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## Future of Legal Aid at Stake in Texas Equal Access to Justice Foundation Case

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A case was recently tried in the United States District Court for the Western District of Texas involving the Texas Equal Access to Justice Foundation (the "Foundation"). Hale and Dorr litigators assisted in defending the Foundation against claims by the Washington Legal Foundation that the Texas Interest on Lawyer Trust Account ("IOLTA") Program constitutes an unconstitutional taking of clients' property and a violation of clients' First Amendment rights.

In 1994, the District Court upheld the Texas IOLTA program, but the Fifth Circuit later reversed the decision. The U.S. Supreme Court sided with the Washington Legal Foundation on a single key issue (whether the interest belongs to the client) and remanded the case for a determination as to whether the IOLTA program constitutes an illegal taking in violation of the Fifth Amendment or infringement of the First Amendment.

Having won a similar case involving the Massachusetts IOLTA program, Hale and Dorr was asked by the National Association of IOLTA Programs to assist Texas counsel in defending the Foundation when the case went back to the District Court. National IOLTA programs are very concerned about the outcome of the case because IOLTA has generated about \$1 billion in

funds for legal aid for the poor since the implementation of IOLTA in the 1980's.

Partner Richard A. Johnston, Associate Francine Rosenzweig, and Litigation Assistant Aileen Carr worked on the case. A decision is expected by Christmas.