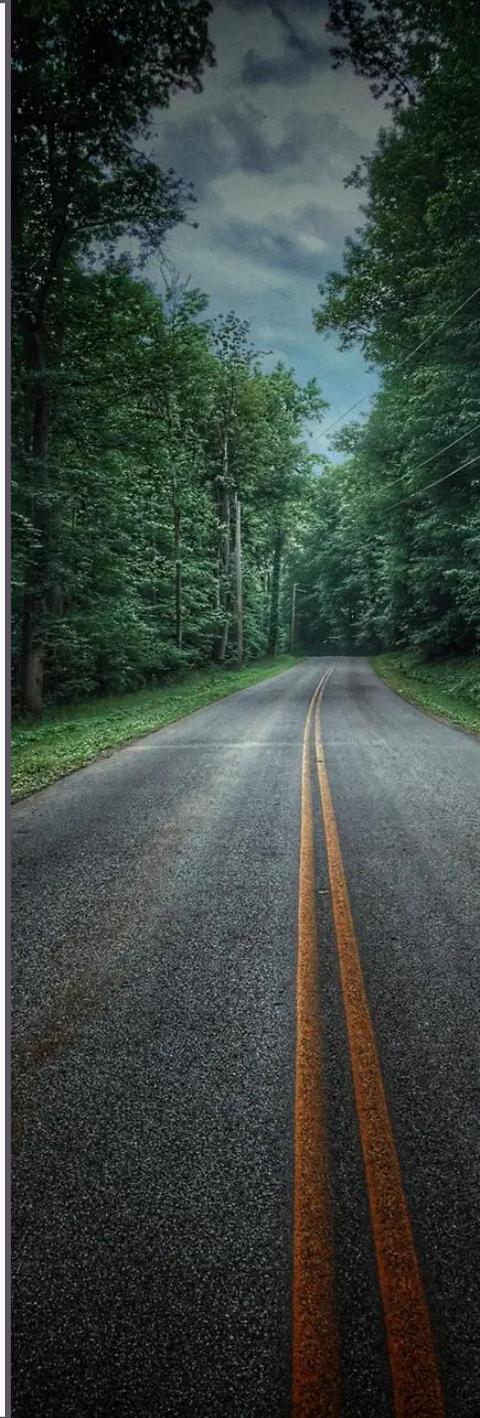
The University of Texas defines a Standard as “a document that provides requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purpose.” Standards should not be easily developed, but should be the product of deliberate consideration over time by individuals comprising the group for whom the Standards are being set. Standards are aspirational, laying out where we want to go. Of course, Standards should also be accompanied by at least an outline of actions we believe should be taken to propel us closer to their attainment.

In 2006 NCPO adopted “Standards for Evaluating Lawyers’ Funds for Client Protection,” which was, and remains, aspirational in many respects. It is also motivational, encouraging us to look for ways to ensure that funds are stable, accessible and able to fulfill their missions in a meaningful way for law client victims as well as the bar. While we hope to always be motivated to search for, and open to embracing, more effective means of strengthening our members’ funds, it’s also good to stop once in a while and re-focus to make sure we are heading in the right direction.

That’s what our Strategic Plan is for. It’s been a while – about seven years – since we sat down to talk about our goals as an organization. Adopting the first-ever amendment to the Standards this past September reminded us that now is as good a time as ever to do just that. In this issue you’ll see the third draft of a working document we hope to finalize at our 2024 annual meeting. As it stands, however, our draft is missing input from NCPO’s general membership – a critical component.

What better time than the end of the year to consider how NCPO can help your fund succeed? How should we allocate NCPO’s resources to provide the programs and services that would secure your fund financially, educate your trustees, court, legislators, bar and public, enhance your fund’s standing, increase its accessibility and, ultimately, allow it to reimburse all client losses resulting from attorney misconduct in full? Each of us faces challenges both unique to our jurisdiction and common to us all. The Strategic Plan is intended to be our guide for the next number of years to steer us towards realizing the vision laid out in the Standards. Please take some time to consider how to make this happen, and share your thoughts with us. Help us to find the road less traveled, and it will make all the difference.

Our very best wishes to you and yours for a happy and healthy Holiday Season and New Year.



