The Task Force to Expand Access to Civil Legal Services in New York

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2012

TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

November 30, 2012

Honorable Jonathan Lippman
Chief Judge of the State of New York
230 Park Avenue, Suite 826
New York, NY 10169

Dear Chief Judge Lippman:

On behalf of the Task Force to Expand Access to Civil Legal Services in New York, I am pleased to forward our third year's Report for your consideration. The Task Force once again assisted in the preparation for your four public hearings on civil legal services held to assess the extent and nature of the current unmet civil legal needs of low-income New Yorkers throughout the State and identify the level of resources necessary to meet that need. Our Report includes the Task Force's findings on the continuing unmet need based on the hearing testimony, provided both orally and in writing, and our recommendation for additional funding. In addition, the Task Force engaged in substantial study, research and analysis leading to six non-monetary recommendations that provide a multi-faceted strategy for helping to close the justice gap. The Task Force also convened a major conference this year involving representatives from the fifteen New York law schools, the private bar, legal services providers, and the courts.

The members of the Task Force are unanimous in supporting this Report. They represent many diverse perspectives and bring to the Task Force a breadth of experience, special insights and a commitment to creative solutions. They have made especially significant contributions of time and energy to our work this year. The Task Force was ably assisted by its Counsel Jessica Klein and Lara Loyd, both from Sullivan & Cromwell, as well as by Mary Mone and Lauren Kanfer from your office.

We continue to be inspired in our work by your unequivocal commitment to the need to provide civil legal assistance to the most vulnerable low-income New Yorkers in matters that involve the very basic necessities of life and by your determination to bring us closer to the ideal of ensuring equal access to justice.

We look forward to continuing our work in the coming year to fulfill our broad mission, including developing recommendations to improve the efficiency and effectiveness of the delivery of civil legal services.

Respectfully submitted,

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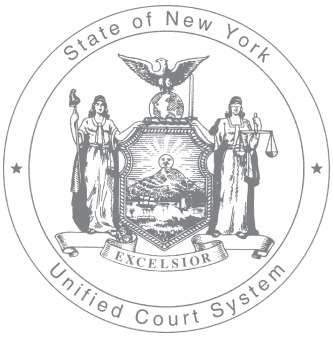
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THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2012


State of New York
EXCELSIOR
Unified Court System

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EXECUTIVE SUMMARY

THIS IS THE THIRD REPORT of Chief Judge Jonathan Lippman's Task Force to Expand Access to Civil Legal Services. In its 2010 and 2011 Reports, the Task Force found that there is an unacceptable crisis of the unrepresented in the courts of New York State. Each year, more than 2.3 million low-income New Yorkers must navigate the complexities of the State's civil justice system without the assistance of counsel in disputes over the most basic necessities of life. This crisis burdens our courts and represented parties by requiring Judges and other court personnel to devote greater time to cases involving unrepresented New Yorkers than would be necessary if currently unrepresented parties were assisted by counsel. It prevents unrepresented parties from receiving full access to justice. And it hurts our State by reducing the amount of federal assistance for New Yorkers and by increasing other costs arising from poverty.

THE CONTINUING CRISIS: In the wake of the worst economic downturn since the Great Depression, with too many New Yorkers still living in poverty all across our State, the Task Force concludes that this crisis of the unrepresented has continued unabated over the past year. Indeed, even before the most recent natural disaster in the form of Hurricane Sandy, the Task Force determined that at best only 20 percent of the legal needs of low-income New Yorkers are currently being met. This access-to-justice gap continues to be exacerbated by the dramatic decline in revenue available from the Interest on Lawyer Account Fund of New York State ("IOLA"), which provides funding for legal assistance for low-income New Yorkers. As a result of the decline in interest rates during the past five years, annual IOLA revenue available for civil legal services providers has plummeted from $32 million annually in 2008 to only $7 million in the past year.

During the past year, including at the Chief Judge's civil legal services hearings, the Task Force has obtained substantial evidence showing that when New Yorkers appear in civil matters in court without representation, litigation and other costs are higher and the opportunity to resolve disputes without litigation or settle cases expeditiously is lost. Likewise, as front-line Judges have continued to describe, when substantial numbers of unrepresented New Yorkers appear in court, the overall quality of justice for all litigants suffers because courts are less efficient when resources must be diverted from matters involving represented parties to try to assist unrepresented parties — and the results for unrepresented parties clearly differ from what can be achieved with counsel.

By contrast, the assistance of counsel can have a life-changing impact for vulnerable low-income families and individuals who can remain in their homes, escape from domestic violence, stabilize their families, maintain or obtain subsistence income, or gain access to health care or an education — all of which are truly the essentials of life.

JUDICIARY CIVIL LEGAL SERVICES FUNDING: In its initial 2010 Report, to try to bridge this substantial access-to-justice gap, the Task Force proposed a multi-year plan to allocate funding within the Judiciary's budget for civil legal services for New Yorkers in all areas of the State living at or below 200 percent of the federal poverty level ($46,100 in annual income for a family of four in 2012). At the Chief Judge's direction, the Task Force has prioritized civil legal problems involving the "essentials of life"— housing, family matters, access to health care and education, and subsistence income. With the

support of the Governor and the Legislature, the Chief Judge allocated $25 million for this critical initiative in the current Judiciary budget.

In keeping with its multi-year plan, this year the Task Force recommends that the current allocation for civil legal services in the Judiciary budget be increased by an additional $15 million for the coming State fiscal year. As a result of grants awarded from the Judiciary's budget for civil legal services throughout the State, more low-income New Yorkers have received civil legal assistance. Although there have been some gains, the Task Force finds that there is still a substantial gap to be bridged in access to justice in core civil legal matters involving the "essentials of life."

NON-MONETARY INITIATIVES: In addition to making this funding recommendation, the Task Force, based on its work over the past year, is making significant non-monetary recommendations to help address the gap in access to justice. These recommendations include:

- concrete steps that the 15 law schools in New York State can take — and are taking — to help meet the increasing need for civil legal assistance for low-income families and individuals;
- enhanced efforts to increase the level of *pro bono* assistance provided by private lawyers to low-income clients;
- a new initiative to increase the contributions that non-lawyers can make to bridge the access-to-justice gap;
- efforts to improve the ability of Town and Village courts to address the needs of low-income and other unrepresented litigants in summary proceedings;
- increased efforts to collaborate among legal services providers; and
- a special initiative to increase the involvement of the business community and the private sector in addressing the needs of the New York State courts, including the crisis of the unrepresented.

As detailed in this Report, these initiatives, while not a substitute for additional civil legal services funding within the Judiciary's budget, can help promote access to justice in our State and thereby help address the unmet need for civil legal assistance.

INVESTING IN CIVIL LEGAL SERVICES PROVIDES A SIX-TO-ONE RATE OF RETURN FOR NEW YORK: Independent evaluations by nationally recognized experts, commissioned by the Task Force on a *pro bono* basis this year and last year, show that investing in civil legal services provides substantial economic benefits to New York State — specifically, a return of approximately six dollars for every one dollar of funding for civil legal services.

Last year, Navigant Consulting reported a conservative estimate that investing in civil legal services to prevent domestic violence in New York State can achieve $85 million in savings in the costs otherwise incurred to assist survivors of domestic violence. Likewise, Cornerstone Consulting concluded that anti-eviction legal services programs funded by IOLA have saved approximately $116 million annually in averted shelter costs.

This year, NERA Economic Consulting expanded this inquiry into new areas and found that, as a result of the efforts of the civil legal services providers:

- In 2011 alone, direct recipients and their families received at least $378 million from several specific federal programs (the federal Supplemental Security Income and the federal Social Security Disability programs).
- Over the past five years, low-income New Yorkers have become eligible for as much as $682 million from federal programs.
- The positive financial effect in 2011 and long-term future effects together could be as high as $1.06 billion.
- Multiplier effects for the inflow of these financial resources to New York State result in estimated economic benefits to the State in 2011 of $561 million and the estimated creation of about 5,600 jobs. If these multiplier effects remain stable, the inflow of funds in 2011, together with the future value created, result in overall economic benefits to New York State of $1.56 billion.
- These economic benefits effectively reduce by approximately 2 percent per year the current net outflow of taxes paid by New Yorkers to the federal government of approximately $20 billion per year.

PART A. OVERVIEW:

The Chief Judge's Civil Legal Services Initiative

> Equal justice is our reason for being in the Judiciary and the profession, and if we don't have equal justice in these beautiful courtrooms and courthouses then we might as well close the courthouse doors. It doesn't mean anything.
>
> If what happens inside this courthouse or any courthouse around the State is anything short, even by the smallest amount, of promoting equal justice, the economy is hurt. The most vulnerable in our society, they're the ones who have suffered the most. . . .
>
> Well, the point is that when the economy is at its worst, [that] is when this need is so fundamental and so basic . . . so it is now more than ever . . . . I mean equal justice is fundamental to our society, to our way of life and everything that we're supposed to be all about.
>
> Every civilized society going back to Biblical times is judged by how it treats its most vulnerable citizens and we are no different. And you know, the Old Testament tells us that it is our obligation to pursue justice, rich or poor . . . or high or low alike. That's what we have to do. Not that the rich can have one kind of justice and everybody else gets something else.
>
> **— Chief Judge Jonathan Lippman,**
> Fourth Department Hearing on Civil Legal Services, October 2, 2012[1]

THE CHIEF JUDGE ANNOUNCED THE CREATION OF THIS TASK FORCE on Law Day in May 2010 as a key element of his groundbreaking initiative to establish a comprehensive approach to providing legal assistance to low-income New Yorkers in civil legal matters involving the "essentials of life."

Both houses of the New York State Legislature passed a resolution in June 2010 commending the Chief Judge on his civil legal services initiative and resolved that "[t]he fair administration of justice requires that every person who must use the courts have access to adequate legal representation." To further that goal, the Assembly and the Senate requested that the Chief Judge report annually to the Governor and the Legislature concerning the findings of the Statewide hearings that the Chief Judge announced he would hold each year and the work of the Task Force he had established. In particular, the Legislature asked the Chief Judge to submit recommendations to address gaps in available resources to meet the need for civil legal services in the State of New York.[2]

Accordingly, the Chief Judge charged the Task Force with assisting him in organizing annual Judiciary hearings in all four Judicial Departments of the State to assess the unmet need for civil legal assistance and identify the necessary resources to meet that need. The Chief Judge further charged the Task Force with preparing an annual report and recommending immediate steps to address access to justice in civil legal matters, especially in these difficult economic times.

The Task Force is headed by Helaine M. Barnett, the former President of the federal Legal Services Corporation and the former Attorney-in-Charge of the Civil Practice of The Legal Aid Society in New

York City. Working closely with the Hon. Fern A. Fisher, the Deputy Chief Administrative Judge for New York City Courts and the Statewide Director of the Unified Court System's Access to Justice Program, and the Hon. Michael V. Coccoma, the Deputy Chief Administrative Judge for the Courts Outside New York City, the Task Force includes Statewide representatives from the courts, the business community, government, private law firms, bar associations, civil legal services and *pro bono* providers, law schools, and civil legal services funders.[3]

This is the third Report of the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York. The Task Force issued its first Report on November 23, 2010 (the "Task Force 2010 Report" or "2010 Report"), proposing a multi-year plan for Judiciary funding to reduce substantially the unmet need for civil legal assistance for New Yorkers living at or below 200 percent of the federal poverty level (for a family of four, this means an income below $46,100 in 2012). The 2010 Report can be found at **http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf**.

The Task Force issued its second Report on December 1, 2011 (the "Task Force 2011 Report" or "2011 Report"). In its second-year Report, the Task Force adhered to its multi-year plan and recommended both additional funding and targeted non-monetary initiatives to address the access-to-justice gap in New York State. The 2011 Report can be found at **http://nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf.**

THE ALLOCATION OF JUDICIARY FUNDS TO EXPAND ACCESS TO CIVIL LEGAL SERVICES FOR YEAR TWO OF THE CHIEF JUDGE'S CIVIL LEGAL SERVICES INITIATIVE: With the support of the Governor and the Legislature, the Chief Judge allocated $25 million in the Judiciary's budget for April 1, 2012-March 31, 2013 for dedicated funding for civil legal assistance in matters involving the "essentials of life", to expand access to civil legal services in accordance with the Task Force's recommendations in its first-year Report. These recommendations: 1) prioritized civil legal assistance in the core "essentials of life" areas of housing, family matters, access to health care and education, and subsistence income; 2) emphasized the provision of preventive legal assistance to avert or reduce the need for litigation; 3) targeted assistance for New Yorkers living at or below 200 percent of the federal poverty level in all counties of the State; and 4) highlighted the need for a seasoned, well-trained civil legal services staff able to provide comprehensive service in often complex, interrelated legal matters. As recommended by the Task Force, the Chief Judge continued to allocate $15 million to IOLA as rescue funding to address in part the loss of IOLA revenue — from $32 million annually to $7 million during this past year — due to the drop in interest rates caused by the economic downturn. In combination, this Judiciary funding for civil legal assistance for low-income New Yorkers represents a major commitment by the Judiciary to provide access to justice to struggling families and individuals in every county of the State.

As recommended by the Task Force, the Chief Judge established an Oversight Board to oversee the issuance of a Request for Proposals (RFP), review the grant proposals, and determine the allocation of this additional funding targeted for the provision of civil legal assistance to address matters involving the "essentials of life" across the State. The Oversight Board consists of the Hon. A. Gail Prudenti as the Chief Administrative Judge of the Courts, Helaine M. Barnett as the Chair of the Task Force, and Benito Romano as the Chair of the IOLA Board.

To allocate funding for the April 1, 2012-March 31, 2013 State fiscal year, the Oversight Board issued and distributed an RFP, published notice of its issuance of the RFP on March 27, 2012 in the State

Contract Reporter, and posted notice on the Office of Court Administration's website. IOLA also distributed the notice to its grantees.

Organizations submitting proposals were asked to specify the "essentials of life" legal assistance and the level of client services they planned to provide to New Yorkers living at or below 200 percent of the poverty level in each of the four Judicial Departments in the State.[4] Because the existing staff of the Office of Court Administration received the proposals and reviewed them for completeness on behalf of the Oversight Board, implementation of this additional funding required no new administrative expenses.

The Oversight Board has informed the Task Force that it received and considered 66 proposals for second-year funding, decided which to fund, and determined the allocations. The Oversight Board issued its second-year grant decisions on June 1, 2012 and the Office of Court Administration assumed responsibility for the contracting process for distribution of the Judiciary Civil Legal Services funds. The Oversight Board awarded 60 grants to organizations providing civil legal assistance to low-income families and individuals in every county of the State. The Oversight Board's grants ranged in size from $24,000 to $3,124,463.[5]

The Oversight Board has also informed the Task Force that, in accordance with the priorities articulated by the Chief Judge and set forth in the Task Force's 2010 and 2011 Reports, the Oversight Board's grant awards targeted matters involving the "essentials of life" — legal problems in the areas of housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts). The Oversight Board further advised the Task Force that it treated as a priority the provision of preventive and early intervention legal assistance, including expanded community legal education initiatives, as part of the array of client services that are needed. As recommended by the Task Force, the Oversight Board allocated the new funding throughout the State — in rural, suburban, and urban areas — in accordance with the distribution of persons living at or below 200 percent of the federal poverty level in each of the four Judicial Departments.

THE CHIEF JUDGE'S THIRD-YEAR HEARINGS IN EACH JUDICIAL DEPARTMENT: As in the first and second years, the Chief Judge presided over Judiciary public hearings on civil legal services in all four Judicial Departments in September and October 2012.

Joining the Chief Judge in conducting these four hearings were Chief Administrative Judge A. Gail Prudenti and the Presiding Justice of the Department in which each hearing was held: Presiding Justice Luis A. Gonzalez in the First Department, Presiding Justice Karen K. Peters in the Third Department, and Presiding Justice Henry J. Scudder in the Fourth Department; in the Second Department, the newly appointed Presiding Justice was unavailable at the time of the hearing. Each panel also included a leader of the New York State Bar Association: President Seymour W. James, President-elect David M. Schraver, or former President Kenneth G. Standard.[6]

These hearings once again represented an unprecedented partnership of the leadership of the Judiciary and the leadership of the legal profession to focus on the urgent problem of the continuing unmet need for civil legal assistance for low-income New Yorkers, which has been exacerbated as a result of the economic downturn.

Notice of the Chief Judge's hearings was published in the *New York Law Journal* and posted on the Unified Court System's website.[7]

The Witnesses Who Testified: Altogether, 48 witnesses testified at the hearings and another 16 witnesses submitted only written testimony. All across the State, witnesses from a broad array of perspectives testified about the critical need for civil legal assistance for low-income families and individuals and supported the Judiciary's allocation of funds in its budget to meet that need.

Compelling testimony about the adverse impact on the courts and on the judicial system resulting from having large numbers of unrepresented litigants was presented by a number of front-line Judges, including the Hon. Craig J. Doran, Administrative Judge for the Seventh Judicial District in Syracuse; the Hon. C. Randall Hinrichs, District Administrative Judge for Suffolk County; the Hon. Arthur M. Diamond, Justice of the Nassau County Supreme Court; the Hon. Scott Fairgrieve, Nassau County District Court Judge; retired Family, Surrogate and County Court Judge Hugh Humphreys; and the Hon. Andrea Phoenix, Nassau County District Court and County Court Judge.[8] The Hon. Nancy Sunukjian, a Town Justice in Saratoga County as well as the Acting Director of the Office of Justice Support and Special Counsel to the Deputy Chief Administrative Judge for the Courts Outside New York City, also testified that Town and Village Courts, which number more than 1,400 across the State, are confronted with a heavy volume of unrepresented litigants in summary eviction proceedings where the stakes — a roof over one's head — are high.[9]

At the Fourth Department hearing, a former front-line Judge, social services providers and *pro bono* programs described the poignant circumstances of military veterans who return home and cannot obtain counsel for a range of civil legal problems.[10] For example, John G. Powers, the Director of the Onondaga County Bar Association's Veterans & Military Service Members *Pro Bono* Clinic, testified:

> [W]e have a great epidemic right now of mental and emotional injuries. Some 40 percent of our returning veterans have some sort of mental health issues. Over 20 percent of our veterans are diagnosed with post-traumatic stress disorder or traumatic brain injury . . . . [T]he legal problems of these individuals with these emotional issues, with these mental health problems, they aren't necessarily specialized military-related legal problems. They're the problems of everyday life. They're the problems of someone who is depressed. They're the problems of someone who is uninterested in managing their own personal affairs. They're the problems of someone with substance abuse and alcohol abuse because they're self-medicating their injuries. They're the problems of foreclosure. They're the problems of divorce, child custody, separation, landlord-tenant. They're everyday legal problems.[11]

Likewise, bar leaders, leaders of programs to prevent domestic violence, education advocates, and law school deans (Dean Hannah Arterian of Syracuse University College of Law, Dean Stewart J. Schwab of Cornell Law School, and Dean Patricia E. Salkin of Touro Law Center) all testified as to impressive efforts to try to address the access-to-justice gap but, at the same time, pointed to the urgent need for additional resources to bridge the gap.[12]

At the Second Department hearing, the critical need for language access for immigrants whose first language is not English was described as a further obstacle to obtaining access to justice for many low-income families and individuals.[13]

Finally, as this Report documents fully below, Dr. Elizabeth Becker, a Senior Vice President of NERA Economic Consulting, reported at the First Department hearing on a detailed new cost-benefit analysis showing that for every one dollar invested in civil legal services, six dollars are returned in terms of

cost-savings and economic activity.[14] Also at that hearing, as detailed below, Professor Gillian K. Hadfield, Kirtland Professor of Law and Economics at the University of Southern California, testified about the potential for increased use of non-lawyers to help close the justice gap.[15]

Significant Testimony From Major Religious, State And Local Leaders: A number of major leaders testified in support of the allocation of funding for civil legal assistance in the Judiciary's budget. Cardinal Timothy Dolan, for example, fully supported the Chief Judge's allocation of Judiciary civil legal services funding in his testimony at the First Department hearing:

> It's obvious that I come hardly as a legal expert or a politician but only as a pastor, to heartily support an endeavor that I'm convinced is going to bring justice to people who, simply put, have nowhere else to go but to the courts, which enflesh the assurance of this great country that there is indeed equal protection under the law.
>
> See, as a pastor, I daily hear from my sheep. For instance, I daily hear from our Catholic Charities about struggling people evicted from their rooms or little apartments without proper notice or a chance of any type of legal recourse. As a pastor, I daily hear from our parish priests who have people at their door hungry. Why? Because, well, they were terminated from jobs, apparently without just cause a few days before with no severance, no back pay or no benefits. As a pastor, I hear from educators. I'm thinking, for instance, of Sister Michelle who tells me of her kids at one of our schools, her school in the Bronx, who had to spend the night on the street because of violence in the home, because their moms don't know where to seek protection and recourse from an abusive situation. As a pastor, I hear from our parishioners who run the daily soup kitchens; they tell me about their guests who have lost lodging, salaries, maybe their immigration documentation, even their kids in a custody battle who cry for somebody to represent them.
>
> As a pastor, I reflect on the assurances to which you hinted, Judge, of the Jewish and Christian scriptures in the Bible that God is a Judge who will guard the rights of His downtrodden people and before whom all have innate rights and dignity. And, as a pastor, I praise that God. Because, through Chief Judge Lippman's proposal, civil – not only criminal – but civil legal services might now be available to those who have no means to afford it otherwise. As a pastor who happens to be proud to be a New Yorker, I want to be able to boast again that this great State so often in the lead on urgent issues of justice and compassion is once more showing the nation the way. And, as a pastor who happens to be an American, I want to be able to claim that our noble values, such as equal protection under the law, that all stand before the bench as equals and that one has inalienable rights based not on bank accounts or stock portfolios but because [one] is made in God's image and likeness, that those promises are real not hollow, they're serious, they're not shams.[16]