Des Moines Delegates Enhance “Gold Standard” for Funds

NCPO members attending the annual workshop in Des Moines memorialized their commitment to using Fund resources to pay compensable claims (even large ones) and use fund resources for loss prevention and subrogation efforts. An amendment to Standard 1.5 was adopted to add a second paragraph emphasizing that being a trustee does not mean striving to spend as little as possible. Rather, the goal is to spend “effectively, prudently and appropriately” to meet the need and fulfill a fund’s mission to make client victims of attorney misconduct whole. *(The amendment is reprinted in full in the sidebar.)*

Adoption of the amendment was a first for NCPO since the Standards were promulgated in 2006. They are widely viewed as the “gold standard” for client protections funds, laying out a roadmap

to creating and maintaining a fund with the organization and fund to be accessible and responsive to the needs of clients. In 2013 the US Conference of Chief Justices of State Supreme Courts agreed and also adopted the Standards, urging jurisdictions across the country to “amend their client protection rules in accordance with the NCPO standards.”

Ken Bossong, a primary author of the Standards in 2006, authored the amendment as “something that needed to be said” in the ongoing effort to strengthen client protection funds in the U.S. and Canada.

The full standards are available at https://www.ncpo.org/files/ugd/289ac3_604dd3b7c4c4401b9004a19822b43419.pdf. NCPO is happy to provide hard copies for distribution in your jurisdiction. Just email Michael.mccormick@njcourts.gov.

Mark Your Calendars

It’s never too early to plan for your participation in NCPO’s annual workshop as well as the ABA Forum on Client Protection.

The 39th National Forum on Client Protection will be held on May 31 and June 1, 2024 at the Grand Hyatt Denver, 1750 Welton St, Denver, CO 80202.

NCPO’s annual workshop will be held on September 19 and 20, 2024 on the ocean in Virginia Beach, Virginia at the Hilton Garden Inn. Panel topics include sessions on bankruptcy, collections and marketing. As always, we’ll look forward to hearing about what’s happening at your fund. If there are issues you’d like to see addressed at the workshop, please let Vivian Byrd of the Virginia Fund know - VByrd@vsb.org.

We’ll let you know when registration and hotel reservations for both programs open. For now “Save the Date”!



Standards for Evaluating Lawyers’ Funds for Client Protection

Amendment

1.5, ¶12 The Trustees shall exercise their discretion in managing the Fund’s affairs in accordance with their fiduciary duty to the Fund as a trust. Specifically, this should not be misperceived as spending as little as possible, regardless of circumstances, to preserve the corpus. Rather, the duty is better understood as (a) spending the Fund’s resources effectively, prudently and appropriately, consistent with the Fund’s purpose of making law clients whole; and (b) preserving and growing the Fund to meet the future need. Thus, the Trustees’ fiduciary duty includes advocating for adequate resources, paying meritorious claims (even large ones) in full, and spending money on loss prevention and subrogation efforts.

So What's the Plan?

NCPO Works on Strategic Plan Update

What can NCPO do to support your fund? That's the perennial question at the heart of NCPO's strategic planning initiative. NCPO's last strategic plan was written in 2016, so it's time to see where we've been so that we know where to go. Following is a "working document" drafted by NCPO to provide direction for our efforts in the coming years. The final document will be presented to the general NCPO membership during our annual meeting at the 2024 Workshop in Virginia Beach.

NCPO needs your input. Please send your comments and suggestions to Mike McCormick at Michael.mccormick@njcourts.gov.

Organizational Goals & Objectives

GOALS

- I. Promote the establishment and maintenance of effective funds administered in accordance with the Standards for Client Protection Funds.
- II. Utilize the next phase of technology available to improve communication and the sharing of information about and between client protection funds in the United States and Canada
- III. Emphasize the importance of attorney wellness to the effective practice of law and as a loss prevention mechanism for client protection funds.

ACTION ITEMS

- Establish and maintain an online central repository of statistical and other information which is accessible by member funds for purposes including the identification of claim trends, loss prevention and full implementation of the Standards for Client Protection Funds.
- Install a Technology Vice President to assist in the implementation of NCPO's technological goals.
- Regularly disseminate information on national trends in client protection and publicize the mission of client protection funds to the courts, bar and general public.
- Emphasize the importance of attending annual workshops, in part by inviting previously non-participating funds to serve as workshop presenters with the costs of their participation paid by NCPO.
- Work to establish client protection funds in jurisdictions in the United States and Canada which do not yet maintain a fund.
- Establish relationships with bar associations and legal communities, especially ethnic and minority bar associations to foster initiatives which protect clients and minimize losses resulting from attorney misconduct.
- Encourage law students, through law student associations and law school curriculums, to be aware and supportive of client protection funds and their mission.
- Support lawyers' assistance programs, continuing legal education and other initiatives to foster attorney wellness.
- Incorporate attorney and fund staff wellness into NCPO workshops and other programs.