Following Cardinal Dolan, the Hon. Christine Quinn, Speaker of the New York City Council, strongly supported the Chief Judge's civil legal services plan as providing essential legal aid for low-income families and individuals in all five boroughs of the City.[17] In particular, she reported that, as a result of the Chief Judge's initiative, "many of our City residents facing eviction, needing food stamps, facing loss of federal benefits, people who are victims of domestic violence who in the past were unrepresented, now because of your work have legal representation, which can make all the difference in the world."[18]

At the Third Department hearing, State Attorney General Eric T. Schneiderman highlighted the need for civil legal assistance for both represented parties and unrepresented parties and to promote respect

for the rule of law.[19] The Attorney General also reported on federal funding for one of the "essentials of life" civil legal services priority areas — foreclosure defense — that he had obtained as part of the national mortgage litigation settlement, and which had just been used to address the lack of funding in the State budget for foreclosure legal services.[20] In addition, he focused on the critical role that legal counsel can play in ensuring that low-income New Yorkers obtain the essentials of life and the resulting benefits for all New Yorkers:

> In our State today, with the complexities of day to day life even for the people of most moderate means, you need an attorney if you want to keep from losing your home or health care or custody of your child, your right to stay in this country or access to public benefits, it allows you to put food on the table. Essentially matters like these hang in the balance in our courts every day. And millions of New Yorkers today cannot meaningfully protect their rights because they can't afford to hire an attorney.
>
> [H]aving legal representation for all New Yorkers . . . will get us more funding for health care and housing and keep more people in their homes and avoid the collateral damage of homelessness and eviction and what happens to children, pulled out of school because their parents have lost their home and there's so many benefits, and there's no bigger bang for the buck than providing people with legal services.[21]

Likewise, Stephen Acquario, the Executive Director of the New York State Association of Counties, testified at the Third Department hearing in support of the Chief Judge's civil legal services initiative in the Judiciary's budget. He concluded that "[i]f civil legal services are not provided and are not properly funded at the State level, there will be real and significant consequences — legal, human and financial — to individuals in need and, ultimately, to the State and the counties."[22] Mr. Acquario added that:

> [Adequate civil legal defense] helps the system work. It helps the law make sure that [it serves] the purpose for which [it was] drafted and enacted . . . . [I]t's good to make sure they get their benefits whether we're paying for that or the federal government or [S]tate government is paying for that. Why? It helps a human being, number one, but number two it helps the local economy and State economy which is an economic return on investment in civil legal services."[23]

At the Second Department hearing, the Hon. Kathleen Rice, the Nassau County District Attorney, testified at length about the critical link between bridging the access-to-justice gap and preventing crime:

> Access and quality representation for all those in front of the court is at the heart of a preventative, front-end public safety strategy. As a [District Attorney], without such a strategy and without such civil court access and representation, I can tell you that our communities will be more dangerous and [we] will be eschewing a sustainable model with a long-term vision, for a theory that will continue to repeat public policy failures at great financial and human cost to New Yorkers. . . .
>
> Foreclosed and abandoned homes erode the cohesion and physical state of safe neighborhoods and provide easy targets for those seeking illegal shelter or to those looking to steal from, or vandalize, these properties. . . . By guaranteeing access and representation to litigants in foreclosure situations, we can better help law-abiding families stay in their homes and we can keep neighborhoods cohesive, inhabited and vibrant. These qualities are frequently the cornerstones of neighborhoods that are also *safe* neighborhoods. . . .

> The public safety price we will pay for eroding access and representation in these courts is steep, and the moral price of such erosion is unaffordable. . . .
>
> I'm proud to support and defend civil court access because it fits in with our commitment to prevention, our need to address the root causes of crime, and our focus on the type of long-term crime reduction strategies that, quite simply, work, and that help us dismantle the revolving door system of decades past.[24]

Similarly, the Suffolk County Executive, Steven Bellone, testified in favor of Judiciary funding for civil legal services, concluding:

> [U]nmet legal needs can impose substantial financial burdens on the local, State and the federal government, and society as a whole. For example, the low-income person who's abused and unable to get a divorce and continues to live with the abuser may need emergency medical care at an emergency room that he or she cannot afford, with the taxpayers ultimately absorbing the cost of the medical expenses associated with that care. Moreover, the County and/or State may have to pay for emergency shelter for a low-income person who is wrongfully evicted from his or her home as a result of having no legal representation and being unaware of his or her legal rights.
>
> Providing legal services to the low-income community not only benefits the low-income community, but also benefits the courts and society as a whole.[25]

Finally, at the Fourth Department hearing, the Hon. Craig J. Doran, Administrative Judge for the Seventh Judicial District in Syracuse, summed up the perspective of front-line Judges across the State when he observed:

> [W]e get a lot of litigants that come through the door. . . . I see this every day in cases I preside over – who unnecessarily file petitions, file the wrong kinds of petitions. If they had a little bit of assistance, that would allow them to have more control in their own destiny to better utilize the court system, to seek the justice that they really need to seek rather than sometimes a misdirected effort.[26]

Judiciary Testimony On The Impact Of The Second Year Of The Judiciary's Civil Legal Services Funding: Deputy Chief Administrative Judges Fisher and Coccoma reported in detail on the continuing critical need for more resources for civil legal services throughout the State and on the progress so far resulting from the second year of the Judiciary's Civil Legal Services funding. Their individual progress reports are included in the appendices to this Task Force Report.[27]

Judge Fisher described the impact of the second-year funding in the First and Second Departments in these direct terms:

> If you ask the individuals who have been assisted by legal services providers if their lives have been changed by the assistance they received from the Civil Legal Services grant money, the answer would be a resounding yes. If you ask the provider organizations if the grants have made a difference in their ability to provide services, each program will uniformly answer yes. Both clients and providers are grateful that the New York State Court System is forward-thinking in understanding the moral imperative to close the justice gap. Our government partners will be happy with the cost savings that legal assistance has produced through these grants.[28]

In the Third and Fourth Departments, Judge Coccoma reported that:

In just the short period of time that Civil Legal Services funding has been made available to the Judiciary, it has begun to make a profound difference in the lives of those who cannot afford legal representation. . . .

The funding provided was awarded to a cross section of providers in order to cover a broad spectrum of need across New York State. Awards were granted to providers in urban locations, as well as our rural areas. You will see the differing needs of these disparate populations and how the awardees used the funding to best meet the needs of their clients. Their needs have ranged from those involved in litigation, health care benefit issues relating to their families, domestic violence matters, unemployment benefits, and discrimination claims. The individuals receiving assistance through Civil Legal Services all have one thing in common. Without this funding, they would have no way to pay for essentially needed legal advice. Not only would they have no way to pay for it, they would have nowhere else to turn.

Outside the City of New York, in the Third and Fourth Departments, Civil Legal Services providers assisted clients in a variety of ways. Some provided direct legal assistance, such as representation in court proceedings. Other providers used the funding to assist clients using a more broad-based methodology – free educational programs, distribution of informational materials at help desks, and by establishing HelpLines, hotlines, or referral services. . . .

These Civil Legal Service providers deserve our praise for their commitment to assisting those in our society who are in most need. Continued Civil Legal Services funding will ensure that those in our society who are most needy, will continue to have a place to turn for help. Next year, I hope to report on the continued success of this much needed funding.[29]

PART B. RECOMMENDATIONS FOR ACTION

BASED ON THE CHIEF JUDGE'S HEARINGS in each of the four Judicial Departments in New York State during September and October 2012 and the work of the Task Force over the past year, the Task Force makes eight key recommendations for action in the following areas:

1) the allocation of additional civil legal services funding to address the continuing access-to-justice gap for low-income New Yorkers;

2) the allocation of additional civil legal services funding to continue to generate approximately six dollars in cost savings and economic activity for every one dollar invested in civil legal assistance, as reported by NERA;

3) concrete steps that the 15 law schools in New York State can take — and are taking — to help meet the increasing need for civil legal assistance for low-income families and individuals;

4) enhanced efforts to increase the level of *pro bono* assistance provided by private lawyers to low-income clients;

5) a new initiative to increase the contributions that non-lawyers can make to bridge the access-to-justice gap;

6) efforts to improve the ability of Town and Village Courts to address the needs of low-income and other unrepresented litigants in summary proceedings;

7) increased efforts to collaborate among legal services providers; and

8) a special initiative to increase the involvement of the business community and the private sector in addressing the needs of the New York State courts, including bridging the access-to-justice gap.

As described below, the combination of the allocation of additional funding to bridge the access- to-justice gap and the six non-monetary initiatives will enable New York State to continue to make progress on the multi-year plan implemented by the Chief Judge in 2011 to address the unprecedented need for civil legal assistance for low-income families and individuals living at or below 200 percent of the federal poverty level in New York State.

I. Additional Funding In The Judiciary Budget Is Essential To Continue To Make Progress On Bridging The Substantial Gap Between The Need For Civil Legal Assistance And Available Resources.

1. ***Additional Judiciary Funding Is Needed To Bridge The Access-To-Justice Gap:*** In its 2010 and 2011 Reports, the Task Force presented data establishing that at best 20 percent of the legal needs of low-income New Yorkers are being met in all areas of the State – rural, suburban, and urban. Evidence also demonstrates that this access-to-justice gap adversely impacts the functioning of the courts and that the large number of unrepresented New Yorkers increases litigation costs for represented parties

such as private businesses and local government. Moreover, independent analyses show that funding civil legal services is a good investment that brings federal benefits into the State, stimulates the State and local economy when low-income families and individuals spend these additional federal benefits on goods and services, and saves government expenditures for State and local public assistance and emergency shelter.[30]

Based on these findings, the Task Force recommended a multi-year plan to allocate Civil Legal Services funding in the Judiciary's budget and a series of non-monetary steps to reduce substantially the access-to-justice gap. Mindful of fiscal realities and budget constraints, in its 2010 and 2011 Reports and in this Report, the Task Force has not recommended an allocation of funding to eliminate the 80 percent gap in access to justice resulting from the fact that, at current funding levels, civil legal services programs are, at best, meeting 20 percent of the civil legal needs of low-income New Yorkers. Such a recommendation would require a five-fold increase in the current $223 million funding level for New York civil legal services providers,[31]which consists of a patchwork of federal, State, local, and private grants and contributions.

In the current fiscal year, with the support of the Governor and the Legislature, as part of the plan to reduce the access-to-justice gap, $25 million in Civil Legal Service funding has been allocated in the Judiciary's budget for this purpose. In keeping with the multi-year plan, the Task Force recommends that the funding for civil legal services included in the Judiciary's budget be increased for the April 1, 2013-March 31, 2014 fiscal year. For all the reasons set forth below, together with the non-monetary recommendations detailed in this Report, the Task Force recommends an additional allocation of $15 million for the Judiciary's Civil Legal Services funding over the current $25 million level so as to continue to make progress to reduce the unacceptable access-to-justice gap in New York State.

In recommending this $15 million increase over the current Judiciary Civil Legal Services funding level, the Task Force adheres to its 2010 and 2011 recommendation of a modest approach to increase by approximately 50 percent civil legal services funding from all available sources for providers in New York State by gradually increasing the annual Judiciary Civil Legal Services funding over several years. The creation of this permanent, stable civil legal services funding stream within the Judiciary's budget will thereby reduce by a significant degree the access-to-justice gap for low-income families and individuals all across the State.

Based on the evidence before it, the Task Force again concludes that the most urgent unmet legal needs for which the proposed funding should be allocated are civil legal services in matters involving "the essentials of life" – housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts). Moreover, the Task Force continues to recommend that prevention efforts and early intervention be prioritized, and continues to find that well-trained and seasoned experts are necessary to address the complex legal problems that low-income clients frequently face.

The Task Force recommends that the Judiciary Civil Legal Services funding in the next fiscal year be distributed — as in the current and prior fiscal years — throughout the State's urban, suburban, and rural areas in accordance with the distribution of low-income New Yorkers. Further, the most vulnerable families and individuals who receive the funded civil legal assistance should continue to include both those living below the federal poverty level ($23,050 for a family of four in 2012) and the "working

poor" living below 200 percent of the federal poverty level ($46,100 for a family of four in 2012).

In addition, the Task Force recommends that the designated Oversight Board continue to oversee the issuance of a request for proposals, review the grant proposals, and determine the allocation of the Judiciary Civil Legal Services funding. The immediate implementation of this third-year funding will require no new administrative expenses as the Office of Court Administration can again distribute the Oversight Board's RFP for funding, receive the proposals, review them for completeness on behalf of the Oversight Board, and assume responsibility for the contracting process for the distribution of the Judiciary Civil Legal Services funds.

2. ***The Unmet Need For Civil Legal Assistance Is Still Substantial:*** Based on the evidence presented at the Chief Judge's civil legal services hearings in each of the four Judicial Departments in the State and the Task Force's review of other relevant data, even before the most recent natural disaster, there is a continuing substantial unmet need for civil legal assistance for low-income families and individuals living at or below 200 percent of the federal poverty level.

While the evidence shows that the first two years of the Judiciary Civil Legal Services funding has had a significant beneficial impact, this funding has essentially stanched the bleeding and stabilized the current intolerable situation in which the Task Force has found that, at best, 20 percent of the legal needs of low-income New Yorkers involving the essentials of life are being met. Evidence before the Task Force shows that the access-to-justice gap would have widened further in the absence of this funding.[32]

The tragic impact of Hurricane Sandy on Long Island, in Westchester and in the five counties of New York City has also given rise to immediate new legal needs — for housing assistance, emergency federal aid from FEMA, federal food stamp benefits, disaster relief unemployment benefits, and disaster relief health care coverage — thereby illustrating the precarious existence of many of the State's most vulnerable residents. As was the case after Hurricane Katrina hit New Orleans, in addition to these immediate legal needs, new longer-term legal needs will certainly emerge, including an increased need for family law assistance due to increased pressures on family stability, an increased need for employment and retraining assistance, and an increased need for housing and re-housing assistance. As with all natural disasters, civil legal help is an important part of the recovery process.

In its 2010 Report, the Task Force presented the results of the first survey of the legal needs of low-income New Yorkers that had been conducted in more than two decades. Under the auspices of the Fund for Modern Courts, Lake Research Partners, a well-respected independent opinion polling company that uses standard professional sampling methods similar to the seminal 1994 national legal needs study by the American Bar Association, carried out the study in August 2010. By telephone, Lake Research sampled low-income New Yorkers, defined as having a household income at or below 200 percent of the federal poverty level.

In this 2012 Report, the Task Force concludes that the key findings of the Task Force's 2010 legal needs study have not changed. Indeed, the continuing high rates of poverty in New York State validate those findings.

The Lake Research data found that 1.2 million low-income New Yorkers had three or more legal problems over the course of the year and thereby experienced the most pressing need for civil legal help. Meanwhile, recent IOLA data shows that 264,574 cases were closed by IOLA grantees during the last

12-month reporting period of April 1, 2011-March 31, 2012.[33] Comparing the number of closed cases to the number of low-income New Yorkers with multiple legal problems once again shows that, at best, 20 percent of the need for civil legal services is being met.[34]

3. ***Federal Poverty Data And Unemployment Data Document High Need:*** Updated United States census data further confirms the validity of findings in the Task Force's 2010 and 2011 Reports as to the substantial numbers of New Yorkers living at or below 200 percent of poverty. Indeed, whereas the Task Force projected in its 2010 and 2011 Reports that at least 6,328,000 New Yorkers were living at or below 200 percent of the federal poverty level, 2011 federal census data now shows that 6,498,000 New Yorkers are living at or below 200 percent of the poverty level — which is 33.6 percent of the residents of the State.[35] For New York City, the percentage for residents living below 200 percent of the federal poverty level in 2011 was even higher at 41 percent. Moreover, nearly 21 percent of City residents are now living at or below 100 percent of the federal poverty rate.[36]

The federal poverty level and 200 percent of that level for 2012 are as follows:[37]

2012 Poverty Guidelines
for the 48 Contiguous States and the District of Columbia

Family Size	100%	200%
1	$11,170	$22,340
2	$15,130	$30,260
3	$19,090	$38,180
4	$23,050	$46,100

United States Department of Labor data on unemployment in New York State amplifies the continuing needs of these low-income families and individuals. Despite the payroll job growth that New York State has been able to achieve, particularly in comparison to national job growth, the unemployment rate remains high at 8.9 percent.[38]

4. ***There Are Still Large Numbers Of Unrepresented Litigants, Which Adversely Affects The Functioning Of The Courts:*** Based on available data, the Task Force finds that substantial numbers of unrepresented litigants continue to overwhelm the New York courts.

More than 2.3 million litigants still attempt to navigate the complex civil justice system without a lawyer each year. Representation by counsel is still unavailable for all but a very small fraction of tenants in eviction cases in all four Judicial Departments, borrowers in thousands of consumer credit cases filed in New York City, and parents in child support matters in rural, suburban, and urban areas.[39] The impact of the Chief Judge's civil legal services initiatives over the past two years has resulted in an increase in the percentage of New Yorkers represented in foreclosure settlement conferences from 33 percent to 51 percent — but 49 percent of New Yorkers appearing in these court conferences at which they face the loss of their homes still do so without counsel.[40]

At the Chief Judge's hearings in each of the four Judicial Departments in the State, business leaders,

State and local government leaders, representatives of the private bar, and front-line Judges testified to the adverse impact that these large numbers of unrepresented litigants have on the functioning of the courts.

For example, Michael T. Keegan, Regional President of the Albany-Hudson Valley North Division and Senior Vice President of M&T Bank, testified that the provision of legal representation for low-income litigants is a benefit to banks "in terms of resolving matters, and it's a benefit to individuals, who need those services, and it's a benefit to our community."[41]

Attorney General Schneiderman also testified that "I can attest, that eliminating the justice gap is not only a matter of fundamental fairness, it will improve the efficiency and effectiveness of our judicial system and improve the quality of the outcome and will save the [S]tate money."[42]

5. ***Decreased IOLA Funding Has A Continuing Adverse Impact On The Unmet Need For Civil Legal Assistance:*** As the Task Force has found previously, a drop in interest rates due to the economic downturn has dramatically reduced the Interest on Lawyer Account Fund's revenue for civil legal services grant-making, thereby illustrating the need for stable, consistent and permanent State civil legal services funding.

The revenue derived from lawyers' IOLA escrow accounts depends heavily on the often volatile interest rates paid by banks holding those accounts. When a decrease in interest rates is associated with a downturn in the economy, as has been the case in recent years, the problem of uncertain and reliable funding is compounded — as the need for civil legal services and the actual number of indigent New Yorkers increase, IOLA's ability to fund legal services decreases dramatically.

As documented in the Task Force's 2010 and 2011 Reports, interest rates dropped precipitously during the economic crisis in the Fall of 2008. In 2007, the largest financial institutions holding IOLA accounts provided an average interest rate of 2.25 percent. By 2008, the rate had been cut in half to just over 1 percent; in October of 2009, the average rate dropped even further to 0.31 percent. As of August 2010, the rate paid was down to 0.25 percent, representing an overall decline of 88 percent over three years. The average rate has remained at that level through 2011 and 2012. As a result, as described earlier in this Report, annual IOLA revenue available for civil legal services providers has plummeted from $32 million annually in 2008 to only $7 million for this past year.[43]

With the support of the Legislature and the Governor, the Judiciary created a $15 million IOLA rescue fund in the current State fiscal year and in the prior two fiscal years in an effort to address at least part of the effect of this funding reduction. In view of the continuing impact of the economic downturn on IOLA revenue and the continuing substantial unmet need for civil legal aid, the Task Force recommends that this $15 million rescue fund be maintained in the Judiciary's budget for the coming fiscal year.

6. ***The Testimony Of Legal Services Clients Demonstrates The Profound Impact Of The Lack Of Legal Assistance:*** The clients who testified at the hearings in each of the four Judicial Departments highlighted the life-changing impact of the provision of civil legal assistance and the profound consequences of the lack of such assistance.

At the hearing in the Third Department (including Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties), clients described the crucial legal help they received in challenging circumstances:

- Heisily Rojas, the survivor of an emotionally and psychologically abusive husband she believed was sexually abusing her three-year old daughter, needed legal help to obtain a divorce, custody of her children, and protections from abuse for her daughter.[44]
- Holly Ovitt, about to be evicted from her home of 10 years by her ex-fiancé landlord who is the father of their two children, needed legal assistance to fight the eviction and secure an affordable rent to allow the children to complete the school year and enable her to obtain and afford a new apartment.[45]
- Sherry DeShane, living with a disability due to PTSD, anxiety, and depression and relying on public assistance after having been improperly denied her federal Supplemental Security Income benefits, needed civil legal services to restore her SSI benefits, get off public assistance, and obtain a sense of personal security.[46]
- Shari Chireno, a middle-class cancer patient whose family lost all their belongings when Hurricane Irene flooded their home and who was also struggling with medical bills, needed civil legal services to stay an eviction warrant and vacate a judgment for arrears entered against her family while they were unrepresented, enabling them to find a new home.[47]

At the hearing in the First Department (including Bronx and New York Counties), clients testified about the critical legal help they received with respect to the essentials of life:

- Angela D'Arezzo, seriously impaired by muscular dystrophy but whose home-care Medicaid benefits were improperly reduced, needed civil legal services to restore the full-time home care through Medicaid that she so desperately needed to continue living on her own rather than in a nursing home.[48]
- Richard Usera, a veteran who fell behind in his rent after experiencing a drastic drop in his income and was in a homeless shelter after being evicted from his Section 8 housing, needed legal assistance to return to his apartment with a rent adjustment that reflected his reduced income.[49]
- Fredesvinda Vasquez, a grandmother with disabilities living on public assistance, having been improperly evicted from the public housing she shared with her daughter and grandchildren, needed legal services to reopen her rental assistance case with the Housing Authority, and return to appropriate, affordable housing.[50]

In the Fourth Department (including Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, Wyoming, and Yates Counties), where one focus of the hearing was on the legal needs of veterans, one mother described the critical legal assistance she was able to obtain for her son:

- Cheri Caiella, whose son – a combat veteran of the Iraq war who came home with mild traumatic brain injury, severe chronic PTSD and other health issues – was unable to manage his day-to-day affairs and needed legal services to obtain a proper evaluation of his condition and secure his eligibility for Veterans Administration disability benefits.[51]

In the Second Department (including Dutchess, Kings, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester Counties), compelling client testimony highlighted the potential harm to those who cannot get the civil legal aid they need to address the essentials of life:

- Felicia Essix, who had difficulty with her application to the Department of Social Services for the child care services she needed so that she could get a job, required civil legal assistance to obtain those services, which in turn enabled her to secure employment.[52]
- Tenzin Choezom, a survivor of domestic violence who had limited knowledge of English, needed civil legal services, including the assistance of an interpreter, to escape from an abusive husband, obtain custody of her daughter, and receive child support.[53]
- Mamie Copeland, a 68-year-old widowed retiree and a 25-year resident of a rent-stabilized apartment who had fallen behind in her rent after a mix-up involving her Social Security checks, needed civil legal services to vacate an improper settlement agreement she signed while representing herself, and to obtain much-needed apartment repairs and a reduction in the amount of back rent that was claimed to be due.[54]

II. Additional Judiciary Civil Legal Services Funding Is Needed Because Investing In Civil Legal Services Provides Substantial Economic Benefits To New York State And A Return Of Approximately Six Dollars For Every One Dollar Of Funding.

LAST YEAR AND THIS YEAR, THE TASK FORCE OBTAINED ASSISTANCE from recognized experts to analyze the cost savings and economic benefits resulting from funding civil legal services programs in New York State, and thereby report on the rate of return on investments in civil legal services.

As documented in the Task Force's 2011 Report, Navigant Consulting conservatively estimated from national data and New York State data that investing in civil legal services to prevent domestic violence in New York State can achieve annual savings of $85 million in the costs associated with assistance for survivors of domestic violence. Likewise, using State and local data on the cost of providing shelter in New York State and IOLA data on eviction prevention cases in which IOLA grantees provided legal assistance, Cornerstone Consulting concluded that anti-eviction legal services programs funded by IOLA are saving approximately $116 million annually in averted shelter costs. Both Navigant and Cornerstone are nationally recognized economic consulting firms which conducted their studies on a *pro bono* basis.[55]

For this Report, the Task Force obtained *pro bono* assistance from NERA Economic Consulting, another nationally known economic consulting firm. NERA analyzed data on the amount and impact of federal funds that the provision of civil legal services brings into New York State. Having based the federal benefits and economic impact analysis in its 2010 and 2011 Reports on IOLA data, the Task Force de-

termined to take a fresh look at this data for this 2012 Report. NERA's independent analysis found that IOLA's analysis underrepresents the federal benefits obtained by civil legal services programs and the resulting economic impact.

As Dr. Elizabeth Becker of NERA reported at the Chief Judge's First Department hearing, NERA's independent research supports the Task Force's earlier finding that the provision of civil legal services brings substantial federal funds into New York State to help support low-income New Yorkers and New Yorkers with disabilities and their families. Specifically, NERA found that:

- The positive financial impact of access to benefits from several specific federal programs (the federal Supplemental Security Income and the federal Social Security Disability programs) on the direct recipients of those benefits and their families is conservatively estimated as $378 million in 2011 alone.
- The long-term positive financial impact on low-income New Yorkers of future eligibility for federal programs arising from civil legal services that were provided in the past five years ranges as high as $682 million, depending upon the expected duration of continued participation in key federal programs.
- The positive financial effect in 2011 and the long-term future effects together could be as high as $1.06 billion.
- Multiplier effects for the inflow of these financial resources to New York State result in estimated economic benefits to the State in 2011 of $561 million and the estimated creation of about 5,600 jobs. If these multiplier effects remain stable, the inflow of funds in 2011, together with the future value created, will result in overall economic benefits to New York State of $1.56 billion.
- These economic benefits effectively reduce by approximately 2 percent per year New York State's excess tax burden to the federal government of approximately $20 billion.[56]

Based on the independent NERA, Navigant, and Cornerstone studies, and taking into consideration the current overall funding of $223 million for IOLA-funded civil legal services programs in New York State, an investment of a single dollar in legal services funding generates approximately six dollars in combined cost-savings, benefits obtained and economic activity for New York State.

NERA's key findings are set forth below:

1. ***NERA Concluded That The Provision Of Civil Legal Services Enables Low-Income New Yorkers To Obtain Or Retain Access To Specific Federal Benefits:*** Based on its analysis, NERA found that the provision of civil legal services enables low-income New Yorkers to obtain or retain access to benefits under the following key federal programs that are targeted at the neediest families and individuals:

- **Supplemental Security Income:** SSI is a federal program that makes monthly payments to people who have low-income and few resources and are age 65 or older, blind or disabled. Eligibility for SSI depends upon income and certain assets.
- **Social Security Disability Income:** SSD is a federal program that pays monthly benefits to people who cannot work due to a medical condition that is expected to last at least one year or result

in death. Eligibility is determined based on specific rules regarding recent work and duration of work, as well as a determination of disability by doctors and disability specialists.

- **Unemployment compensation provided by the federal government:** The Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular State unemployment benefits have been exhausted.
- **Medicaid:** The Medicaid program covers the cost of medical care for qualified low-income persons. While Medicaid benefits are generally funded by the State, the federal government provides partial reimbursement for benefits.
- **Earned Income Tax Credits:** EITCs are a benefit for certain people who work and have low to moderate wages. The benefit reduces the amount of federal tax owed and may result in a tax refund from the federal government.
- **Various other federal benefits:** In addition to these major federal benefit programs, low-income New Yorkers may be eligible for other federal benefits programs such as Veterans' benefits and Medicare.

As NERA found, these federal benefits may be inaccessible to low-income New Yorkers for a number of reasons. They may not be aware of the programs or of their eligibility. Determining eligibility can be complicated and require navigation through a maze of complex rules and regulations. Proof of eligibility may require documents and/or information that are difficult for low-income persons to access or obtain. Benefits may be denied incorrectly or terminated improperly. As a result, provision of civil legal assistance, including administrative advocacy, brief legal services and litigation, may be the only avenue available to low-income New Yorkers to ensure that they receive the federal benefits to which they are entitled. Provision of these federal benefits results in substantial cost savings for the State and local governments to which these needy families would likely turn instead.

2. ***NERA Calculated That The Provision Of Civil Legal Assistance Results In Nearly $1 Billion In Federal Benefits Coming Into New York State:*** Using data from IOLA and other sources, NERA calculated the value of these federal benefits that are brought into New York State by the provision of civil legal services.

A. The Value Of Federal Disability Benefits Obtained: The largest category of federal funds brought into New York State by the provision of civil legal services for low-income New Yorkers is SSI and SSD income. These amounts may include back awards as well as ongoing monthly benefits for cases closed in 2011. As calculated by NERA, these amounts are reported in columns (1) and (2) of rows (B) and (C) in Table 1 below. Federal funds also may be received in 2011 as ongoing benefits for cases closed in recent years. Ongoing receipt of benefits under these programs occurs because the duration of participation, once a person is qualified and enrolled, is quite lengthy. The estimated duration of participation prior to the retirement age of 65 is 9.7 years for SSD and 10.5 years for SSI.[57] Benefits received in 2011 from cases closed between 2007 and 2011 are reported in columns (3) through (6) of rows (B) and (C) of Table 1 below.

TABLE 1. Value of SSI/SSD Federal Funds Received

(dollars in millions)

	Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in 2011
	Back Awards (1)	Monthly Benefits (2)	2010 (3)	2009 (4)	2008 (5)	2007 (6)	(7)
A. Inflation Rate (2011 Dollars)	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
Other Federal Benefits							
B. Other Federal Benefits back awards	7.020						
C. Other Federal Benefits monthly benefits going forward		1.801	1.145	0.914			
D. Annualized Other Federal Benefits going forward		21.607	13.737	10.973			
E. Inflation-adj. Other Federal Benefits (2011 Dollars)	7.020	21.607	14.169	11.504			**54.300**

NERA also evaluated the total economic impact of the receipt of these benefits for 2011 by annualizing the monthly benefits for each year. As benefits under these federal programs are routinely adjusted for inflation, NERA adjusted the monthly benefits received from past case closings upward using the Consumer Price Index (CPI).[58] NERA then added the value of the back awards from 2011 to this total value of monthly benefits. The estimated 2011 value of federal benefits brought into New York under these two programs is approximately $173 million.

This approach to evaluating impact may be viewed as a "flow of funds" approach. NERA noted that it is an extremely conservative estimate of the value of SSI/SSD brought into New York State as a result of the provision of civil legal services. It captures the value of benefits paid only in 2011 and includes benefits received as a result of case closings for only the past five years of completed cases. This understates the financial impact because expected ongoing participation in either program, once enrolled, is expected to be considerably longer than five years. An alternative approach for estimating the value of these closed cases is to consider the economic value of the expected future stream of benefits, given the long expected duration of future participation for low-income New Yorkers who have been enrolled in the programs as a result of the provision of civil legal services. As calculated by NERA, several alternative estimates from this "value created" approach are shown in Table 2 below.

TABLE 2. Economic Value Created from Expected Future Participation in SSI/SSD

(dollars in millions)

	Current Year 2011 (1)	Projected Future Benefits 2012 (2)	2013 (3)	2014 (4)	2015 (5)	2016 (6)	2017 (7)	2018 (8)	2019 (9)	2020 (10)
A. Cases Completed in 2011 (Back Awards and Monthly Benefits)	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283
B. Discounted at Prime Rate (3.25%)		30.299	29.345	28.421	27.527	26.660	25.821	25.008	24.221	23.459
C. Benefit Received in 2011 From Past Years' Cases	116.056	116.056	116.056	116.056	116.056	116.056	91.340	63.521	35.876	0.000
D. Discounted at Prime Rate (3.25%)		112.403	108.865	105.438	102.119	98.905	75.391	50.779	27.777	0.000
E. Current Value of Projected Future Benefits: 5-Year Projection										
F. Cases Completed in 2011	142.252									
G. Benefits from Past Years' Cases	527.729									
H. Current Value of Projected Future Benefits: 10-Year Projection										
I. Cases Completed in 2011	240.761									
J. Benefits from Past Years' Cases	681.675									

In the first approach, NERA estimated the future value of the provision of civil legal services only in cases closed in 2011. NERA then projected over five years the value of the ongoing monthly benefits from cases closed in 2011. These amounts are shown in columns (2) through (6) of row (A). To convert future values to present value, NERA discounted these values using the prime rate of interest at 3.25 percent, with discounted values shown in row (B). The five-year future value of cases closed in 2011 is $142 million. Adding to this amount the value of $57 million in benefits already received for cases closed in 2011 ($26 million in back awards plus $31 million in monthly benefits), the total current and future value of cases closed in 2011 alone would be $199 million. Alternatively, the value of the cases closed in 2011 could be projected to cover a 10-year period, as in columns (2) through (10) of row (A). This would yield a present value of future benefits of about $241 million. Adding to this amount the value of $57 million in benefits already provided for cases closed in 2011, the total current and future value would be $298 million.

In the second approach, NERA estimated the present value of expected ongoing future benefits from all cases closed between 2007 and 2011. These amounts are shown in columns (2) through (6) of row (C) for a five-year projection and columns (2) through (10) of row (C) for a 10-year projection. Again, the values are converted to present value using the prime rate in row (D). The estimated future values are $528 million for the five-year projection and $682 million for the 10-year projection, respectively. The "value created" from recently closed cases far exceeds the more conservative estimate using a "flow of funds" methodology measuring only benefits received in 2011.

B. The Value Of Other Federal Benefits Obtained: The provision of civil legal services also helps low-income New Yorkers secure access to a variety of other federal benefits, such as Veterans' benefits and Medicare. As with SSI/SSD, in 2011 eligible low-income New Yorkers received both back awards and ongoing monthly benefits. Some persons enrolled in these programs in previous years also benefited from the receipt of ongoing benefits in 2011. NERA estimated the value of the cases closed in 2011 and for the prior two years by assuming the average duration of these benefits is three years. Table 3 below reports the conversion of monthly benefits to annual amounts and the adjustment of past benefit amount for inflation using the CPI. The total estimated value of the monthly benefits from cases closed over a three-year period, plus the 2011 back awards, is approximately $54 million.

TABLE 3. Value of Other Federal Benefits Received
(dollars in millions)

	Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in 2011
	Back Awards (1)	Monthly Benefits (2)	2010 (3)	2009 (4)	2008 (5)	2007 (6)	(7)
A. Inflation Rate (2011 Dollars)	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
Other Federal Benefits							
B. Other Federal Benefits back awards	7.020						
C. Other Federal Benefits monthly benefits going forward		1.801	1.145	0.914			
D. Annualized Other Federal Benefits going forward		21.607	13.737	10.973			
E. Inflation-adj. Other Federal Benefits (2011 Dollars)	7.020	21.607	14.169	11.504			**54.300**

As described above, the Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular State unemployment benefits have been exhausted. In New York State, unemployed persons are generally eligible for 26 weeks of benefits. Extended federal benefits may be available from the federal program for 6, 9, 14 or 20 weeks, depending upon the circumstances of the unemployed person. The average of these extension periods is about 12 weeks. IOLA reports that the provision of civil legal services has assisted unemployed New Yorkers in gaining State unemployment compensation benefits totaling $3.49 million in back awards and $790,000 in monthly awards. Assuming that these State unemployment benefits continue for the full 26-week eligibility period, then the federal extension would be worth about half the value of the State benefits. Accordingly, as set forth in Table 4 below, NERA calculated the value of the federal extension of unemployment benefits to be about $6.5 million.

TABLE 4.

Estimated Value of Federal Unemployment Compensation Extensions

(dollars in millions)

		Cases Completed in 2011		Total
		Back Awards	Monthly Benefits	Impact in 2011
		(1)	(2)	(3)
Federal Unemployment Compensation				
A.	State Unemployment Compensation (6 months)	3.490	0.791	
B.	Federal Unemployment Compensation back awards	1.745		
C.	Federal Unemployment Compensation monthly benefits		0.395	
D.	Annualized Federal Unemployment Compensation		4.745	
E.	Inflation-Adj. Federal Unemployment Compensation	1.745	4.745	**6.490**

In addition, many low-income New Yorkers received medical benefits in 2011 from the Medicaid program. Medicaid costs are shared by the State and federal governments. IOLA provided NERA with estimates of the amount of federal reimbursement for Medicaid benefits received in 2011. IOLA also provided NERA with information regarding the value of Earned Income Tax Credits received by low-income New Yorkers as a result of the provision of civil legal services. These amounts are approximately $119 million and $25 million, respectively.

C. The Overall Value Of Federal Benefits Obtained: As calculated by NERA and set forth in Table 5 below, when the value of these benefits is added to the value of the federal funds brought into the State under the other programs discussed above, the total "flow of funds" brought into New York State in 2011 alone is $378 million. Adding the "value created" from expected future benefits (which range from $528 million for a five-year projection to $682 million for a 10-year projection) to this $378 million, the total value of civil legal services provided in recent years would range from $906 million to over $1 billion.

TABLE 5.

Total Value of Federal Funds Brought Into New York State: 2011

(dollars in millions)

	Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in 2011
	Back Awards	Monthly Benefits	2010	2009	2008	2007	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. Inflation Rate (2011 Dollars)[1]	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
SSI/SSD							
B. SSI/SSD back awards	26.116						
C. SSI/SSD monthly benefits		2.607	2.899	2.197	2.218	1.899	
D. Annualized SSI/SSD monthly benefits going forward		31.283	34.783	26.370	26.622	22.783	
E. Inflation-adj. SSI/SSD Benefits (2011 Dollars)	26.116	31.283	35.876	27.645	27.819	24.716	**173.455**
Other Federal Benefits							
F. Other Federal Benefits back awards	7.020						
G. Other Federal Benefits monthly benefits going forward		1.801	1.145	0.914			
H. Annualized Other Federal Benefits going forward		21.607	13.737	10.973			
I. Inflation-adj. Other Federal Benefits (2011 Dollars)	7.020	21.607	14.169	11.504			**54.300**
Federal Unemployment Compensation							
J. State Unemployment Compensation (6 months)	3.490	0.791					
K. Federal Unemployment Compensation back awards[2]	1.745						
L. Federal Unemployment Compensation monthly benefits[2]		0.395					
M. Annualized Federal Unemployment Compensation		4.745					
N. Inflation-Adj. Federal Unemployment Compensation	1.745	4.745					**6.490**
Other							
O. Federal share of Medicaid benefits received in 2011							118.895
P. Earned Income Tax Credits							25.072
Q. Total Federal benefits received in 2011							**378.213**

Notes and Sources

[1]Year-over-year percent change in average monthly CPI index value. Data from the St. Louis Federal Reserve.

[2]Estimated assuming Federal Unemployment Compensation benefits extend for an additional 3 months.

3. ***NERA Calculated That The Provision Of Civil Legal Assistance Results In An Additional Economic Stimulus For New York State Of $561 Million And The Creation Of 5,600 Jobs:*** Provision of federal benefits to eligible low-income New Yorkers provides benefits not only to them and their families, but to the State as a whole. Beneficiaries are empowered to spend money on housing, food, clothing and other support for their families. Thus, every extra dollar brought into the State results in a stimulus to the State economy overall and benefits all New Yorkers. Accordingly, NERA evaluated the economic impact of the $378 million in incremental federal benefits brought into the New York State economy as a whole in 2011, as well as the long-term value of expected future federal benefits.

The United States Department of Commerce reports that every dollar brought into the New York economy generates an extra 48 cents of value in stimulus to the economy overall.[59] NERA concluded that applying this multiplier of 1.48 to the $378 million in incremental benefits received in 2011 yields an overall positive impact on the State economy of $561 million. NERA further concluded that if the multiplier effect remains stable, then the long-term value of 2011 funds received together with the future value created could be as high as $1.57 billion.

The Department of Commerce also provides a "jobs factor" enabling estimation of overall job creation

due to the stimulus to the economy. The average cost of a job supported by funds brought into the State is $100,224. Thus, as presented in Table 6 below, NERA found that the number of new jobs created by a stimulus of $561 million for funds received in 2011 is approximately 5,600 jobs.[60]

TABLE 6.
Economic Impact on New York State and Jobs Creation
(dollars in millions)

A.	Total Federal Funds Brought Into State	$378,212,636
B.	Multiplier	1.484
C.	**Total Economic Stimulus Effect of Federal Funds**	**$561,116,267**
D.	Jobs Factor	100,224
E.	**Total Jobs**	**5,599**

4. ***NERA Calculated That The Provision Of Civil Legal Services Reduces New York State's Excess Federal Tax Burden By 2 Percent:*** NERA also evaluated the value of the incremental federal benefits brought into New York State by the provision of civil legal services, relative to New York's excess federal tax burden. New York receives only 79 cents for every dollar that it pays in federal tax.[61] New York's total federal tax liability is approximately $95 billion, making this excess tax liability about $20 billion.[62] The $378 million in incremental federal expenditures in New York from access to the federal benefits discussed above is about 2 percent of that excess federal tax liability.

As described below, the Task Force's non-monetary recommendations complement and limit the level of the recommendations for additional funding. In particular, the Task Force's law school involvement and *pro bono* initiatives build upon the Task Force's recommendations for action in its 2011 Report.

III. The 15 Law Schools In New York State Can Take — And Are Taking — Concrete Steps To Help Meet The Increasing Need For Civil Legal Assistance For Low-Income Families And Individuals.

BASED ON ITS 2011 RECOMMENDATIONS[63] and under the leadership of the Chief Judge, the Task Force convened an unprecedented conference on May 22, 2012 that brought together for the first time Deans and law school faculty from the 15 law schools in New York State and representatives of the Judiciary, the private bar, and civil legal services providers. No other State has initiated such an effort.

Convened as a "leadership conversation" focused on access to justice and the role of the law schools, the Task Force's May 22nd conference was held at the Benjamin N. Cardozo School of Law as a full-day program entitled "A Conversation About the Role of Law Schools in Helping to Meet the Essential Civil Legal Needs of Low Income New Yorkers." The program brought together 150 participants, including 91 attendees from all of the State's 15 law schools (Deans, faculty members, administrators, and law students), 23 representatives of legal services providers, 13 members of the Judiciary and the Office of Court Administration, and 23 leaders of the bar. In addition to attendees representing the different geographic regions in the State, a number of national experts and leaders on access-to-justice issues were present.

The Task Force's May 22nd law school program assembled law school administrators and faculty to encourage greater coordination between their programs and existing legal services programs. The goal was to channel the efforts of law schools and law students in ways that make sense to the institutions that deal with the gap in access to justice on a daily basis and in ways that are, therefore, most likely to maximize the contribution that law schools can make to the effort. At the conference, four work groups were formed to focus on the discrete areas of *pro bono* efforts, post-graduate opportunities, clinical and other experiential learning, and curriculum development.

The May 22nd law school initiative took place three weeks after Chief Judge Lippman announced the establishment of a new 50-hour *pro bono* requirement for admission to the bar in New York State. This new rule recognizes the value of engaging future lawyers in meeting the real world needs of vulnerable people in our justice system. Although the conference did not address the way in which this requirement would be defined and implemented, there was broad recognition that the new requirement would place a renewed emphasis on the contributions that law students can make to narrow the justice gap and on the ways in which law schools can support and encourage such work.

Following the May 22nd program, the Task Force's Law School Involvement Working Group — which included Task Force members and faculty representatives of the law schools in New York State — developed recommendations for action based on the sessions at the conference. Drawing on a comprehensive report by the Law School Involvement Working Group,[64] the Task Force makes the following recommendations for action that focus on legal education and the identification of opportunities for law students, law graduates, and law faculty in New York State to apply their skills to help close the justice gap for low-income New Yorkers.