NCPO Welcomes New Regional Vice Presidents

“Everything is local.” Regional vice presidents are NCPO’s connection to developments and needs of funds in specific areas of the U.S and Canada. We’re grateful that **Matthew Vogelsburg** has agreed to serve in the southwest region and **Jessica Dorsey** has accepted appointment as NCPO’s liaison to Canadian funds.



Matthew Vogelsburg

After graduating from the University of Kansas law school in 2007, Matt began working as a research attorney for the Kansas Court of Appeals, first as a member of the court’s central research staff, then as a chambers attorney for the Hon. Melissa T. Standridge. In 2012, Matt became a research attorney for Justice Eric Rosen of the Kansas Supreme Court. In May 2016, he left Justice Rosen’s chambers to work as a staff attorney for the Office of Judicial Administration, working on court policy, employment matters, open records and open meetings issues, and responding to subpoenas issued on court employees. In November 2016, he joined the Office of the Disciplinary Administrator where he now investigates and prosecutes violations of the rules of professional conduct. Matt’s Southwest Region covers the states of Arizona, Utah, Colorado, New Mexico, Texas, Louisiana, Arkansas, Kansas and Oklahoma. If you’re in one of these states and looking for client protection fund information or assistance, Matt can be reached at vogelsbergm@kscourts.org.



Jessica Dorsey

Jessica is Senior Claims Counsel for the Alberta, Canada Lawyers Indemnity Association. She is experienced in contract, insurance coverage, environmental, regulatory, administrative and tort law and is a former British Columbia Court of Appeal law clerk. Jessica was recognized with the Raymond G. Herbert Award for best all-around graduating University of British Columbia law student. Our neighbors to the north with client protection questions and concerns can reach Jessica at Jessica.Dorsey@lawsociety.ab.ca.

Can You Help?

NCPO is in need of a new Midwest Regional Vice President. The Midwest region covers the states of Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska. Regional vice presidents are NCPO’s “front line” contacts with the funds in their geographic area. VP’s are encouraged to reach out to their area funds from time to time to “check in” on developments and assess how NCPO can support member funds. VP’s also participate in monthly board meetings to ensure that board members are aware of developing trends and can help direct NCPO initiatives to respond as needed. If you are affiliated with a fund in any capacity in the Midwest region and would like to serve as its vice president, please let Mike McCormick know: (609) 815-3030, ext. 52215 or Michael.mccormick@njcourts.gov.

The 2023 recipient of the Hecht Award is Michael Miyahira of Hawaii



Congratulations, Mike!
Thank you for your valuable
contributions to the client
protection field!

Nominations Open for 2024 Isaac Hecht Award

NCPO will honor the 2024 recipient of the Isaac Hecht Award during its workshop on September 19, 2024, in Virginia Beach, Virginia. The Hecht Award recognizes individuals and professional organizations that have demonstrated “excellence in the field of law client protection.” The 22 recipients of the Hecht Award to date are an elite group, each of whom has dedicated their professional lives to the client protection mission of service to victimized clients. Nominations can be made at <https://www.ncpo.org/issac-hecht-award>.

Mike Miyahira is the dean of Hawaii’s Lawyers’ Fund, recently retiring after 25 years of loyal volunteer service to the Fund and legal community. Mike has been instrumental in bringing about many contributions and improvements to client protection in Hawaii, particularly during his service as the Fund’s chairman for over a decade.

Mike was a key advocate in the successful effort to increase the Hawaii Fund’s maximum per claimant award to \$100,000 as well as to increase its respondent maximum to \$300,000. He also worked to achieve enactment of Hawaii’s loss payee notification rule. He met with numerous other funds in order to design and implement the Hawaii Fund’s new computerized case management system.

Mike also served as President of the National Client Protection Organization from 2011 to 2014. He has faithfully attended virtually all NCPO workshops and events, sharing his good nature and expertise with fund professionals from across the U.S and Canada – and logging thousands of miles and hundreds of hours traveling to destinations across North America in order to do so. He continues to serve on NCPO’s outreach committee and is the consummate ambassador for client protection.

Mike is also the owner of Business Strategies, which has provided guidance and advice to family business owners about general business matters, succession planning, family business governance issues and strategic planning for over four decades. He is a past president of several chambers of commerce and served as an adjunct professor of business at the University of Hawaii.



New Jersey Fund hit with first major post-pandemic loss

The New Jersey Lawyers' Fund for Client Protection is facing up to 100 claims against a Jersey City, NJ attorney disbarred after he admitted defrauding his clients of more than \$2 million. In addition, James R. Lisa, 68, left behind hundreds of open files after pleading guilty to federal charges of wire fraud, aggravated identity theft, obstructing the IRS, failing to file an individual income tax return, and wire fraud while on pretrial release.

Lisa is believed to have suffered from a drug addiction which may have led to his acceptance of retainers for services he was subsequently unable to render. The New Jersey Fund's trustees have scheduled a hearing for one of the first claims against Lisa during their January 2024 meeting. Fund counsel continues to work with a court-appointed trustee to identify affected clients and recover files from Lisa's former law office, which was left in shambles. Many clients have been forced to seek representation from the local public defender in pending criminal matters.

In 2014, Lisa was retained by a family to help repatriate millions of dollars that had been transferred by other family members to offshore bank accounts decades earlier. Lisa was also retained to help resolve the tax issues related to the repatriation of the funds. In 2015, Lisa successfully repatriated more than \$6 million of the family's funds but proceeded to falsely advise the family that the funds remained offshore. In 2017, Lisa provided \$4 million of the repatriated funds to the family but continued to falsely represent that the remaining \$2 million remained beyond his control.

Lisa falsely told the family that he successfully resolved the tax implications of repatriating the funds. In 2016, Lisa sent the family a fraudulent IRS "closing agreement" reflecting an agreement with the IRS for the family to pay \$3 million in taxes and penalties for the repatriated funds. In 2018, Lisa sent the family another fraudulent closing agreement reflecting an agreement with the IRS for the family to pay \$2 million in taxes and penalties because only \$4 million was purportedly repatriated. In fact, the IRS never entered into these agreements and the IRS employees who purportedly signed the documents never did so.



When one member of the family was audited by the IRS, the IRS issued Lisa a summons for records related to the family's assets. In response to the summons, Lisa produced false and fraudulent documents suggesting that the IRS had agreed to closing agreements with the family.

In January 2023, Lisa was arrested after being charged with this fraud scheme and placed on pretrial release. One condition of his pretrial release was that he not commit another crime. In April 2023, Lisa committed wire fraud when he applied for a \$22,000 loan. In order to obtain the loan, Lisa caused the creation and submission to the lender of a fraudulent document that purported to be a letter from the attorney then representing him in his criminal prosecution. Lisa caused the letter to be sent in order to defraud the lender about the status of the criminal prosecution so that the lender would approve the loan.

Lisa also admitted that he failed to file individual income tax returns for tax years 2015 through 2022, and as a result, caused a tax loss to the IRS of at least \$550,000.

Lisa is currently on house arrest, awaiting sentencing on January 25, 2024.

U.S. Attorney Sellinger credited special agents with the Office of the Treasury Inspector General for Tax Administration (TIGTA), Mid Atlantic Field Division, under the direction of Special Agent in Charge Andrew McKay; and IRS - Criminal Investigation, Newark Field Office, under the direction of Special Agent in Charge Tammy Tomlins, with the investigation leading to today's guilty plea.

Affordable CMS Platforms and Client Protection

By: Darren Lossia

Is there an affordable CMS system on the market for Client Protection Funds?

At this year's Workshop, a Michigan-based software company demonstrated its latest version which includes special fields and features for Client Protection Funds. Darren Lossia, creator and founder of Direct Claim Solution in Troy, Michigan presented the benefits of a hosted software platform for claims management. His organization has been developing and implementing claims management software for years. DCS recently introduced a feature to track Respondent data related to client protection claims. DCS serves associations, self-insurance pools and risk pools and has a ready-to-go version for interested Funds who want to streamline their claims handling operations. Darren shared business cases and features of the DCS solution to attendees at this year's conference.

The CMS offered by Direct Claim Solution streamlines claims intake, investigation and financial reporting. It has a dedicated subrogation and recovery module along with a document storage feature so the complete claims file can be accessed by any user.