Based on the report of its Law School Involvement Working Group, the Task Force is adopting six key recommendations to:

- Include law schools in regional planning processes that can help guide law students toward areas of greatest need;
- Establish an annual conference to encourage and promote communication and collaboration among the law schools and legal services providers, the courts, and the bar to further efforts to meet the civil legal needs of low-income residents in our State;
- Create on-line systems to match law students with providers, track students' work and hours, gather feedback, and measure outcomes;
- Establish a uniform student practice order to allow law students to perform the same tasks anywhere in New York State (as is the case in the other 49 States);
- Support recent law school graduates who are building new law practices that respond to the justice gap; and
- Provide law students with an understanding of the justice gap and with the knowledge and skills necessary to represent low-income clients effectively in *pro bono* activities as students and throughout their careers as attorneys.

Below are the six steps that the 15 law schools in New York State can take based on the work of the Task Force's Law School Involvement Working Group.

1. ***Law Schools Should Participate In Regional Planning To Respond To The Justice Gap And Establish A Law School Access to Justice Council To Provide Better Cooperation And Collaboration Among Schools And With The Broader Justice Community:*** No regular channels exist through which to coordinate the access-to-justice activities of the State's 15 law schools, dozens of legal services providers, numerous courts, bar associations, and private firms. Law schools should be regular and active participants in State and local planning and coordination initiatives, including those undertaken by regional bar associations, and task forces and other initiatives of the court system.

New York's law schools should establish a Law School Access to Justice Council that would help link the schools with each other and other stakeholder institutions to foster coordination and collaboration in programs that provide access to justice to low-income or vulnerable New Yorkers confronted with legal matters implicating the essentials of life. The Council should consist of a representative from each law school and representatives from major bar associations, the courts and the legal services community. The Council should work to increase the law schools' involvement in responding to the justice gap and to focus law school programs on areas of demonstrated need.

The Council's specific activities should include:

- Coordinating law student initiatives
- Promoting development of programs to involve law students to respond to a) Statewide or regional legal needs, such as foreclosure and domestic violence, and b) short-term or one-time needs, such as the 9/11 Victims' Compensation Fund (enabling victims to file administrative claims on-line) and the Deferred Action Childhood Arrivals program (protecting certain immigrants from deportation)
- Promoting best practices
- Organizing events to promote best practices for law student initiatives
- Promoting curricular innovation
- Creating resources for curricular innovation in substantive law that affects low-income clients and practice skills that are central to the effective representation of low-income clients
- Promoting communication about civil legal needs in specific communities to enable legal services providers, law school officials, law students, the courts and the bar to work jointly to coordinate delivery of critical legal services to vulnerable individuals, maximizing efficiencies and bridging the justice gap.

The Task Force also recommends that each law school take two additional steps to enhance this Statewide coordination:

A. Each Law School Should Create An Access To Justice Committee: Law schools are complex institutions, engaged in dozens of initiatives to improve access to justice in their communities, including public service projects, clinics, externships, centers and institutes. In addition, unique initiatives to meet the civil legal needs of neighboring low-income communities are often pursued by faculty members. While this creates a rich and varied environment for students, it is not always apparent whom to contact or how to access the resources of the law schools. Likewise, the imperatives that inform the development of initiatives at law schools may not correlate with the imperatives of the courts and/or legal services providers. Therefore, the Task Force recommends the creation of an Access to Justice

Committee to improve communication with all justice system stakeholders and to improve access-to-justice planning within each school. Each school's Committee should designate a representative to serve on the New York State Law School Access to Justice Council described above.

B. Each Law School Should Create An Access To Justice Law School Webpage With A Portal On The New York State Law School Access To Justice Council Website: Each school should establish an Access to Justice webpage to inform the public — and the legal community — of the range of activities undertaken by the law school, enabling members of the public and justice system stakeholders to understand how the school is working to bridge the justice gap. By collecting this information on a centralized website maintained by the Access to Justice Council, a Statewide law school network can be established that will improve access to justice.

2. ***An Annual Conference Should Be Convened To Continue The Dialogue On The Law Schools' Efforts To Bridge The Justice Gap:*** Working in conjunction with the Law School Access to Justice Council and each law school's Access to Justice Committee, the Task Force will host an annual conference for law school Deans, faculty and students, legal services providers, representatives of the courts and members of the bar, to promote regular communication and coordination among the law schools; to identify curricular innovations that address skills and practices unique to the needs of low-income litigants; to highlight programs and projects through which law students can effectively respond to the civil legal needs of low-income people in the community; and to promote greater understanding of the competing interests that impact the delivery of civil legal services.

Each year's Conference can study the impact of the law schools' civil legal services work, compare programs and service models, discuss prospects for expanded collaborations, and exchange ideas and information concerning curriculum relating to the representation of low-income clients. The 2012 Conference demonstrated the need for a forum where the law schools, legal services providers, the courts and the bar can engage in open dialogue on how best to serve the civil legal needs of low-income New Yorkers.

3. ***An Online Clearinghouse Should Be Established To Identify* Pro Bono *Opportunities And Enhance Online Services To Track And Support Law Student Pro Bono Work:*** An "Online Clearinghouse for *Pro Bono* Opportunities" can serve as a unified conduit for providers and courts to post *pro bono* opportunities open to law students, simplifying the myriad processes and avenues that law students — and law school administrators — must currently navigate to identify appropriate *pro bono* placements. The recent announcement of the rules governing the 50 hours of *pro bono* service, in law school or post-graduation, required for admission to the New York Bar underscores the importance of preparing a database that would serve as a marketplace for *pro bono* opportunities.

A streamlined system can be implemented through enhancements to existing software platforms to enable a systematic matching of students, based on their individual profiles, to appropriate open positions. With increased technological capacity, the courts and providers will be better equipped to integrate large numbers of students into volunteer initiatives that have maximum impact in areas of demonstrated unmet need. The law schools — and other stakeholders — will also be better positioned to gain an accurate understanding of the true breadth and nature of the impact.

Certain features of some of the existing foundational platforms in use by providers can be leveraged to support law student *pro bono* work throughout New York State, including:

- A *Pro Bono* Opportunities Guide: providing a searchable database of *pro bono* providers;
- New Case Summaries: describing individual cases or projects in need of staffing;
- Calendars: presenting a comprehensive Statewide calendar of events and trainings;
- Libraries: aggregating high quality training and best practices resources; and
- Listservs/Message Boards: allowing *pro bono* volunteers and service providers to share questions and expertise.

In addition, online systems can greatly facilitate law student *pro bono* work in other ways, such as enabling students, providers, and law schools to record and track hours of service, providing feedback from students and employers, and gathering information for program assessment.

Maintenance of an online clearinghouse will require dedicated staffing to ensure accuracy of the content and to engage key stakeholders to coordinate content development and dissemination activities among provider organizations and law school *pro bono* leaders.

4. ***A New York State Uniform Student Practice Order Should Be Established:*** Currently, each Judicial Department issues student practice orders setting forth the terms and conditions under which law students and graduates can represent clients in court. Practice orders are issued in response to applications received from the institutions and programs located within the Department. The orders may vary substantially both across Judicial Departments and from order to order within the Departments. Under this current system, the location of an institution or program may determine whether its law students receive authorization to engage in a broader or narrower range of tasks, and may therefore determine whether educational goals are satisfied and, critically, whether individuals in need of legal representation are able to receive valuable assistance. Student practice orders are not always models of clarity, and the perceived need to obtain a student practice order may, in some instances, have the effect of reducing the number of students who become involved in *pro bono* activities or bar assistance in circumstances in which no student practice order is, in fact, needed.

A Statewide model student practice order applicable to both law students and law school graduates would form the basis for all practice orders, eliminate the discrepancies between and within the Judicial Departments, and take into account the ways in which law students differ from law school graduates. This model uniform order will provide for greater consistency and enable successful programs developed in one part of the State to be replicated in others. It will also enable schools with programs in more than one Judicial Department to offer consistent services and to design their coverage to meet real world needs. Moreover, the additional precision available through Statewide adoption of a model student practice order can help clarify the tasks that students are authorized to perform or prohibited from performing, as well as those that students are free to perform without obtaining a student practice order.

Therefore, the Task Force recommends that the Chief Administrative Judge lead an effort to develop such a model order.

5. ***Law Schools Should Establish Incubator And Related Projects To Help Law Graduates Build Solo or Small Practices In Underserved Areas:*** Incubators and related projects, supported by law schools and staffed by their graduates, have proven to be effective tools that provide practical experience for new graduates committed to starting a law practice that will serve individuals with unmet legal needs. Incubators often work with established legal services programs or volunteer projects through the courts to enable new lawyers to develop practical experience and to match experience to need.

Since the City University of New York School of Law's development of the first law school-based incubator, similar programs have cropped up across the United States and more are on the drawing board. A team of individuals with experience in setting up successful incubators should be convened to serve as mentors for each of the law schools in New York State. The team can create a guide that outlines best practices for incubator development and management that would be disseminated to law schools seeking to create incubators for their graduates. The team can provide technical support and training to law schools committed to designing, sourcing and implementing incubators.

6. ***Law School Curricula Should Prepare Students For Public Service:*** This is a period of transition and innovation in legal education. Many law schools are currently reviewing their curricula in order to take into account major changes in the legal profession, and a number of schools have recently launched major curriculum initiatives. Whether this curriculum review is undertaken by a law school's administration, a faculty committee, a special committee or a task force, it is important that practitioners be included in the discussion. As part of this pattern of curriculum reform, law schools should ensure that students are educated in the systems of providing representation to low-income clients and the distinctive ways in which laws and the legal system affect low-income individuals and communities. While many classes and programs in law schools deal with the legal issues that impact low-income clients, this issue is rarely viewed as a core part of the educational mission of schools, and, as a result, is addressed in *ad hoc* ways. A focus on these issues as part of the process of curriculum reform will ensure that each school has a considered approach with clear objectives, rather than a haphazard set of offerings.

In addition to focusing on substantive law and legal issues that affect low-income clients, law schools should equip students with practice skills and competencies necessary to represent such clients. Because many of these practice skills and competencies overlap with those required for representing clients generally, educating students for public service practice will overlap with other goals of professional practice education. Nonetheless, representation of low-income clients does require distinctive skills and competencies, such as an ability to represent clients whose cultural, social and economic backgrounds may be very different from the lawyer's, and an understanding of how legal issues fit into the context of the lives of low-income clients.

To carry out this recommendation, the Task Force concludes that the following three steps should be taken:

A. There Should Be A Required Class On Access To Justice: As a prerequisite to graduation, law schools in New York State should require students to complete a course, which could be one or more credits, that offers an introduction and orientation to civil legal assistance involving the "essentials of life" areas of housing, family matters, access to health care and education, and provides skills training

and the practical application of doctrinal law in this context. The recommendation is also intended to assure that students gain an understanding of the importance of public service in their careers as lawyers and their responsibilities as members of the profession. New York State can include criteria in its bar exam to evaluate whether students have acquired this knowledge. Subjects covered in the course and on the bar exam can include:

- The problem: causes and consequences of the access-to-justice gap, including numbers of people, categories of cases, systemic problems and funding concerns;
- The response: efforts to assure that the courts, legal services programs, *pro bono* systems, and other resources and strategies address the problem;
- The doctrine: pertinent legal doctrine, including United States Supreme Court and other jurisprudence on the right to counsel in civil proceedings, and the right of access to the civil justice system;
- The role: the nature of civil legal services practice, including the role of lawyers, law students and officials at the organizations that provide assistance, such as legal services agencies, law firm *pro bono* programs, bar associations and the courts; and
- Substantive law that affects low-income clients in unique and distinctive ways, such as government benefits law, housing law, and wage and hour law.

Law schools can develop the course through collaboration with one another and through consultation with each other, the legal services bar, the courts and other justice system stakeholders. This course is not intended to displace other initiatives to integrate access-to-justice issues into classes across the curriculum. Law schools can also determine how a required access-to-justice class would relate to elective classes focused on areas of law specific to low-income clients that also play important roles in the curriculum.

B. Basic Doctrinal Classes Should Include Consideration Of How Law Impacts Low-Income Clients And Communities: Each law school should ensure that basic doctrinal courses include consideration of how the subject matter impacts low-income clients and communities, providing a doctrinal context for *pro bono* and public service work that addresses the justice gap. For example, property law classes can address foreclosure and the warranty of habitability; tax classes can highlight the earned income tax credit; family law classes can study issues presented in domestic violence cases and child custody proceedings; and administrative law classes can include consideration of administrative adjudication systems that low-income clients deal with regularly. Moreover, doctrinal courses can include components that focus on practice skills or link to *pro bono* work in the area. Certainly, some courses cover subjects of particular importance to low-income clients; but, in most schools, it is entirely *ad hoc* as to whether they are included, and a matter of happenstance whether issues relating to low-income clients are presented. The Access to Justice Council that the Task Force is recommending should create a collaborative mechanism by which law schools can work together to create and share relevant and topical teaching materials.

C. Law Schools Should Educate Students In The Skills And Competencies Necessary To Represent And Advise Low-Income Clients: Over the past 30 years, law schools have greatly expanded programs and courses that teach students professional skills in representing and advising clients. These programs include clinics, simulation courses, externships and other forms of experiential learn-

ing. Sparked by the publication of the Carnegie Report and other studies,[65] discussion about the role of experiential learning in legal education has intensified. A focus on professional skills and competencies is important in preparing lawyers to contribute to closing the justice gap. Low-income clients pose distinctive issues with regard to counseling and cultural competencies. Because this representation often requires advocacy before courts and government agencies that are overburdened and under-resourced, it calls for a different set of advocacy skills than those that may be used in other settings. Faculty and administrators who design experiential learning programs should ensure that these issues are addressed, whether through clinical programs, simulation courses, externships, new practice components in doctrinal courses, or a combination of all of these approaches.

Law schools should also explore the creation of opportunities for students to spend a semester working in offices that provide legal services to low-income clients with appropriate classroom components and supervision. The Access to Justice Committee at each law school can facilitate this effort by fostering communication and the exchange of ideas among schools. As law schools further develop curricula relating to professional skills and competencies, it is important that lawyering issues relating to the representation of low-income clients be integrated into the basic law school curriculum.

IV. Attorneys In Private Practice In New York State Are Already Providing A High Level Of *Pro Bono* Legal Assistance For Low-Income Clients And Additional Reporting And Other Initiatives Will Enhance These Efforts.

IN ITS 2011 REPORT, THE TASK FORCE RECOGNIZED the "long-standing tradition of *pro bono* efforts by private attorneys to expand the availability of civil legal assistance for low-income families and individuals."[66] Relying on the strength of that tradition, the Task Force concluded that, in 2012, it would "explore new efforts to increase the already high levels of *pro bono* assistance that the private bar provides."[67]

To carry out this exploration of ways to enhance *pro bono* involvement, the Task Force convened a *Pro Bono* Involvement Working Group. This Working Group studied current trends in *pro bono* participation by the private bar in New York, Statewide average monetary contributions by individual lawyers to legal service providers, and various means to increase private bar support for *pro bono* assistance to low-income families and individuals. Based on the Working Group's findings,[68] the Task Force makes these key recommendations:

- Revise New York Rule of Professional Conduct 6.1 to encourage 50 hours of *pro bono* service per year;
- Revise New York Rule of Professional Conduct 6.1 to include a monetary contribution guideline for donations to legal services organizations that serve low-income clients;
- Revise the Biennial Attorney Registration Form to include a *pro bono* hours reporting requirement for the private bar;
- Revise the Biennial Attorney Registration Form to include a monetary contribution reporting requirement for the private bar for donations to legal services organizations that serve low-income clients;

- Revise Part 522 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors of Law to allow *pro bono* service by attorneys registered in New York as in-house counsel, and at the same time take steps to make sure that in-house counsel actually register, as currently only a limited number do so;
- Encourage law firm participation in the Attorney Emeritus Program; and
- Consider the advisability of allowing newly admitted, unemployed lawyers to fulfill some portion of the Mandatory Continuing Legal Education requirements for Skills, Law Practice Management and Professional Practice Credits through qualified *pro bono* work.

As documented in the 2011 Task Force Report, while *pro bono* resources "are finite and cannot be expected to meet the extraordinary unmet need for civil legal help,"[69] bar associations across the State are working diligently to stimulate and accelerate *pro bono* assistance. For example, the New York City Bar Association reported that 2,171 volunteers helped alongside the City Bar Justice Center staff to assist nearly 20,000 people in 2012.[70] The Chief Judge's own initiative leading to a new rule requiring 50 hours of *pro bono* work as a condition of admission to the New York bar promises to foster in a new generation of lawyers an understanding of the importance of *pro bono* work.

1. ***New ABA Data Documents Pro Bono Participation:*** In an effort to obtain a broader picture of the baseline *pro bono* contributions of attorneys in New York, with *pro bono* assistance from Skadden, Arps, Slate, Meagher & Flom LLP, the Task Force coordinated with the American Bar Association in its national study of the *pro bono* participation of America's lawyers.[71] By supplementing the ABA's survey instrument with additional New York-specific interview questions, the Task Force has collected the first Statewide *pro bono* data available since 2002 when such a survey was last conducted.[72] The 2012 ABA Survey indicates that almost three-quarters of New York attorneys performed at least some *pro bono* work in 2012, and that a majority performed more than the 20 hours "strongly encouraged" by Section 6.1.[73] The average attorney performed 66 *pro bono* hours, or 4.7 percent of the average billed hours reported for the year.[74] These are significant improvements from the 2002 survey, which indicated only 46 percent of attorneys performed any *pro bono* work in 2001, and only 27 percent met the 20 hours of *pro bono* that Section 6.1 "strongly encourage[s]" each New York admitted attorney to perform.[75]

The 2012 ABA survey also asked respondents about their 2011 monetary contributions to legal services providers serving low-income clients; however, the respondent could elect not to answer that question and 45 percent of respondents chose not to answer. The 55 percent who did respond reported contributions to legal service providers equal to, on average, $522 per lawyer, despite the fact that 47 percent of the responders reported that they had contributed no money to such organizations in 2011.[76] However, given the limited response rate and the effect of one outlier respondent on the calculation of the average, a more representative figure may be the median contribution of $250 per attorney. Lawyers in practice 20 years or more contributed almost twice as much ($1,271) as those who had not practiced for 20 years ($633).[77] The Task Force believes that the 45 percent of those polled who did not answer this question are quite likely to have contributed less than those who voluntarily responded to the question, thus implying that average giving to civil legal services is considerably lower than the $522 overall average of those who opted to respond.

Another indicator of the level of financial support by the private bar for legal service providers can be

found by examining private bar contributions to IOLA grantees, which totaled more than $12 million in 2011. That data shows that law firms contributed $11,239,251, bar associations contributed $656,514, bar funds and the Campaign for Justice contributions amounted to $56,000, and individual lawyers donated $181,528.[78]

The Task Force is mindful that assistance from the private bar is an "essential mechanism for narrowing the justice gap, *especially where efforts to engage pro bono lawyers are adequately resourced and supported*."[79] Leaders of the private bar have affirmed the importance of *pro bono* work in their testimony during the Chief Judge's hearings on civil legal services.[80] Accordingly, the Task Force concludes that the "strong recommendation" of Section 6.1 has encouraged the contributions being made by the private bar, but clearly more needs to be done.

2. ***Recommended Steps To Increase Pro Bono Involvement:*** Therefore, the Task Force recommends that the following specific steps be taken to enhance *pro bono* involvement by private attorneys:

A. New York Rule Of Professional Conduct 6.1 Should Be Revised In Two Areas To Encourage *Pro Bono* Participation By Private Attorneys: While the increase in *pro bono* hours over the last decade that is documented in the new ABA data is encouraging, the problem of unrepresented low-income litigants in the New York courts has grown substantially, exceeding two million in 2010 and 2011.[81] Consequently, the Task Force urges that Section 6.1 be amended to increase the requested annual number of *pro bono* hours per attorney from 20 to 50 annually, which, as the new survey shows, is fewer hours than the average New York attorney now performs. A 50-hour level would also be consistent with the new 50-hour standard for bar admission for law school graduates. The Task Force recommends that the goal cited in Section 6.1 remain precatory, at least until results of the change in Section 6.1 upon the number of *pro bono* hours performed can be assessed. While the proposed revision would not add enforcement consequences for failure to meet the increased goal, as described below, the Task Force urges that reporting of those hours be required in the biennial attorney re-registration process.[82]

To foster greater contributions from a larger percentage of attorneys, the Task Force further recommends that a guideline be added to Section 6.1 that quantifies the minimum contribution annually which is urged to be made to legal service providers for low-income clients.[83] The Task Force recommends that attorneys in private practice annually contribute to legal services providers for low-income clients a donation at least equivalent to the amount of the individual attorney's typical billing rate for one hour of time. Lawyers working at for-profit entities are strongly urged to contribute annually an aggregate amount equal to the amount typically paid by their entity for one hour of legal work for attorneys of the seniority of the reporting lawyer, or, if not known to the lawyer, an amount equal to at least one-tenth of one percent of the lawyer's salary. Lawyers who work solely on a contingency basis would be asked to contribute at least the equivalent of the value of an hour of legal work as is typical in their community. For underemployed lawyers, the request would not be expected to exceed one-tenth of one percent of the attorney's fee revenue.

B. The Biennial Attorney Registration Form Should Be Revised In Two Areas To Encourage *Pro Bono* Participation By Private Attorneys: To encourage compliance with these voluntary requests in the revisions to Rule 6.1, the Task Force recommends that the registration rules require that attorneys in private practice or working at for-profit entities report biennially: 1) their *pro bono* hours;

and 2) their aggregate annual contributions to legal service providers for low-income New Yorkers.[84]

In recognition of the positive impact that reporting requirements are anticipated to have on both *pro bono* hours and monetary contributions, the Task Force recommends that the existing Rule of the Chief Administrator of the Courts Part 118.2(a) concerning public access to attorney registration information remain in effect. This rule allows information contained in attorney registration statements to be made available to the public upon submission of a written request, with some limited exceptions.[85] The Task Force expects and intends that the public availability of reported *pro bono* hours and monetary contributions will serve to encourage greater giving and higher participation.

Available data demonstrates that States adopting a rule requiring attorneys to report their *pro bono* service have seen an increase over time in the number of *pro bono* hours contributed by members of their private bar. In Florida, the hours of *pro bono* work contributed by lawyers have increased by about 100 percent since reporting began in 1993 under Rule 4-6.1 of the Rules of Professional Conduct.[86] Increases in annual *pro bono* hours are also reflected in available data from other States, including Illinois,[87] where annual *pro bono* hours have risen about 10 percent since Illinois Supreme Court Rule 751 went into effect in 2007, and Maryland, where reported *pro bono* hours have risen over 18 percent since Maryland Rule 16-903 went into effect in 2002.[88] Whatever the number of hours completed, compliance rates with reporting are generally high, according to data compiled for a 2008 report to the Florida Supreme Court.[89]

While the above recommendations focus on affecting the participation of individual lawyers, the Task Force does, however, urge that law firms be encouraged to monitor their lawyers' *pro bono* participation and to create and support opportunities for their lawyers to meet the 50-hour *pro bono* commitment request.

C. Rule 522.8 Of The New York Court Of Appeals Should Be Revised To Encourage *Pro Bono* Participation By In-House Counsel: The Task Force examined a New York State Bar Association proposal to amend Section 522.8 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors of Law concerning *pro bono* services by attorneys registered in New York as in-house counsel. The Task Force also reviewed Resolution 11 adopted by the Conference of Chief Judges in July 2012 in support of practice rules enabling in-house counsel to provide *pro bono* services. The potential for in-house counsel to contribute in a meaningful way to addressing the gap in access to justice is compelling.[90] The simplified rule proposed by the New York State Bar Association removes unnecessary obstacles to *pro bono* service by in-house counsel and allows registered in-house counsel to meet their own ethical obligations while still subjecting them to the same ethical and disciplinary rules that apply to attorneys licensed to practice in New York. The Task Force recommends adoption of this revision to Section 522.8 to allow registered in-house counsel to contribute to meeting the unmet legal needs of New Yorkers. However, in order for this recommendation to have the intended beneficial effect on addressing the access-to-justice gap, it is essential that efforts be made to make sure that in-house counsel actually register as currently only a limited number do so.

D. Participation In The Attorney Emeritus Program For Attorneys Who Are At Least 55 Years Old Should Be Encouraged To Enhance *Pro Bono* Efforts: The Task Force further recommends encouragement of law firm participation in the Attorney Emeritus Program ("AEP") by any law firm with a New York office that has 50 or more attorneys in that office. In 2010, as an initiative of the Chief Judge, the New York State Unified Court System established an "Attorney Emeritus" status for

attorneys in good standing who are at least 55 years old, with a minimum of 10 years of legal experience, and who are willing to provide at least 30 hours annually of unpaid legal assistance. The courts, legal services providers, bar associations, and law schools work in partnership to provide emeritus attorney volunteers with opportunities to provide *pro bono* assistance to New Yorkers who cannot afford counsel.

As an indicator of their commitment to supporting *pro bono* work by eligible firm attorneys and retired firm attorneys, law firms should be asked to sign the AEP Statement of Participation and return it to the AEP Program/New York State Access to Justice Programs.[91] The Statement of Participation describes means by which law firms can support experienced volunteer attorneys, including attorneys retired from law firms, by providing work space and professional support, secretarial and technology support, and malpractice insurance coverage, and by ensuring that *pro bono* work under the AEP by a retired lawyer will have no effect on that attorney's compensation or retirement benefits. To date, a number of leading law firms have already signed the Statement of Participation.[92]

E. Consideration Should Be Given To Revising The Continuing Legal Education Requirements For Newly Admitted, Unemployed Lawyers To Encourage *Pro Bono* Participation: Finally, the Task Force is cognizant of the burden that mandatory continuing legal education requirements may place upon newly admitted, unemployed lawyers. These requirements, often referred to as "bridge the gap" or transitional programs, dictate that newly admitted attorneys acquire 16 credits per year within the first two years of admission to the bar as follows: three hours of ethics and professionalism, six hours of skills and seven hours of law practice management and areas of professional practice. While mindful of the importance of the role continuing legal education plays in preparing newly admitted attorneys to become competent to deliver legal services, particularly in developing an understanding of ethical obligations, the Task Force recommends that the Continuing Legal Education Board examine the advisability of allowing newly admitted, unemployed lawyers to fulfill some number of the skills, practice management and professional practice credit requirements (but not the ethics and professionalism credits) with *pro bono* service, provided such service is well supervised and *pro bono* program training is included as part of such service.

V. A New Initiative To Examine The Potential Further Contributions That Non-Lawyers Can Make To Bridge The Access-To-Justice Gap Should Be Implemented.

AS RECOMMENDED IN ITS 2011 REPORT, the Task Force formed a Non-Lawyer Involvement Working Group to examine the role that non-lawyer advocates can play in helping to bridge the access-to-justice gap.[93]

Even without any regulatory or oversight process for non-lawyer advocates in New York, the Task Force's Non-Lawyer Involvement Working Group found that a variety of non-lawyer entities provide advocacy assistance to low-income New Yorkers who have current or potential legal problems. Many of these entities provide help to prevent a problem from developing into a full-blown legal problem in court.

For example, many community-based organizations in the State help low-income New Yorkers with housing problems and difficulties obtaining subsistence benefits to which they are entitled. In fact,

some legal services organizations in the State provide training and backup case consultation services to such non-lawyer organizations, which, in turn, play a role in enabling legal services providers to make triage determinations about which matters need immediate legal intervention and which might be resolved through non-lawyer advocacy. Other examples of non-lawyer entities already helping bridge the access-to-justice gap for low-income families and individuals include: non-lawyer courthouse-based information services that provide useful information to litigants but not individualized assistance, and non-lawyer organizations devoted to preventing domestic violence that help with obtaining orders of protection and with safety planning.

Again, without any regulatory process in New York State for non-lawyer advocates, the Task Force's Non-Lawyer Involvement Working Group found, in addition, that non-lawyer advocates are currently providing assistance in the following areas:

- Within New York, federal and State law currently allow non-lawyer advocates to participate in administrative hearings and proceedings involving certain kinds of public benefits, including: State public assistance benefits such as cash assistance and Medicaid; federal food stamps benefits; federal disability and Medicare benefits; unemployment insurance benefits; and workers' compensation benefits.
- In many areas of the State, non-lawyer advocates provide information and assistance in housing and foreclosure matters but not in-court representation.
- Likewise, non-lawyer advocates provide out-of-court assistance in family law matters such as domestic violence but not in-court representation.
- For immigration matters, federal law allows accreditation of non-lawyer advocates to provide representation in administrative proceedings before the United States Citizenship and Immigration Services and the Executive Office of Immigration Review, if they are employed by a non-profit, religious, charitable, social service or similar organization established in the United States that has been approved for recognition.

At the Chief Judge's First Department hearing, Gillian K. Hadfield, Kirtland Professor of Law and Economics at the University of Southern California, presented extensive testimony concerning the potential role of non-lawyer advocates in helping low-income households in New York who are experiencing problems that are legal in nature.[94] For example, Dr. Hadfield noted:

> Other professions do this in perfectly reasonable ways. Take medicine. Does a full fledged MD have to deliver every service needed to address every medical issue you face in order to receive quality care? No. Medical care is a team sport, provided by a wide variety of medical professionals: nurses, radiologic technologists, pharmacists, nurse practitioners, physical therapists, chiropractors, registered massage therapists, certified nurse midwives, certified registered nurse anesthetists, etc. Many of these providers are licensed and authorized to provide services directly to those with medical problems. They are not limited to working under the direct supervision of MDs. Thank goodness. Because if they were, we'd be paying MD rates for every sore throat and backache.
>
> There is an urgent need for the judiciary to change the landscape of options available to those with legal needs: to exercise your ultimate authority to decide who can provide legal assistance by expanding that list beyond expensive JD-trained and bar-licensed attorneys.

> Of course we want some services delivered only by expensive JD-trained and bar licensed attorneys — we only want surgery performed by surgeons, too. But where are our nurse practitioners? Our legal systems desperately need the equivalent of nurse practitioners and other non-MD health care providers. We need non-JD legal providers who can perform simpler legal work at much lower cost and thereby fill an enormous part of the gaping legal need in this State. . . .
>
> Think about one of the major sources of court burden: misunderstandings about procedures and requirements and forms by pro se litigants in housing or family court, for example. Your Task Force has heard (and surely experienced) the delays and complications created by the flood of people with no alternative but to represent themselves. Yes, it would be nice if every one of these people had a full-fledged JD licensed to practice in New York to represent them. But if we can't do that — and we can't — then think about how much improved the situation would be for all concerned if these people could at least obtain low-cost assistance from people with sufficient expertise to help them navigate the process: to tell the person facing eviction for unpaid rent that if she wants to argue that her apartment has no heating and the ceiling is falling down, then she should bring some pictures and other evidence to court. To help people to understand what a form is asking for and to explain what some of the arcane legal language in a court order or rule means. There is much that can be done that is very helpful here that does not require deep legal expertise.
>
> Authorizing intelligent, trained and well-supported non-JD legal assistants does not involve entering into uncharted waters. The United Kingdom, for example, has a long history of allowing a wide variety of differently trained individuals and organizations to provide legal assistance. And fortunately some very fine legal scholars have studied how well this works. Their key finding: it works very well. . . .
>
> The U.S. unfortunately has little experience with non-JD legal assistance — although that may be changing. Washington State has just this past month embarked on a plan to authorize what they call "limited license legal technicians" to perform carefully defined services for people, without direct supervision by an attorney. . . .
>
> But New York should not wait to see how Washington turns out. It should act now to evaluate its options for expanding the supply of legal assistance to New York's citizens. And it should do so in a firmly policy-oriented and evidence-based way. For too long this issue has been allowed to become buried under the intuition-based objections of existing members of the legal profession. (These are often sincerely held worries about the capacity to help those with legal trouble, although they are also, one must admit, sometimes plainly motivated by protectionist fears of competition.) If we treat this, as we absolutely must, as a matter of serious policy and we put our intuitions to the test of theory and empirical evidence, I guarantee we will find that the traditional fears are unfounded.[95]

As part of its review, the Task Force's Non-Lawyer Involvement Working Group examined the recent rules changes enacted by the Supreme Court in the State of Washington that, as Professor Hadfield testified, created a new Limited Licensed Legal Technician certification that allows certified persons to provide a range of legal services within certain defined practice areas. These licensed individuals will be permitted to set up limited practices, establish fees for their services, operate independently (without attorney supervision) and provide a range of assistance, including individualized information regarding court procedures, reviewing documents and completing forms, performing legal research,

drafting letters and pleadings, advising clients as to necessary documents and explaining how such documents or pleadings may affect the client's case. These licensed technicians may not represent a client in legal negotiations, in court, in formal administrative proceedings or in other formal dispute resolution processes unless specifically permitted. This new non-lawyer licensing system became effective on September 1, 2012.

The new rule in Washington establishes a Limited License Legal Technical Board to oversee implementation of the new rules, recommend practice areas for licensed technicians, administer the new examinations and licensure requirements, determine the continuing legal education requirements, establish and collect licensing fees, and undertake such other activities and functions as needed to establish the new system.[96]

In the Task Force's view, particularly given the level of non-lawyer assistance that is already being provided with limited or no oversight and regulation, further development of the role of non-lawyer advocates can be an important element in helping to address the substantial access-to-justice gap in the State. Based on its own consideration of these matters, the Task Force recommends the implementation of a pilot program to permit appropriately trained non-lawyer advocates to provide out-of-court assistance in a discrete substantive area. Given the extent to which non-lawyer advocates and entities – such as housing counselors in the foreclosure area and credit counselors in the consumer credit area - are already providing help to low-income New Yorkers, the Task Force recommends that the pilot program be in an area such as housing assistance, consumer credit or, possibly, foreclosure.[97]

To move forward, the Task Force recommends that the Chief Judge authorize implementation of such a pilot initiative. The Task Force further recommends that the Chief Judge appoint an Advisory Committee to develop such a pilot initiative and make recommendations for an appropriate system for the expansion of the role of non-lawyer advocates in the delivery of legal services. This Advisory Committee could function like the Advisory Committee on the New York State *Pro Bono* Bar Admission Requirement, which was appointed by the Chief Judge to implement his newly announced 50-hour *pro bono* rule for admission to the New York Bar. At the Chief Judge's direction, that Advisory Committee developed the *pro bono* rule within a three-month period of intensive consultation with all interested parties.

The proposed Advisory Committee to focus on non-lawyer involvement would consist of representatives appointed by the Chief Judge from the various stakeholders involved, including Judges, law school Deans, legal services providers, representatives of the private bar, and other interested parties. The Advisory Committee can seek input from all interested parties and then design a pilot program involving non-lawyer advocates without attorney supervision, provided such non-lawyer advocates do not provide in-court representation. The Committee can evaluate such essential matters as: the regulatory scheme (e.g., licensing, certification and/or registration); the scope of work (what work other than in court representation the non-lawyer advocates will be able to perform); identification of a substantive area of need for the pilot program (taking into consideration the Task Force's recommendation that the pilot program should be in an area such as housing assistance, consumer credit or, possibly, foreclosure where there is a great need and already a substantial level of non-lawyer assistance that is being provided); qualifications (e.g., education, training and/or experience requirements and/or potential law school sponsored diploma programs); consumer protection measures; and administration of the pilot program.

VI. Specific Steps Can Be Taken To Improve The Ability Of Town And Village Courts To Address The Needs Of Low-Income And Other Unrepresented Litigants In Summary Proceedings.

BECAUSE SUBSTANTIAL NUMBERS OF UNREPRESENTED low-income New Yorkers litigate legal matters in Town and Village Courts, the Task Force convened a Town and Village Court Working Group. With *pro bono* assistance provided by the Fund for Modern Courts and the law firm of Davis Polk & Wardwell LLP, the Town and Village Courts Working Group produced an extensive report and recommendations for action.[98] The Working Group's focus has been primarily on issues involving summary eviction proceedings, and it identified six key problem areas affecting unrepresented litigants: insufficient notice of proceedings; lack of access to court records; uneven treatment of litigants; insufficient knowledge of applicable law by non-lawyer Justices; inadequate training opportunities for Justices; and insufficient knowledge of special issues concerning manufactured homes.

As part of its effort to address these problems, the Working Group has developed a reference guide for Town and Village Court Justices. This reference guide is intended to address a pressing need for a clear and accessible statement of the standards governing summary proceedings in the Town and Village Courts. The Task Force therefore recommends the distribution of this plain-language, easy-to-follow reference guide for Justices. This will enable the Town and Village Justices to consult this guide while addressing the often difficult legal issues that can arise during summary proceedings.

The additional proposals that follow represent further steps toward improving the accuracy and fairness of summary proceedings in the Town and Village Courts. Increased training would help Justices understand the statutes governing summary proceedings. Creating specially scheduled days for summary proceedings would make it more likely that legal services providers can be available to assist litigants who need help. A mandatory adjournment rule for unrepresented litigants would afford litigants time to seek counsel and answers to questions.

1. The Need For A Summary Proceedings Reference Guide: Creation and distribution of a reference guide, in the form of a checklist or flowchart, will provide Town and Village Court Justices with a resource to consult in real time during summary proceedings. This reference guide would take Justices through each step of the summary proceeding process, highlighting the major issues that typically arise. It would aim to be accessible, rather than comprehensive, and would not address every conceivable scenario, but those that regularly arise.

The model guide developed by the Working Group incorporates the major substantive and procedural rules governing summary proceedings, from the initial decision to file a petition through the court appearance. Reference guides and checklists are always beneficial in any area involving a repetitive practice. Such devices are most useful if accompanied by a manual that cross-references the checklist and expands on the governing statutory and case law.

Furthermore, this Working Group's guide addresses several areas of concern. A significant portion of the guide is devoted to notice issues, including service requirements. The guide also alerts Justices to the importance of representation by counsel, and encourages Justices to adjourn cases where a party would prefer to retain counsel. Additionally, the guide provides an easy to-follow road map of the summary-proceeding process for Justices who may be unfamiliar with that process. Finally, the guide stresses the importance of affording both sides the opportunity to be heard.

2. ***The Need For Improved Training Relating to Summary Proceedings:*** Most Town and Village Justices are not lawyers, and many Justices lack experience dealing with the complicated legal issues that can sometimes arise during summary proceedings. Because summary proceedings take place relatively infrequently, Justices often do not have the opportunity to build expertise in this area of law. Increased and improved training would help Town and Village Justices obtain a better understanding of the rules governing summary proceedings. Training materials and training would be greatly enhanced by the inclusion, input and review by a selected group of lawyers and Judges with expertise in landlord/tenant law. In addition, Justices themselves have made suggestions to the Working Group to enhance resources and trainings. One Justice recommended that an instructional video be produced on the entire process; another noted that routine emails of developments in case-law would be a useful resource and another stated that "experience is always the best teacher," and should be combined with "our fellow judges' experiences." As one succinctly stated, "there is no substitute for learning the applicable law and having the opportunity to apply it."[99]

The Working Group's research and conversations with practitioners and Justices also revealed that some Town and Village Court clerks do not always understand the rights of litigants in summary proceedings. Because court clerks are gatekeepers to the courts — and provide access to, among other things, critical court records — requiring clerks to participate in regular training would also help litigants in summary proceedings better access justice.

3. ***The Need To Provide Upfront Information On Tenants' Rights At The Clerks' Office:*** Providing unrepresented litigants with a "Bill of Rights" or other information when they go to the Clerk's office or appear before a Justice for the first time can simplify the process for the litigants and the courts. Information on court procedures, the rights of litigants to obtain court records, the telephone number and location of local legal service providers, and other basic information may assist litigants in navigating an otherwise unfamiliar and daunting system. Justices remarked on the value of a handout to give to both parties, similar to the Small Claims Court guide, to familiarize them with the proper forms to fill out and procedures.[100]

4. ***The Need To Increase The Opportunity For Litigants To Be Able To Obtain Counsel:*** Several steps can be taken to increase the opportunity for unrepresented litigants to gain access to counsel, and thereby enhance Town and Village Court operations. For example, because summary proceedings represent a relatively small portion of individual Town and Village Courts' dockets, Justices are often unfamiliar with the substantive and procedural law that applies and, as a result, courts rely heavily on attorneys for knowledge about the process. Many practitioners report that, in cases where one or both parties are unrepresented, the Town and Village Court is significantly more likely to proceed based on an erroneous understanding of the law.[101]

A. The Need For Scheduled Days For Summary Proceedings: To increase access to legal services providers, Town and Village Courts could also consider dedicating certain days each week or month to summary proceedings. Doing so could enable local legal service organizations to have attorneys available in a particular court on a scheduled day to assist additional litigants.

B. The Need For An Adjournment Rule To Obtain Counsel: Unrepresented respondents are often unprepared for trial, do not know how to access legal services, and are unsure what defenses are available. As a result, many practitioners support the idea of a rule requiring a court to adjourn a matter

if a respondent is unrepresented, to provide litigants with time to obtain counsel or guidance. Many Justices who responded to the Modern Courts survey similarly agreed that representation by counsel provides for a better use of courts resources, as the "high volume of cases . . . [and] pro se parties' lack of procedural knowledge" creates challenges for the court.[102]

5. ***The Need For Required Reporting On Summary Proceedings:*** It is important to know how many summary proceedings are taking place in the Town and Village Courts across the State. This information is necessary for legal services providers as well as the courts, advocates, and local, county and State government. Therefore, to assess the number and impact of summary proceedings across the State, the Task Force recommends a change in Town and Village Court reporting requirements.

Currently, the only means of determining the number of summary proceedings commenced in Town and Village Courts is through a reporting requirement with the Office of the New York State Comptroller. Justices report fines, fees, and surcharges to the State Comptroller. These reporting requirements are for the purpose of distributing the revenue derived from these fees; the Comptroller's Office does not require the Justices to report on individual cases, although many Justices do, because a specific filing number is affiliated with summary proceedings. A mechanism is already in place to report summary proceedings separately. Gathering this information in one place could benefit Statewide efforts to understand the scope and volume of eviction proceedings.

VII. Collaboration Among Civil Legal Services Providers Is An Important Initiative To Leverage Limited Resources

THE TASK FORCE CHARGED its Collaborations and Shared Services Working Group with studying current collaborations among providers (to identify effective collaborations and partnerships that merit replication) and initiatives to share costs. The Task Force's 2010 Report anticipated the importance of an ongoing review of collaborations, with a particular focus on recipients of Judiciary Civil Legal Services funds, to avoid duplication of efforts and maximize cost savings.

Based on its work over the past year, including the report of the Collaborations and Shared Services Working Group,[103] the Task Force recommends the following models for collaborative initiatives that can be replicated in other parts of the State:

- An Access to Justice Program Help Center in the Rochester Hall of Justice: In New York State, Help Centers have been established in the courthouses of several counties to provide free legal and procedural information to the public. The staff of the proposed Rochester Help Center will use fliers, computer kiosks, on-site court staff, *pro bono* agency staff, and attorney and non-attorney volunteers to provide unrepresented litigants with information on such matters as referrals to appropriate agencies, court process and procedures, completion of forms and collection of judgments. Help Center employees and volunteers will be prohibited from providing legal advice or representation, and any informational advice offered by the Help Center will not take the place of private counsel. The Help Center will make referrals for legal assistance, when appropriate, to the Telesca Center for Justice's central reception and screening staff. Individuals seeking help can then be referred to the appropriate local civil legal services provider: the Volunteer Legal Services Project (VLSP) of Monroe County, Inc., the Legal Aid Society of Rochester, the Monroe

County Legal Assistance Center, the Empire Justice Center or the Monroe County Bar Association Lawyer Referral Service.