For those unable to attend the conference, the DCS presentation is available upon request by emailing DLossia@DirectClaimSolution.com. The solution is ideal for those Funds that are searching for an affordable solution and easy implementation.



Virginia Fund Awards \$130,014



The Virginia State Bar Clients' Protection Fund Board authorized payments totaling \$130,014 in reimbursements to petitioners regarding six Virginia attorneys at its September 15, 2023, meeting. The board approved payments of \$4,500, \$3,000, and \$2,000 to three former clients of Brittani Nata'lita Baldwin of Williamsburg for failing to perform all of the work for which she was paid in divorce cases. Baldwin's license was suspended based on impairment on February 6, 2023 and revoked effective August 17, 2023.

A former client of James Cooper Bell of Farmville, received a payment of \$300 as reimbursement for fees paid for representation for a traffic matter. The client retained Bell's services in November 2022. Bell died suddenly in January 2023 before completing work for the client. The board also approved a payment of \$1,500 to a former client of Patrick R. Bynum Jr. of Richmond for failure to complete legal work in a criminal matter before Bynum's death in September 2022.

A total of \$30,450 was approved for reimbursement to eleven former clients of Mark Edward Englisby of Midlothian who died in March 2023. The Board approved payments for unearned fees regarding Englisby's representation of clients in criminal, family law and civil litigation matters.

Six former clients of David Gary Hoffman of Fairfax received payments of \$21,580, \$19,000, \$17,259, \$14,900, \$7,500, and \$7,225 as reimbursement for fees paid to Hoffman for future estate planning and/or estate administration services that Hoffman has not performed and will not perform. Hoffman's license was revoked in December 2021 for similar actions.

A former client of Charles Gregory Phillips of Salem, received a payment of \$800 for reimbursement for lack of services rendered in a divorce case. Phillips's license to practice law was suspended in May 2023. His license was subsequently revoked in November 2023.

Well-Being in Law Conference Coming Soon

By Lindsey Draper

The second annual Well-Being in Law Conference, hosted by the Institute for Well-Being in Law (IWIL), will take place January 23 – 25, 2024. The conference has a theme that notes “*What You Choose to Focus on Will Grow*” and will bring together practitioners and attorneys committed to sustaining initiatives that grew out of the work of the National Task Force for Lawyer Well-Being.

Since its December 2020 founding, IWIL has endeavored to provide a forum for identification and discussion of successful strategies to enable attorneys and those working within the legal community to improve and maintain the health of its members. The conference will offer four well-being tracks.

Tuesday, January 23 - Individual Well-Being
Wednesday, January 24 - Workplace Well-Being
Thursday, January 25 - Law School Well-Being
Well-being on the State and Local Level

The January 24, 2024 keynote address for the conference, *Getting Unstuck: Reconnect, Re-engage and Revitalize*, will be delivered (11:15 – 12:15 pm Eastern) by Dr. Laurie Santos, a cognitive scientist and Professor of Psychology at Yale University.

Additional information about the conference, session particulars and registration is available at <https://lawyerwellbeing.net/conference-2024/>.



The banner features a green and white background with a dotted line separating the top and bottom sections. In the top left, there is a logo for IWIL (Institute for Well-Being in Law) consisting of a stylized 'W' made of colorful lines, with the text 'WELL-BEING CONFERENCE January 23-25, 2024 Evolve. Adapt. Flourish' to its right. Below the logo, a laptop displays the conference website. The central text reads 'REGISTRATION IS NOW OPEN!' in large, bold letters, followed by 'For the Legal Profession's Premier Well-Being Event'. To the right of this text is a speaker icon and the text 'Keynote Speaker: Dr. Laurie Santos, host of the popular Happiness Lab Podcast'. At the bottom center, there is a pink button that says 'Register Now'. The bottom left of the banner contains text describing the conference tracks: 'Conference tracks for Individuals, Workplace Well-Being Professionals, Law Schools, and State & Local Tasks Forces'.

WELL-BEING CONFERENCE
January 23-25, 2024
Evolve. Adapt. Flourish

REGISTRATION IS NOW OPEN!

For the Legal Profession's Premier Well-Being Event

Conference tracks for Individuals, Workplace Well-Being Professionals, Law Schools, and State & Local Tasks Forces

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Register Now