- Enhanced *Pro Bono* Legal Services in Dutchess County: In an effort to enhance *pro bono* legal services in Dutchess County, the Judiciary and the Dutchess County Bar Association have worked with Legal Services of the Hudson Valley to increase the number of low-income households receiving *pro bono* legal services in Dutchess County. The Hon. Albert M. Rosenblatt, a former Associate Judge of the New York Court of Appeals and a resident of Dutchess County, is leading this collaborative effort to support and strengthen the current *pro bono* program with local resources and volunteer efforts. The initiative is aimed at: (1) recruiting more *pro bono* attorneys who can deliver high quality legal services to low-income households with civil legal problems affecting the basic necessities of life; and (2) enhancing the current *pro bono* system to allow the Judiciary, the organized bar, the Marist College Paralegal Program and other non-attorney volunteers to be included in the local legal services provider's screening, tracking and oversight system.

- Partnership Projects Facilitated by a *Pro Bono* Clearinghouse in New York County: A number of New York City organizations maintain referral services that enable unrepresented individuals and nonprofit organizations to obtain legal representation from members of the private bar. Through early intervention with clients, these organizations are able to reduce the number of unrepresented litigants and assist in the settlement of matters before they require court resources for resolution. These New York City organizations arrange for representation by the private bar for individual clients. The organizations then provide training to *pro bono* attorneys from law firms and corporate legal departments, screen and refer clients, monitor progress and provide ongoing mentoring and support to counsel during representation. Many legal and community services organizations, both in New York City and throughout the State, utilize this model to partner with members of the private bar to provide legal representation to unrepresented low-income New Yorkers in a specific area of the law, e.g., domestic violence, housing, foreclosure or immigration.

- Promoting "One Roof" Models: Building on the Telesca Center for Justice model in Rochester, where providers are housed under one roof and share costs, and on similar co-location efforts in Buffalo, a co-location planning effort is underway in Syracuse. For the past several years, a working group, under the leadership of former U.S. Magistrate Judge George Lowe, has been investigating the possibility of co-locating the Syracuse offices of the Hiscock Legal Aid Society, Legal Services of Central NY, the Legal Aid Society of Mid-New York, and the Volunteer Lawyers Project of the Onondaga County Bar Association. To establish the One Roof Legal Services Center in Syracuse, the group is working with architects and real estate lawyers to develop plans for co-location to avoid duplication of efforts and maximize cost savings. Members of the Syracuse "One Roof Committee" include: 1) the president and executive director of the Onondaga County Bar Association, 2) the executive directors for the legal services providers in Syracuse, Onondaga County and Central New York, namely the Hiscock Legal Aid Society, Legal Services of Central New York, and the Legal Aid Society of Mid-New York, 3) the coordinator for the Onondaga County Bar Association's Volunteer Lawyer Project, 4) a representative of the Syracuse University College of Law's clinical programs; and 5) a representative of the Federal Court Bar Association for the Northern District of New York. Recently, the Board of Directors for each legal services organization passed a resolution supporting the "One Roof" concept. Currently, the offices of

Legal Services of Central New York and the Legal Aid Society of Mid-New York are located in the same building. All of the remaining organizations are scattered around the City of Syracuse. With one exception, the "One Roof" Committee has successfully renegotiated a common expiration date of December 31, 2014 in all of the leases of the legal services organizations. The target date for operation under "one roof" is January 1, 2015. The Committee issued a request for proposals to evaluate potential owners of locations that would be suitable for this initiative. The combined organizations would employ approximately 117 individuals and would require approximately 35,000 square feet of office space. Once proposals are received, the "One Roof" Committee will begin to raise money to cover the moving costs for each organization and the build-out costs for the "One Roof" Center.

In addition to these models, the Collaborations and Shared Services Working Group evaluated the following bar association collaborations that have received Judiciary Civil Legal Services funds, and the Task Force recommends these models for replication:

- The City Bar Justice Center provided a central training model for the Brooklyn Bar Association, the Queens County Bar Association, and the New York County Lawyers Association by training and mentoring their *pro bono* volunteers and staff to provide advice and representation to individuals facing foreclosure. The City Bar Justice Center also developed a set of training materials for their Deferred Action Childhood Arrivals (DACA) Clinic, posted the materials online in partnership with Probono.net and provided technical support to other bar associations providing DACA Clinics, including the Monroe County Bar Association.
- The Brooklyn Bar Association Volunteer Lawyers Project (VLP) and other downstate and Westchester programs refer unrepresented consumer debt litigants to CLARO, the Civil Legal Advice and Resource Office. CLARO is a free weekly walk-in clinic at the Kings County Civil Court where consumers can obtain free information about debt collection. CLARO is a joint project of the VLP and Brooklyn Law School, with the collaboration of civil legal services organizations. It was created in cooperation with the Kings County Civil Court. CLARO is open every Thursday at the Kings County Civil Court (141 Livingston Street) from 2:30 to 4:30 p.m. and from 6:00 to 8:00 p.m.
- The Onondaga County Bar Association Say Yes Program works with Say Yes Syracuse, a chapter of Say Yes to Education, Inc., which is a non-profit foundation committed to increasing high school and college graduation rates for urban students. Since 2008, Say Yes Syracuse and a community of caring, committed people have devoted time, money and resources to provide comprehensive, year-round support to students throughout their K-12 years and beyond. The Say Yes Syracuse chapter is unique in that it is the first Say Yes chapter to embrace an entire city school district. The Say Yes Buffalo chapter became the second Say Yes chapter to partner with an entire city school district in 2012. Say Yes Syracuse is a landmark collaboration that brings together *pro bono* attorneys, the Syracuse City School District, Syracuse University, Onondaga Community College, Say Yes Higher Education Compact partner colleges, Say Yes to Education, Inc., the Syracuse Teachers' Association, the Syracuse Association of Administrators and Supervisors, the City of Syracuse, Onondaga County, the American Institutes for Research, and a diverse group of Syracuse area corporations, non-profits, and law firms. Say Yes to Education and its partners take the position that every student can graduate from high school and college when given the proper support, resources and opportunities.

- The Albany County Bar Association/*Pro Bono* Program and the Legal Aid Society of Northeastern New York operate the Wills For Heroes Program through which legal services are provided to active and retired members of the U.S. Armed Forces at the Albany Stratton VA Medical Center. The Wills For Heroes program *pro bono* attorneys prepare wills, powers of attorney and health care proxies for veterans and their spouses or domestic partners. The Wills For Heroes program brings together veterans with *pro bono* attorneys, notaries and witnesses. The program model links veterans to legal services at a location where they are receiving other services.

VIII. The Establishment Of A Council For The New York State Courts Can Enhance Judiciary Initiatives, Including The Civil Legal Services Initiative To Bridge The Access-To-Justice Gap.

DURING THE CIVIL LEGAL SERVICES HEARINGS convened by the Chief Judge in 2010, 2011 and 2012, leaders in the private sector testified about the importance of providing access to justice for low-income New Yorkers to promote respect for the rule of law and a well-functioning Judiciary. Building on this support, the Task Force recommends the creation of a Council for the New York State Courts to enhance and maintain the leading position of the New York State Courts among the courts in the United States.

The Council can support many activities of the New York State Courts, including the Chief Judge's initiatives to increase public and private support for civil legal services, to strengthen New York's position as a preeminent center for commercial litigation in the 21st century and to maintain sufficient levels of funding for the courts.

The Council can also encourage the exchange of ideas between the leadership of the New York State Courts and private sector leaders in New York State.

The Task Force therefore recommends that the Chief Judge create and appoint such a Council consisting of up to 50 representatives of the private sector, including business leaders, prominent New Yorkers, leaders of the bar, former public officials and former members of the Judiciary. The Council could conduct an annual conference on topics of importance to the New York State Courts, to be held at a New York law school, with participation by members of the Judiciary, the Council and leading lawyers and academics.

For the foregoing reasons, the Task Force respectfully requests that the Chief Judge adopt the funding and non-monetary recommendations for action set forth in this Report to continue to implement the multi-year plan to bridge the access-to-justice gap for low-income families and individuals in New York State. As Nassau County District Attorney Kathleen Rice put it so eloquently: "Failing these families and these children in civil court by not guaranteeing their access or their professional representation sows the seeds of future criminality, future criminality that will not only victimize those involved in these [settings], but that will very often cascade down a violent spectrum, possibly even to future generations."[104]

ENDNOTES

[1] *The Chief Judge's Hearing on Legal Services, Fourth Dep't, Oct. 2, 2012 (remarks of Hon. Chief Judge Jonathan Lippman, at 5:06–6:10)*.

[2] *See* TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK: APPENDIX 3 (2010), *available at* http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-Appendices.pdf.

[3] A list of the members of the Chief Judge's Task Force to Expand Access to Civil Legal Services is set forth at the beginning of this report. In addition, the Task Force received extensive assistance from Jessica Klein, Special Counsel for *Pro Bono* and Director of Professional Development at Sullivan & Cromwell LLP, who served as Counsel to the Task Force; Lara J. Loyd, an Associate at Sullivan & Cromwell LLP; Mary C. Mone, Counsel to the Chief Judge; and Lauren Kanfer, Assistant Deputy Counsel to the Chief Judge. Sullivan & Cromwell LLP, which has a partner serving on the Task Force, hosted the Task Force and provided crucial *pro bono* assistance. Three other leading law firms with partners who serve on the Task Force also provided invaluable *pro bono* assistance: Proskauer Rose LLP; Simpson Thacher & Bartlett LLP; and Skadden, Arps, Slate, Meagher & Flom LLP. Additional assistance was provided by Davis Polk & Wardwell LLP, Brenna K. DeVaney, a *Pro Bono* Counsel at Skadden, and the Fund for Modern Courts. A full listing of those who provided *pro bono* assistance is annexed as Appendix 1.

[4] The Request for Proposals and notice of its issuance are annexed as Appendix 2 and Appendix 3, respectively.

[5] A chart setting forth the Oversight Board's second-year grant allocations is annexed as Appendix 4.

[6] A witness list for each of the Chief Judge's four hearings is annexed as Appendix 5. The transcripts of the oral testimony at the four hearings are annexed as Appendix 6 (for the Third Department Hearing held on September 27, 2012), Appendix 7 (for the First Department Hearing held on October 1, 2012), Appendix 8 (for the Fourth Department Hearing held on October 2, 2012), and Appendix 9 (for the Second Department hearing held on October 4, 2010). Written statements submitted at the four hearings are annexed as Appendix 10 (for the Third Department Hearing), Appendix 11 (for the First Department Hearing), Appendix 12 (for the Fourth Department Hearing), and Appendix 13 (for the Second Department Hearing).

[7] A copy of the notice published on the Unified Court System's website is annexed as Appendix 14.

[8] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012; The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012; The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012*; *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012.*

[9] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (statement of Hon. Nancy Sunukjian, Waterford Town Justice, Saratoga County; Acting Director of the Office of Justice Court Support and Special Counsel to the Deputy Chief Administrative Judge for Courts Outside of New York City, at 2).*

[10] *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Hon. Patricia Marks, Monroe County Court Judge; Presiding Judge of Veterans Treatment Court; Interim Director of Veterans Outreach Center; Board Member; NDCI Faculty Training for Veterans Treatment Courts, at 8:23–19:10); The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of John G. Powers, Director, Onondaga County Bar Association Veterans & Military Service Members Pro Bono Clinic; Partner, Hancock Estabrook, LLP, at 20:21–32:08).*

[11] *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of John G. Powers, Director, Onondaga County Bar Association Veterans & Military Service Members Pro Bono Clinic; Partner, Hancock Estabrook, LLP, at 22:17–24:19).*

[12] *See, e.g., The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Jeffrey Unaitis, Executive Director, Onondaga County Bar Association, at 47:14–55:16); The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Sally Fisher Curran, Legal Director, Volunteer Lawyer Project, at 55:20–66:22); The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (Hannah Arterian,*

Dean, Syracuse University College of Law, at 67:17–77:04); The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Stewart J. Schwab, Dean, Cornell Law School, at 86:16–102:13); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Patricia E. Salkin, Dean, Touro College Jacob D. Fuchsberg Law Center, at 90:21–103:10).

[13] *See, e.g., The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Martha Maffei, Executive Director, Services for Advancement of Women, at 46:01–54:16).*

[14] *See The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting, at 54:06–60:13).*

[15] *See The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Prof. Gillian K. Hadfield, Kirtland Professor of Law & Economics, University of Southern California Law School, at 65:17–82:12).*

[16] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of His Eminence Timothy Cardinal Dolan, Archbishop of New York, at 8:02–9:25).*

[17] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Hon. Christine Quinn, Speaker, New York City Council, at 20:25–24:19).*

[18] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Hon. Christine Quinn, Speaker, New York City Council, at 21:23–22:04).*

[19] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Eric Schneiderman, Attorney General of the State of New York, at 7:04–20:22, 28:16–30:02).*

[20] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Eric Schneiderman, Attorney General of the State of New York, at 16:15–17:12).*

[21] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Eric Schneiderman, Attorney General of the State of New York, at 9:03–15, 29:18–30:02).*

[22] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (statement of Steven J. Acquario, Executive Director, New York State Association of Counties, at 2).*

[23] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Steven J. Acquario, Executive Director, New York State Association of Counties, at 84:23–85:01, 85:25–86:08).*

[24] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Kathleen Rice, Nassau County District Attorney, at 9:08–17, 10:13–11:16, 12:12–17).*

[25] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Steve Bellone, Suffolk County Executive, at 29:05–29:21).*

[26] *Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Hon. Craig J. Doran, Administrative Judge for the Seventh Judicial District in Syracuse, at 132:09–18).*

[27] Deputy Chief Administrative Judge Fisher's full written testimony for the First Department hearing is included in Appendix 11; Deputy Chief Administrative Judge Coccoma's full written testimony for the Third Department hearing is included in Appendix 10.

[28] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for the New York City Courts and Director of the New York State Courts Access to Justice Program, at 44:04–17).*

[29] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (statement of Hon. Michael V. Coccoma, Deputy Chief Administrative Judge for Courts Outside New York City, at 1–2, 4).*

[30] *See* TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK (2010) [hereinafter 2010 TASK FORCE REPORT], *available at* http://www.nycourts.gov/ip/ access-civil-

legal-services/PDF/CLS-TaskForceREPORT.pdf; TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK (2011) [hereinafter 2011 TASK FORCE REPORT], *available at* http://www.nycourts.gov/ip/access-civil-legal-services/PDF /CLS-2011TaskForceREPORT_web.pdf.

[31] 2010 TASK FORCE REPORT, *supra* note 30, at 38; 2011 TASK FORCE REPORT, *supra* note 30, at 38.

[32] *See, e.g.*, *Joint Hearing on IOLA and the Future of Legal Services in New York State, Dec. 9, 2009 (testimony of Benito Romano, Chair, Board of Trustees for the Interest on Lawyer Account Fund of the State of New York)*, *available at* http://www.iola.org/senatetest%20write.pdf; Legal Aid Soc'y, IOLA Grantee Activity Report (2011), *available at* http://www.iola.org/board/Grantee%20Annual%20Report%202011/ Legal%20Aid%20Society%202011.pdf.

[33] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (statement of The Legal Aid Society at 3)*.

[34] Based on figures made available to the Task Force by IOLA. For further information, see generally IOLA FUND OF THE STATE OF NEW YORK, http://www.iola.org (last visited Nov. 26, 2012). To the extent that some of these 264,574 cases closed in State fiscal year 2011–2012 may have taken more than one year to resolve and more than one matter may have been handled for those who have multiple legal problems, an even smaller percentage of the need is currently being met.

[35] *See, e.g.*, *Current Population Survey: Poverty Status by State 2011*, UNITED STATES CENSUS BUREAU, http://www.census.gov/hhes/www/cpstables/032012/pov/POV46_001_185200.htm (last visited Nov. 14, 2012).

[36] *See, e.g.*, ALLIANCE FOR A GREATER NEW YORK, *Poverty in New York City: Borough Analysis of Data from the US Census Bureau's 2011 American Community Survey* (2012), http://www.alignny.org/wp-content/uploads/ 2012/09/NYC-Poverty-Report-2012.pdf.

[37] This chart is based on the Federal Poverty Guidelines for 2012, which can be found at the U.S. Department of Health and Human Services website. *See 2012 HHS Poverty Guidelines: One Version of the [U.S.] Federal Poverty Measure*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, http://aspe.hhs.gov/poverty/12poverty.shtml (last updated Feb. 9, 2012).

[38] Press Release, New York State Department of Labor, NYS Adds 2,900 Private Sector Jobs in September—Job Count Reaches an All-time High (Oct. 18, 2012), *available at* http://labor.ny.gov/stats/pressreleases/pruistat.shtm.

[39] *See, e.g.*, 2010 TASK FORCE REPORT, *supra* note 30, at 1.

[40] Hon. A. Gail Prudenti, *2012 Report of the Chief Administrator of the Courts Pursuant to Chapter 507 of the Laws of 2009, at 5 (2012)*.

[41] *The Chief Judge's Hearing on Civil Legal Services*, *Third Dep't, Sept. 27, 2012 (testimony by Michael T. Keegan, Regional President, Albany-Hudson Valley North Division and Senior Vice President, M&T Bank, at 34:10–13)*.

[42] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Hon. Eric T. Schneiderman, Attorney General of New York, at 20:05–13).*

[43] Based on figures made available to the Task Force by IOLA. For further information, see generally IOLA FUND OF THE STATE OF NEW YORK, http://www.iola.org (last visited Nov. 26, 2012).

[44] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Heisily Rojas, client of The Legal Project, at 107:09–112:01).*

[45] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Holly Ovitt, client of Legal Aid Society of Northeastern New York, at 113:05–116:12).*

[46] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Sherry DeShane, client of Legal Aid Society of Northeastern New York, at 93:18–98:01).*

[47] *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Sept. 27, 2012 (testimony of Shari Chireno, client of Legal Services of the Hudson Valley, at 99:11–104:06).*

[48] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Angela D'Arezzo, client of The Legal Aid Society, at 101:05–104:26).*

[49] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Richard Usera, Client of Legal Services NYC, at 105:14–108:02).*

[50] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Fredesvinda Vasquez, Client of Make the Road New York, at 108:12–111:02).*

[51] *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Oct. 2, 2012 (testimony of Cheri Caiella, Mother of Client of Pro Bono Legal Clinic for Veterans & Active Military Service Members, at 33:10–37:07).*

[52] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Felicia Essix, Client of Empire Justice Center, at 141:05–143:11).*

[53] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Tenzin Choezom, Client of Queens Legal Services, at 128:19–131:11).*

[54] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Mamie Copeland, Client of The Legal Aid Society, at 136:04–140:16).*

[55] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 26, 2011 (testimony of Jeffrey L. Baliban, Managing Director, Navigant Consulting, Inc., at 21:21–24); The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 26, 2011 (testimony of Geeta Singh, Principal, Cornerstone Research, at 47:20–23).*

[56] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, October 1, 2012 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting, at 2).*

[57] Kalman Rupp and Charles G. Scott, *Trends in the Characteristics of DI and SSI Disability Awardees and Duration of Program Participation*, 59 Soc. Security Bull., no. 1, 1996, at 3, 3.

[58] *See Consumer Price Indexes (CPI and PCE)*, Fed. Reserve Bank of St. Louis, http://research.stlouisfed.org/fred2/categories/9 (last visited Nov. 24, 2012).

[59] *See generally* U. S. Dep't of Commerce, Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II) (3rd ed. 1997), *available at* http://www.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf. New York State calculations provided by the IOLA Fund of the State of New York. *See also The Chief Judge's Hearing on Civil Legal Services, First Dep't, October 1, 2012 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting, at 9).*

[60] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, October 1, 2012 (statement of Dr. Elizabeth Becker, Senior Vice President, NERA Economic Consulting, at 10).*

[61] Curtis S. Dubay, *Federal Tax Burdens and Expenditures by State: Which States Gain Most from Federal Fiscal Operations?*, Tax Found. Special Rep., no. 139, Mar. 2006, at 3.

[62] Scott A. Hodge, *States Vary in Distribution of Who Bears the Burden of Federal Income Taxes*, Tax Found. Fiscal Fact, no. 231, June 2, 2010 (unpaginated).

[63] 2011 Task Force Report, *supra* note 30, at 40.

[64] The report of the Task Force's Law School Involvement Working Group is included as Appendix 15.

[65] *See* William M. Sullivan et al., Carnegie Foundation for the Advancement of Teaching, Educating Lawyers: Preparation for the Profession of Law (2007); *see also* N.Y. State Bar Ass'n, Report of the Task Force on the Future of the Legal Profession 35-36 (2011); Roy Stuckey, et al., Best Practices for Legal Education: A Vision and a Road Map 176–78 (2007).

[66] 2011 Task Force Report, *supra* note 30, at 36.

[67] *Id.* at 40.

[68] The report of the Task Force's *Pro Bono* Involvement Working Group is included as Appendix 16.

[69] 2011 TASK FORCE REPORT, *supra* note 30, at 37.

[70] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey R. Dunne, President, New York City Bar Association, at 86:19–26).*

[71] The ABA Standing Committee on *Pro Bono* and Public Service contracted with The Research Intelligence Group ("TRIG") to conduct its third national study on *pro bono* participation by America's attorneys. The Task Force submitted additional questions for the New York survey that focused on: 1) the county in which the lawyer conducts the preponderance of legal work, 2) monetary donations to legal service providers, 3) total number of billable hours and 4) the number of hours worked fitting the definition of services provided in Rule 6.1. The resulting TRIG report is annexed as Exhibit 1 to Appendix 16. *See* The Research Intelligence Group, *Pro Bono* Service Provided by New York Attorneys (Sept. 2012) [hereinafter New Survey] (previously unpublished report).

[72] The previous survey was NEW YORK STATE UNIFIED COURT SYS., REPORT ON THE 2002 *PRO BONO* ACTIVITIES OF THE NEW YORK STATE BAR (2004) [hereinafter 2002 *PRO BONO* REPORT].

[73] New Survey, *supra* note 71, at 12.

[74] TRIG reported that the portion of their survey related to New York attorneys' *pro bono* efforts had a 6.5 percent margin of error at the standard 95 percent level of confidence. New Survey, *supra* note 71, at 5, 12.

[75] 2002 *PRO BONO* REPORT, *supra* note 72, at iii.

[76] New Survey, *supra* note 71, at 12.

[77] *Id.*

[78] Based on figures made available to the Task Force by IOLA. For further information, see generally IOLA FUND OF THE STATE OF NEW YORK, http://www.iola.org (last visited Nov. 26, 2012).

[79] LEGAL SERVICES CORP., REPORT OF THE PRO BONO TASK FORCE 2 (2012) (emphasis added).

[80] 2011 TASK FORCE REPORT, *supra* note 30, at 10.

[81] 2011 TASK FORCE REPORT, *supra* note 30, at 16; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey Dunne, President, New York City Bar Association, at 84:19–22).*

[82] Proposed Biennial Attorney Registration questions related to *pro bono* hours are annexed as Exhibit 2 to Appendix 16. The New York City Bar Association has supported a reporting requirement for *pro bono* hours since 1997. *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey Dunne, President, New York City Bar Association, at 88:15 – 89:10).*

[83] Proposed revisions to New York Rule 6.1(a)(2) concerning suggested monetary contributions are annexed as Exhibit 3 to Appendix 16.

[84] Proposed Biennial Attorney Registration questions related to monetary contributions to legal service providers in New York are annexed as Exhibit 2 to Appendix 16.

[85] The rule requires payment of a production charge.

[86] *Board Issue Paper*—Pro Bono Publico, THE FLORIDA BAR, http://www.floridabar.org/DIVCOM/PI/BIPS2001. nsf/1119bd38ae090a748525676f0053b606/a8e811c59073e9f68525669e004d21f6!OpenDocument (last visited Nov. 24, 2012) (data reported by the Standing Committee on *Pro Bono* Services to the Supreme Court of Florida, The Florida Bar and The Florida Bar Foundation). *See also The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey R. Dunne, President, New York City Bar Association, at 88:01–90:09)* (reiterating the City Bar's support for *pro bono* reporting, as first proposed by the City Bar in a 1997 report, and noting that "[o]ur report drew on the experience of Florida, which was the first to establish the reporting of pro bono activities and contributions, both of which grew substantially after the reporting requirement was put into place.").

[87] ATTORNEY REGISTRATION & DISCIPLINARY COMM'N OF THE SUPREME COURT OF ILLINOIS, 2011 ANNUAL REPORT 13 (2012), *available at* http://www.iardc.org/annualreport2011.pdf.

[88] *Compare* ADMIN. OFFICE OF THE COURTS, CURRENT STATUS OF PRO BONO SERVICE AMONG MARYLAND LAWYERS, at 12 (2003), *available at* http://www.mdcourts.gov/probono/pdfs/ probonoreport_2002.pdf , *with* ADMIN. OFFICE OF THE COURTS, FINAL REPORT: CURRENT STATUS OF *PRO BONO* SERVICE AMONG MARYLAND LAWYERS, YEAR 2010, at 6 (2011), *available at* http://www.mdcourts.gov/probono/pdfs/probonoreport2010.pdf.

[89] KELLY CARMODY & ASSOC., *PRO BONO*: LOOKING BACK, MOVING FORWARD 10, 38–39, 43 (2008), *available at* http://www.flabarfndn.org/downloads/pdf/pro-bono.pdf . This report, which examined the state of *pro bono* in Florida, found that approximately 17 percent of attorneys in 2006 did not complete the required *pro bono* report. The study recommended revisions to the *pro bono* reporting section of the Florida Bar's annual membership form to simplify it and recommended the creation of a system to send follow-up notices to attorneys who did not complete the form. The report noted that while *pro bono* reporting is required, implementation of a consequence for noncompliance had not been adopted and might be advisable. The report cited to data from other States with reporting requirements, including Nevada, Illinois and Maryland, which reported 99 or 100 percent compliance. In those States, the consequence for noncompliance is a fine or decertification. *See* NEV. R. PROF. CONDUCT 6.1(b)(1); SUP. CT. ILL. R. ADMISSION AND DISCIPLINE OF ATTORNEYS 756(g); MD. R. P. 16-903(e).

[90] For further discussion regarding *pro bono* service by in-house counsel, see DAVID S. ROTHENBERG ET AL., RIGHT TO PRACTICE REFORM: REGISTERED IN-HOUSE COUNSEL AND PRO BONO SERVICE, Report (2012) (report of the Corporate Counsel Section of the New York State Bar Association (June 2012)).

[91] The Attorney Emeritus Program Statement of Participation is annexed as Exhibit 4 to Appendix 16.

[92] As of the date of this Report, the following firms have agreed to Attorney Emeritus Program participation: Davis Polk & Wardwell LLP; Hiscock & Barclay LLP; Proskauer Rose LLP; Simpson Thacher & Bartlett LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Sullivan & Cromwell LLP; and Weil, Gotshal & Manges LLP.

[93] The research memorandum for the Task Force's Non-Lawyer Involvement Working Group is included as Appendix 17. The Working Group gratefully acknowledges the assistance of Daeyna M. Grant and Christopher G. Lee, Associates at Simpson Thacher & Bartlett LLP, in the research and drafting of this memorandum.

[94] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Prof. Gillian K. Hadfield, Kirtland Professor of Law & Economics, University of Southern California Law School, at 65:17–78:25).*

[95] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (statement of Prof. Gillian K. Hadfield, Kirtland Professor of Law & Economics, University of Southern California Law School, at 1–6).*

[96] WASH. ADMISSION TO PRACTICE R. 28. *See also* In the Matter of the Adoption of New APR 28—Limited Practice Rule for Limited License Legal Technicians (Order No. 25700-A-1005) (Wash. June 15, 2012).

[97] This non-lawyer involvement recommendation does not address current on-line document programs.

[98] The report of the Task Force's Town and Village Courts Working Group is included as Appendix 18.

[99] AMELIA T.R. STARR ET AL., FUND FOR MODERN COURTS, SUMMARY PROCEEDINGS IN NEW YORK'S TOWN AND VILLAGE COURTS: IDEAS FOR IMPROVEMENT 12 (2012).

[100] *Id.* at 14.

[101] *Id.* at 12.

[102] *Id.* at 4.

[103] The report of the Task Force's Collaborations and Shared Services Working Group is included as Appendix 19.

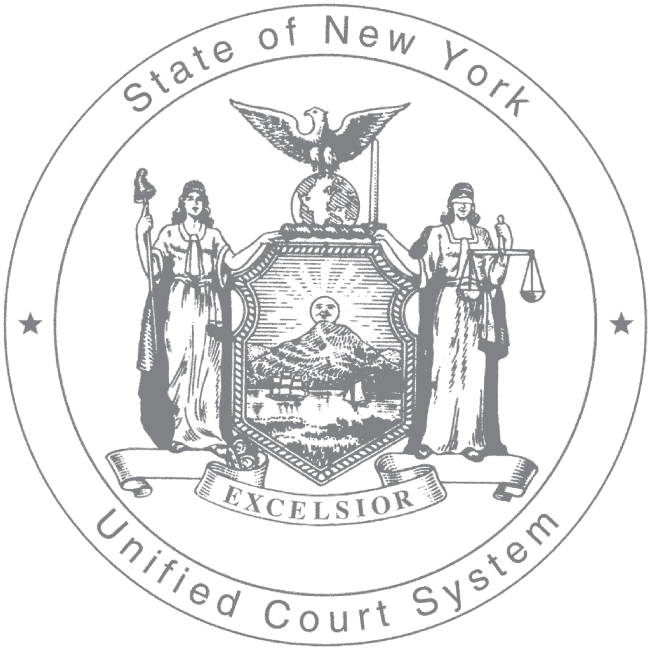
[104] *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 4, 2012 (testimony of Kathleen Rice, Nassau County District Attorney, at 10:04-11).*


State of New York
EXCELSIOR
Unified Court System

APPENDICES

The Task Force to Expand Access to Civil Legal Services in New York

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2012

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NOTE: Appendices can be viewed on the Task Force's website:
http://www.nycourts.gov/ip/access-civil-legal-services

APPENDIX 1:

List of Those Who Provided *Pro Bono* Assistance to the Task Force

Acknowledgement of Law Firm Pro Bono Assistance to the Task Force

Sullivan & Cromwell LLP

Robert J. Giuffra, Jr. (Partner, Task Force Member)
Jessica Klein (Head of Pro Bono Practice)
Lara J. Loyd (Associate)
Chiansan Ma (Associate)
Aigné S. Goldsby (Legal Assistant)
Claire S. Jen (Legal Assistant)
Mindy Miller (Administrative Assistant)
Carmel R. Arikat (Associate)
Daniel L. Biller (Associate)
Jeremy D. Campbell (Associate)
Nicholas C. Krainak (Associate)
Aneil K. Kovvali (Associate)
Jeffrey A. Mason (Associate)
Beth D. Newton (Associate)
Lanora C. Pettit (Associate)
Dylan G. Savage (Associate)
Adam M. Shapiro (Associate)
Lauren A. Wansor (Associate)
William R. Vanderveer (Associate)

Skadden, Arps, Slate, Meagher & Flom LLP

Robert C. Sheehan (Of Counsel, Task Force Member)
Ron Tabak (Special Counsel)
Brenna DeVaney (Pro Bono Counsel)
Rosemarie Barnett (Associate)
Claire James (Associate)
Elliot Choi (Associate)
Paul Wolpert (Associate)
Carolyn Ganon (Legal Assistant)
Daniel Navo (Legal Assistant)
Virginia Hiner (Legal Assistant)
Heather MacDonald (Legal Assistant)
Gia Wakil (Legal Assistant)
Peter Spaet (Legal Assistant)
Kathy Moringiello (Librarian)
Greg Sergeant (Librarian)
Mark Stone (Librarian)

Proskauer Rose LLP

Betsy B. Plevan (Partner, Task Force Member)
David A. Picon (Partner)
Stacey O'Haire Fahey (Pro Bono Counsel)
Latoya Moore (Associate)
Kate Rhodes (Associate)
Sarah Rothenberg (Associate)
Katrina McCann (Associate)
Thomas Rossidis (Project Assistant)
Nicholas Shayler (Project Assistant)

Simpson Thacher & Bartlett LLP

Mark G. Cunha (Partner, Task Force Member)
Harlene Katzman (Pro Bono Counsel)
Lexie Pitney (Associate)
Hilary Chadwick (Pro Bono Coordinator)
Daeyna M. Grant (Associate)
Christopher G. Lee (Associate)

APPENDIX 2:

Request for Proposals from the Oversight Board for 2012-2013

The Oversight Board to Distribute Judiciary Civil Legal Services Funds in New York
FISCAL YEAR 2012-2013
Request for Proposals

APPLICATION FORMS AND INSTRUCTIONS

Contents

I. Background Information and Instructions

II. Application Cover Sheet

III. Description of Applicant Organization

IV. Narrative Proposal

V. Organizational Data Packet (use supplied Excel document)

VI. Proposal Data Packet (use supplied Excel document)

VII. Attachments Checklist

A. Client Financial Eligibility Guidelines
B. Client Grievance Procedures
C. Case Acceptance Policy and Procedures
D. Insurance Certificates
E. Minutes of the Last Four Meetings of the Board of Directors
F. Audited Financial Statement from the Most Recently Ended Fiscal Year
G. Most Recent Annual Report (if available)
H. Resumes of Principal Staff and Proposed Project Staff
I. Affirmative Action/EEO Policy
J. Documentation of Current NY Charities Registration
K. Documentation of Taxpayer Identification Number (TIN)
L. Board of Directors Roster

Exhibits/Appendices:

Exhibit 1: Insurance Requirements
Exhibit 2: Vendor Responsibility Requirements
Appendix A: Standard Clauses for all NYS Unified Court System Contracts

Also Included:

- Poverty Population and Judicial Department Map (See accompanying PDF)
- Poverty Guidelines (See accompanying PDF)

I. Background Information and Instructions

A. The Task Force to Expand Access to Civil Legal Services in New York

The continuing deep economic downturn has clearly increased the need for civil legal services in New York State. Recently released 2010 United States census data confirms that approximately six million New Yorkers (thirty percent of the State's population) are living at or below 200 percent of the poverty level. More than 2.3 million New Yorkers try to navigate the State's complex civil justice system without an attorney. To aid in assessing the extent of the unmet need for civil legal services, Chief Judge Jonathan Lippman appointed the Task Force to Expand Access to Civil Legal Services in May, 2010.

During each of the last two years, the Task Force has assisted the Chief Judge in conducting Judiciary hearings in all four Judicial Departments of the State to evaluate the unmet need for civil legal assistance. In its first year the Task Force found that lack of resources to fund civil legal services adversely impacts not only the vulnerable individuals and families without representation, but the entire state. There is a growing crisis in the courts because the need for Judges and court personnel to spend thousands of hours assisting the unrepresented has decreased efficiency and had a negative effect on the quality of justice for all parties. The State economy has been impacted by the loss of hundreds of millions of dollars in federal benefit funds. State taxpayers face additional burdens due to the need for state and local governments to shoulder the costs of increasing homelessness and the failure to prevent domestic violence. In its second year, the Task Force found that the crisis of the unrepresented had grown since the previous year. Sixty-three percent of New Yorkers are unrepresented at statutorily required settlement conferences in foreclosure cases. Ninety percent of civil legal services providers had to turn away the same number, or more, potential clients than had been turned away the previous year.

A key first-year recommendation of the Task Force was the establishment of a reliable source of funding for civil legal services. In response to this recommendation, 12.5 million dollars was allocated for civil legal services in the judiciary budget for State fiscal year 2011-2012. That funding was awarded to legal services organizations throughout the state in accordance with the Task Force priority of providing assistance to families and individuals living at or below 200 percent of the poverty level in matters involving the "essentials of life." From August 1, 2011 through November 1, 2011 services were provided to 51,297 clients who otherwise would have been turned away and 8813 cases were diverted from the courts. While this funding was critical in increasing access to justice for vulnerable individuals and families, the gap between the need and available services remains enormous. At best, only 20% of the need for civil legal services in New York is being met.

B. Second-Year Findings and Recommendations of the Task Force

Based on the Judiciary Hearings testimony, and after continued comprehensive review of access

to civil legal services in New York, the Task Force made the following key findings in its second year:

> **Finding 1:** ***A continuing unmet need exists for civil legal assistance for low-income families and individuals in all areas of the State.***
>
> **Finding 2:** ***The continuing unmet need for civil legal assistance in all areas of the State has a negative impact on the functioning of the courts, businesses and government, and a profound impact on vulnerable families and individuals.***
>
> **Finding 3:** ***New cost savings analyses demonstrate that civil legal services in New York State can save at least $85 million in costs associated with domestic violence and at least $116.1 million in shelter costs in addition to the continuing substantial economic benefits to the State documented by the Task Force.***
>
> **Finding 4:** ***New Task Force initiatives can streamline and enhance client service delivery, help limit the costs of providing civil legal services, and reduce court expenditures and litigation costs for represented parties.***

The Task Force also made a number of recommendations to address these findings, including the gradual increase in funding for civil legal services in the judiciary budget to create a stable and permanent source of funding. For the Fiscal Year beginning April 1, 2012 and ending March 31, 2013, the Task Force recommended the allocation of $25 million in civil legal services funding targeted for the provision of civil legal assistance to address matters involving the "essentials of life" across the State.

The Oversight Board established last year, consisting of the Chief Administrative Judge of the Courts (or other designee of the Chief Judge), the Chair of the Chief Judge's Task Force, and the Chair of the IOLA Board, will oversee the process for the allocation of this funding. The parameters for the funding and the mechanism for distributing funds were adopted by the Chief Judge in response to the Task Force's Recommendations and $25 million was included in the proposed 2012-2013 Judiciary Budget.

C. Priorities for the Provision of Civil Legal Services

The most urgent need continues to be to provide additional civil legal assistance in matters involving "the essentials of life." The Chief Judge and the Oversight Board have adopted the Task Force's findings **that these highest priority "essentials of life" matters most often involve legal problems in the areas of housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts)**. It is also clear that such matters are often interrelated with other legal problems that must be addressed in order to remedy the presenting

legal issue. **Furthermore, the provision of preventive and early intervention legal assistance, including expanded community legal education initiatives, should be emphasized as part of the array of client services that are needed.**

Persons with incomes at or below 200% of the Federal Poverty Guidelines are eligible for client services. Please refer to the Poverty Guidelines included with this application package.

D. Applicant Eligibility

Awards will be made to qualified organizations which are non-profit entities, tax-exempt under the Internal Revenue Code and eligible to receive funds for the provision of civil legal services without charge to poor persons within a geographical area in New York State.

In addition, an applicant must have an audit mechanism that provides accountability for "Judiciary CLS Funds". All applicants for funding should provide certified financial statements for the most recently ended fiscal year.

Applicants must have staff with the requisite training, knowledge and experience to resolve client problems in the most effective and efficient manner.

Applicants are encouraged to limit their applications to one Judicial Department unless the organization does substantial work in more than one Department. If an applicant does substantial work in more than one Department and applies for funding for more than one Judicial Department, the applicant need only submit one application which allocates the percentage of funds to be used in each of the Judicial Departments served.

Applicants seeking funding for joint projects between two or more funding-eligible organizations should have only one of the organizations submit an application for the project. The application should be submitted in the name of the organization, not in the name of the proposed project, unless the project is a separate legal entity.

E. Grant Award Amounts

The Oversight Board will grant awards based on the number of people living at or below 200% of poverty within the applicable geographic area, according to the latest available figures from the U.S. Census Bureau. See New York State Poverty Population Table and Judicial Department Map included with the application package.

Proposals should include the amount of funding requested for the period from April 1, 2012 through March 31, 2013.

The Oversight Board reserves the right to award less than the amount requested by any applicant and to allocate the funding between Judicial Departments (if funding for more than one Judicial

Department is requested and awarded) in a different proportion than that requested by the applicant. In the event that an applicant receives less funding than requested, the applicant may be required to submit a revised budget and/or project plan. The Oversight Board also reserves the right to impose any special conditions on the grant award that it, in its discretion, determines will improve services or performance by the grantee, or conform to the Oversight Board's priorities over the grant period.

F. Factors Considered in Awarding Grants

Proposals will be evaluated based on the factors set out below. Proposals will be awarded a maximum of 100 points with each factor assigned the point values listed.

	Factor	Point Value
1.	Needs/Services/Methods/Outcomes Problems to be addressed (must include community characteristics, demographic and statistical data); services to be provided; relationship to Oversight Board priorities; methods of service delivery (including use of pro bono attorneys and/or volunteers, if applicable), preventive and early intervention assistance (including expanded legal education initiatives) and anticipated outcomes and impact.	50
2.	Organizational Capacity Organizational capacity to implement the proposed activities and services, including legal expertise and other professional qualifications; staffing; ties to community to be served; governing board and its role in setting priorities, ensuring program accountability and providing leadership in the development of program resources for the project for which funding is requested.	15
3.	Implementation Strategies and Cooperative Efforts Strategies to ensure efficient and expeditious program implementation; and cooperative efforts to maximize benefit of grant funds and avoid duplication of services.	10
4.	Budget/Expenditures Reasonableness, allowability (consistent with generally accepted accounting principles and in conformance with the purposes of the RFP) and allocability (directly benefiting the proposed program and assigned to the appropriate cost objective in reasonable and realistic proportion to the benefit provided) of proposed costs.	10

5.	Quality Control Current and planned methods to ensure quality control of services, including appropriate systems for client intake, case assignment, case management and supervision, training of staff and volunteers, and technical support for the project for which funding is sought.	10
6.	Use of Technology Planned uses of technology in all facets of the project for which funding is requested and how the use of technology will enhance the proposed services.	5

G. Application Review and Grant Award Process

Proposals will be evaluated and scored according to the factors listed above.

A list of all applicants will be circulated to the Oversight Board with Conflict of Interest Disclosure Forms, which must be filed prior to Oversight Board meetings in which grant decisions are made. Oversight Board members are required to file conflict disclosure forms prior to review of grant applications and are required to disclose current affiliations with applicants, and they are precluded from reviewing and being involved in decisions on grants involving those organizations.

H. Grant Contract

Grant recipients will enter into a contract with the New York State Unified Court System (UCS). The contract will be for all or a portion of the 2012-2013 state fiscal year (April 1, 2012-March 31, 2013), with an estimated commencement date of April 1, 2012. The contract will also have four (4) optional one-year renewal terms, the exercise of which will depend on grants by the Oversight Board in subsequent years.

Any special terms and conditions imposed by the Oversight Board on grant awards will be included in the grant contract. The grant contract will also include Appendix A (attached hereto), which contains required terms and conditions for all UCS contracts. Grant contracts are subject to review and approval by the New York State Attorney General and the Office of the New York State Comptroller.

I. Reporting Requirements

Grant recipients will be required to report semi-annually on the use of the awarded funds. The due dates, format and specific information to be contained in the reports will be determined by UCS.

J. Insurance Requirements

Grant recipients will be required to maintain during the term of the contract: (i) workers' compensation and disability benefits insurance; (ii) commercial general liability insurance; and (iii) professional liability insurance. See Exhibit 1 for specific coverage requirements and documentation that must be submitted with application.

K. Vendor Responsibility

UCS is required to conduct a review of every organization with which it enters into a contract in order to provide reasonable assurances that the organization is responsible. Vendor responsibility is determined by a review of each prospective contractor's legal authority to do business in New York State, business integrity, financial and organizational resources, and performance history. Organizations that are awarded a grant of $100,000 or more will be required to complete a Vendor Responsibility Questionnaire. The Vendor Responsibility Questionnaire should be submitted as soon as possible after receipt of notice of the award. See Exhibit 2 for detailed instructions on completion of the Vendor Responsibility Questionnaire.

K. Questions

Applicants may submit questions concerning this RFP **by email only** to

Marie-Claude Ceppi
Mceppi@courts.state.ny.us

Please indicate in "Subject" field: Judiciary CLS RFP 2012 Question(s)

The deadline to submit questions is Wednesday, April 4, 2012, before 1:00 pm. A Questions & Answers (Q&A) sheet will be posted on the UCS website at www.nycourts.gov/admin/bids in the Addenda column for this RFP a few days after the deadline for submission of questions.

IMPORTANT: All questions regarding this RFP must be **in writing** and directed solely to the attention of the above-designated person.

L. Application Submission Procedures/Deadline

Step One: Complete the Grant Application

Please follow the formatting instructions and page limits. Applications must be single-spaced with one inch page margins (not including attachments, financial forms and data tables) using a 12 point font. In order to facilitate photocopying, please do not permanently bind applications. An Application includes the Application Cover Sheet, Description of the Applicant Organization Narrative Proposal, Excel Data Packets and Attachments.

Step Two: Assemble the Following Attachments:

A. Client Financial Eligibility Guidelines
B. Client Grievance Procedures
C. Case Acceptance Policy and Procedures
D. Certificates of Insurance
E. Minutes of the Last Four Meetings of the Board of Directors
F. Audited Financial Statement from the Most Recently Ended Fiscal Year
G. Most Recent Annual Report (if available)
H. Resumes of Principal Organization Staff and proposed Project Staff
I. Affirmative Action/EEO Policy
J. Documentation of Current NY Charities Registration
K. Documentation of Taxpayer Identification Number (TIN)
L. Board of Directors Roster

Step Three: Deliver the Application with all Required Attachments

Applications should arrive at the address below by no later than Tuesday, April 17, 2012, before 5:00 pm.

Deliver **ONE** signed, hard copy original and **ONE** additional copy (two complete sets) of the Application to:

Marie Claude Ceppi
Management Analyst
New York State Office of Court Administration
25 Beaver Street Room 840
New York, NY 10004

All envelopes/cartons must also be labeled with the following information on two sides:

"Deliver immediately to Marie-Claude Ceppi R-840"
"Sealed Application - Do not open"
"CLS GRANTS 2012-13 - due April 17, 2012, before 5:00 pm.

Applications will not be accepted electronically or by fax.

II. Application Cover Sheet

A. General

Name of Applicant Organization	
Name of Executive Director	
Name of Contact Person and Title	
Amount of Judiciary CLS Funding Requested	
Total Budget of Organization	
Number of FTE Staff Needed to Accomplish Grant Project	
Total Number of FTE Staff Employed in Organization	
Summary of Proposal (indicate principal program activities in 2 or 3 sentences)	
If you received Judiciary CLS Funding for 2011-12, please indicate the amount.	
If you are considering any mergers or joint projects, please note them.	
If you are applying in more than one Department, please indicate where the primary work will be done.	
Please indicate what other organizations provide similar services in the same geographic area.	
Address	
Phone	
Fax	
Email	
Website Address	
Federal Tax Identification No. (TIN)	
*New York State Charities Registration Number	
*Exempt from Requirements to Have Charities Registration number because:	

** New York State prohibits payments to be made without this number. If exempt, please explain.*

B. Proposal Submitted

Please provide a brief description of which of the "essentials of life" your organization will address, indicating which counties and departments will be served. If serving more than one department, indicate the amount requested by department.

1. Check Department(s) Served **Amount Requested**

	FIRST	**$**
	SECOND	**$**
	THIRD	**$**
	FOURTH	**$**

Total Request:

2. List Counties Served:

C. Required Signatures

Executive Director or Chief Executive Officer	
Signature	

Board Chair	
Signature	

III. Description of Applicant Organization

The questions in this section are to be answered by all applicants:

PAGE LIMIT: Twelve single-spaced pages.

A. Principal Activities
Briefly describe **all** of the organization's principal activities, including the provision of civil legal services to low-income persons.

B. Service Delivery Methods
Please check the methods used to deliver legal services.

	Staff delivery using attorneys and paralegals
	Organized pro bono programs
	Specialized law units
	Evening clinics
	Pro se training
	Mediation/alternative dispute resolution
	Supervised non-lawyer advocate
	Other

C. Geographic Service Area
State the area (counties, cities or neighborhoods) served by the organization.

D. Clients with Special Needs
Describe any measures used to facilitate access to services for clients with the following needs:

Primary language other than English:	
Physically or mentally disabled:	
Lacking transportation to your office location:	
Institutionalized clients:	
Low-income working clients (extended office hours, etc.):	
Other needs particularly applicable to your clients:	

E. Quality Control Mechanisms

Describe provisions for assuring quality of services.

1. Methods for case and/or work assignment:

2. Procedures for reviewing/supervising work:

3. Provisions for backup and technical support for paralegals, volunteers, law students and other non-attorneys involved in legal service delivery:

4. Provisions for ensuring client confidentiality:

F. Private Attorney Involvement

The Oversight Board will seek to leverage the impact of its grants by funding applicants who will involve the bar through pro bono and other programs. If the organization involves private attorneys in the delivery of legal services, please complete the following:

1. Check all activities that apply.

	Pro Bono - Client Services
	Pro Bono - Support Services (e.g., training, mentoring)
	Other methods of private attorney involvement

2. Briefly describe each activity checked above.

G. Involvement of Non-Attorney Volunteers

If the organization involves volunteers other than attorneys in the delivery of legal services, please describe and explain how attorney supervision is provided.

H. Legal Services Achievements in Last Fiscal Year

1. Summarize in 100 words or less the organization's most significant achievements during last fiscal year, supported by any funding source, including:

   - Numbers of people who benefited;
   - Dollar benefits obtained for clients;
   - Significant developments that affected the capacity to deliver legal services.

2. Definition of a "Case"

   Please check below the box that best describes the organization's definition of a case for statistical reporting purposes. Check ONE only:

	A case is defined as the provision of legal assistance to an eligible client with a legal problem, or set of closely-related legal problems accepted for assistance supported by Judiciary CLS funds or other funds.
	We use a different definition of a case, which is as follows (briefly describe below):

3. Examples of typical cases

Please provide brief narrative examples, or snapshots of typical cases.

Example 1:

Example 2:

4. Services other than case services

Please describe any legal services provided for low-income people in addition to direct legal representation.

I. Mergers/Joint Projects

If your organization is contemplating any mergers, or applying for funding for a joint project (as described in section I(D)), please provide details. Only one application should be submitted for a joint project and the application should describe the specific role of each organization in the proposed project, including the services, staffing and other resources to be provided by each.

IV. Narrative Proposal

PAGE LIMIT: Twenty single-spaced pages.

1. Brief summary of the proposal

Indicate which of the priorities defined herein as the "essentials of life" will be addressed with the help of Judiciary CLS funds, and the amount of funding requested. Describe the kinds of services to be provided, to whom they will be provided and where the recipients of those services reside. Indicate the provision of preventive and early intervention legal assistance, including expanded legal education initiatives, in an effort to keep cases out of court and avert protracted litigation.

2. Target population and problems to be addressed

Provide a clear statement, supported by community characteristics, demographic and statistical data, of the problems to be addressed by the proposed activities and services.

3. Geographic service area

Describe below the geographic area proposed to be served, including the name of the county or counties served. If only a portion of a county is served please indicate the portion of the county served.

4. Proposed methods for addressing the problem

Provide an overview of the legal services or other activities planned for addressing the needs identified above. Indicate which of the service delivery methods checked in response to Question III(B) will be used in the project for which funding is sought. Describe which, if any, of the activities checked in response to Question III(F) will be used in the project. In addition, indicate whether non-attorney volunteers will be used in the project and if so, describe their role.

5. Intake process

Indicate where people will come to apply for service and describe the process for handling their

requests. Indicate staff involved in each step e.g., receptionists, paralegals, lawyers, etc. Please do not exceed 50 words.

6. Intake schedule

Describe briefly the hours during which intake is open to clients. Describe any special arrangements (for example, weekend and evening hours) made for accommodating low-income working people.

7. Anticipated impact of this grant

a. **Number of clients to be provided with direct legal services.**

Approximately how many persons will be served during the one-year period of this grant, assuming the total proposed budget is available?

In addition, if possible, please provide an estimate of the number of cases that through early intervention will be kept out of court or avoid protracted litigation.

Level of Service Provided:	**Estimated Number of Persons:**
Community Legal Education	
Brief Advice and/or Information	
Assistance in Completing Forms or Applications	
Representation in Court and/or Administrative Proceedings	
Representation in Appeals or Other Complex Matters	
Cases diverted from Court	
Other Legal Assistance (Specify)	

b. **Longer-term impact**

What impact, if any, will remain after this grant is over? Please do not exceed 50 words.

8. Outreach

How will potential clients be made aware of the availability of proposed services? Indicate

how the proposed outreach methods address any special problems of the target population, for example, language barriers, physical disabilities, etc. Also indicate which, if any, of the measures used to facilitate access to services for clients with specials needs (Question II(D) will be applicable to the project for which funding is sought. Please do not exceed 50 words.

9. Cooperative efforts

Identify other legal services providers, private bar organizations, and partnerships and collaborations with non-legal entities that provide services to clients, including social services agencies, medical providers, schools and community-based organizations, which will actively participate under this proposal. Provide an overview of their roles in carrying out the purposes of this grant. Describe arrangements with other legal service providers in your area to avoid duplication of effort.

10. Technology

Describe how you propose to use technology to enhance the impact of your proposal.

11. Quality Control

Describe methods that will be used to ensure quality control of services including systems for client intake, case assignment, case management and supervision, training of staff and volunteer and technical support for the project. Indicate which of the quality control mechanisms described in response to Question III(E) will apply to the project.

V. Organizational Data Packet

Use supplied Excel document

VI. Proposal Data Packet

Use supplied Excel document

VII. Attachments Checklist

Please place an X in each box for the document that is submitted.

	A.	**Client Financial Eligibility Guidelines**
	B.	**Client Grievance Procedures**
	C.	**Case Acceptance Policy and Procedures**
	D.	**Insurance Certificates: (1) Workers' Compensation; (2) Disability Benefits; (3) Commercial General Liability; and (4) Professional Liability**
	E.	**Minutes of the Last Four Meetings of the Board of Directors**
	F.	**Audited Financial Statement from the Most Recently Ended Fiscal Year**
	G.	**Most Recent Annual Report (if available)**
	H.	**Resumes of Principal Staff and proposed staff for the project**
	I.	**Affirmative Action/EEO Policy**
	J.	**Documentation of Current NY Charities Registration**
	K.	**Documentation of Taxpayer Identification Number (TIN)**
	L.	**Board of Directors Roster (use form supplied on next page)**

Board of Directors Roster

Board Member Name	Term Expiration Date	Service (Years)

Please indicate if the Board has a conflict of interest policy.

_____ Yes _____ No

Exhibit 1
INSURANCE REQUIREMENTS

Grant recipients will be required to maintain, during the term of the contract, the following insurance coverage:

1. Workers' compensation and disability benefits insurance coverage as required under NYS law. Proof of workers' compensation insurance and disability benefits insurance must be provided with the grant application. If applicant is legally exempt from such coverage, proof of exemption, must be provided. The only forms acceptable as evidence of these insurance requirements are: (1) Certificate of NYS Workers' Compensation Insurance Form C-105.2; and Certificate of NYS Disability Benefits Insurance Form DB-120, or, if applicant is exempt from such coverage requirements, Certificate of Attestation of Exemption Form CE-200. Please note that an ACORD Certificate of Insurance is NOT acceptable proof of New York State workers' compensation or disability benefits insurance coverage. Only the forms as prescribed by the NYS Workers' Compensation Board are acceptable. Applicants should obtain the appropriate Workers' Compensation Board forms from their insurance carrier or licensed agent, or follow the procedures set forth by the Workers' Compensation Board for obtaining an exemption from coverage. Required forms and procedures may be obtained on the Workers' Compensation Board website at: www.wcb.ny.gov/content/main/Employers/Employers.jsp. Applicants without web access may contact the Workers' Compensation Advocate for Business office at (800) 628-3331 for additional information.

2. Commercial General Liability Insurance (bodily injury and property damage on an occurrence basis), contractual and products/completed operations liability coverage, and auto liability with minimum limits as follows:

Bodily Injury and Property Damage	$1 million, per occurrence, $2 million, aggregate
Personal Injury and Advertising:	$1 million aggregate
Contractual and Products/ Completed Operations Liability	$2 million aggregate
Auto Liability, Combined single limits	$1 million

Commercial general liability insurance coverage must be obtained from commercial insurance carriers licensed to do business in the State of New York and must name UCS as an additional insured or loss payee as appropriate, and shall provide for at least thirty (30) days advance written notice to UCS of cancellation or non-renewal.

3. Professional liability insurance in the amount of $1,000,000, with tail coverage for two (2) years, for all of applicant's professional employees that will perform with grant funding.

Exhibit 2
VENDOR RESPONSIBILITY REQUIREMENTS

VENDOR RESPONSIBILITY ACKNOWLEDGMENT

(To be completed only by organizations awarded $100,000 or more in Judiciary CLS funds)

The New York State Unified Court System (UCS) is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. The Vendor Responsibility Questionnaire, a required component of all UCS solicitations, is designed to provide information to assist the UCS in assessing a vendor's responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each prospective contractor's legal authority to do business in NYS, business integrity, financial and organizational resources, and performance history (including references.)

The UCS recommends that vendors file the required Vendor Responsibility Questionnaire online via the NYS VendRep system. To enroll in and use the NYS VendRep System, see the VendRep System Instructions available at: **http://www.osc.state.ny.us/vendrep/vendor_index.htm** or go directly to the VendRep System online at: **https://portal.osc.state.ny.us**. Vendors must provide their NYS Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at **ciohelpdesk@osc.state.ny.us**. Alternatively, vendors may choose to complete and submit a paper questionnaire. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate form from the VendRep website: **www.osc.state.ny.us/vendrep** or by contacting the OCA Contracts Unit at 212-428-2727 or by email: **mceppi@courts.state.ny.us**.

PLEASE COMPLETE EITHER OPTION 1 OR OPTION 2 BELOW:

OPTION 1
____ Our Vendor Responsibility Questionnaire was files online via the OSC VendRep System

If you have selected Option 1, please complete the following. The required signature is an acknowledgment that the questionnaire has been filed and certified directly on the OSC VendRep system.

Solicitation: 2012 Judiciary Civil Legal Services Grants

ORGANIZATION NAME: _____
NAME/TITLE: _____
SIGNATURE: *(blue ink only)* _____

OPTION 2
____Vendor Responsibility Questionnaire in paper attached

RETURN COMPLETED FORMS TO:
NYS OCA, CONTRACTS UNIT, 25 BEAVER STREET, 8TH FLOOR, NEW YORK, NY 10004
ATTN: MARIE-CLAUDE CEPPI

August 2007

New York State Unified Court System
Appendix A
Standard Clauses for all Contracts

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with State Finance Law Section 112.2(a) , if this contract exceeds $50,000.00, or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office.

4. WORKER'S COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration, or repair of any public building or public work, or for the manufacture, sale, or distribution of materials, equipment, or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors, shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract, as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex, or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239, as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or

permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non- collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139- h of the State Finance Law, if this contract exceeds $5,000.00, the Contractor agrees, as material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC APP. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations
upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition or appeal (2 NYCRR 105.4)..

9. SET OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any reason including , without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York

State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on his invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION.

(1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of State Accounts, Office of State Comptroller, AESOB, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation or real property and improvements thereon for such projects, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, sex, national origin, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, up-gradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein: and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. Contractor will include the provisions of "a", "b", "c" above, in every subcontract over $25,000.00 for the

construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purposes of this section. The contracting agency shall determine whether the imposition of the

requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PURCHASES OF APPAREL. In accordance with State Finance Law Section 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that:
(i) Such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hour laws and workplace safety laws; and
(ii) Vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized for this contract by the bidder.

APPENDIX 3:

Notification of the Issuance of the Request for Proposals

New York State | State Agencies

Search all of NY.gov

NYSCR | NEW YORK STATE CONTRACT REPORTER LOG-OUT

Empire State Development

YOUR OFFICIAL SOURCE FOR NEW YORK STATE CONTRACTING OPPORTUNITIES

User: jcasper@courts.state.ny.us

back

Next

Category: Miscellaneous

1 2 3 4 5 6 7 8

Issue Date: 3/27/2012

Contract Number: CLS RFP 2012

Civil Legal Services Funds in New York - Fiscal Year 2012-2013

Description:
The New York State Unified Court System, Office of Court Administration is seeking sealed proposals from qualified non-profit entities for the funding of civil legal services without charge to poor people in the State of New York, for fiscal year 2012-2013.
The Request for Proposals, including application forms and instructions, will be available for download or printing on the Unified Court System's website, at www.nycourts.gov/admin/bids, under "Current Solicitations" and RFP "CLS RFP 2012" on Tuesday, March 27, 2012.

Minority Sub-Contracting Goal: n/a%

Women Owned Sub-Contracting Goal: n/a%

Due Date: 4/17/2012 5:00 PM

Contract Term: initial one-year term with 4 optional 1-year renewals

Location: State of New York

Contact: Marie Claude Ceppi Purchasing Dept.
Unified Court System, NYS
25 Beaver St.
New York,NY 10004
Phone: 2124282727
Fax: 2124282819
mceppi@courts.state.ny.us

Contact 2: Marie Claude Ceppi Purchasing Dept.
Unified Court System, NYS
25 Beaver St.
New York,NY 10004
Phone: 2124282727
Fax: 2124282819
mceppi@courts.state.ny.us

Submit To:
Marie Claude Ceppi Purchasing Dept.
Unified Court System, NYS
25 Beaver St.
New York,NY 10004
Phone: 2124282727
Fax: 2124282819

AGENCY LINKS

- Manage Solicitation Submissions
- Manage Accounts
- Manage Locations
- Manage Announcements
- Manage News and Events
- Post Agency Reports (Qtrly/Semi-Annual)
- Post Bid Results
- NYS Finance Law
- Reports Schedule
- FAQ
- Upload RFP Documents
- Agency Home
- Procurement Information
- Manage Subaccounts

SITE LINKS

- Current Solicitations
- Open Solicitations
- Archived Solicitations
- Bid Results
- Search
- Manage My Account
- Agency Report Listings
- Home
- Help

PUBLIC LINKS

- Subscribe to E-Alerts
- About E-Alerts
- New Registration
- Contact Us
- News and Events
- Announcements
- Contract Categories
- Procurement Resources
- Procurement Guide
- Publication Schedule
- News Letter Sign-up
- Agency Application
- FAQ
- Home
- Login Help
- Agency Reports
- Bookmark This Site!

mceppi@courts.state.ny.us

About NYSCR Contact Us NY Loves Small Business NY Loves Biz Doing Business With NY Policies & Disclaimers
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APPENDIX 4:

Grants Awarded by the Oversight Board for Judiciary Civil Legal Services Funds in New York for 2012-2013

2012-13 Judiciary Civil Legal Services Awards
per Judicial Department

	1st Dept	2nd Dept	3rd Dept	4th Dept	2012 Total Awards
Advocates for Children of NY	$17,500.00	$25,000.00			$42,500.00
Albany Co. Bar Assoc./Pro Bono Progr.			$77,000.00		$77,000.00
Asian American League Def & Ed Fund	$15,537.00	$34,583.00			$50,120.00
ABCNY/City Bar Justice Center	$100,500.00	$187,500.00			$288,000.00
Bronx Defenders	$174,800.00				$174,800.00
Bklyn Bar Assn Volunteer Lawyers Proj		$119,306.00			$119,306.00
CAMBA, Inc./Camba Legal Svcs		$692,000.00			$692,000.00
Cap.District Women's Bar Assn Leg Proj			$156,400.00		$156,400.00
Catholic Migration Svcs		$40,600.00			$40,600.00
Center for Family Representation	$39,000.00	$75,000.00			$114,000.00
Central American Legal Assistance		$64,820.00			$64,820.00
Day One New York, Inc.	$7,440.00	$16,560.00			$24,000.00
Empire Justice Center		$64,051.00	$175,380.00	$365,326.00	$604,757.00
Erie Co.Bar Assn/Vol Lawyer's Project				$191,862.00	$191,862.00
F.H. Hiscock Legal Aid Society				$260,212.00	$260,212.00
Goddard Riverside Community Ctr	$53,200.00				$53,200.00
Housing Conservation Coordinators	$53,200.00				$53,200.00
inMotion	$38,023.00	$84,630.00			$122,653.00
Latino Justice PRLDEF	$11,225.00	$24,985.00			$36,210.00
Legal Aid Bureau of Buffalo				$242,000.00	$242,000.00
Legal Aid Society	$1,009,520.00	$2,114,943.00			$3,124,463.00
Legal Aid Society of Mi-New York			$49,300.00	$95,700.00	$145,000.00
Legal Aid Society of Northeastern NY			$1,442,100.00		$1,442,100.00
Legal Aid Society of Rochester				$458,000.00	$458,000.00
Legal Aid Society of Rockland Co.		$119,000.00			$119,000.00
Legal Assistance of Western NY			$266,407.00	$1,045,943.00	$1,312,350.00
Legal Info fir Families Today (LIFT)	$21,285.00	$86,215.00			$107,500.00
Legal Svcs for Elderly, Disabled of W.NY				$214,200.00	$214,200.00
Legal Services NYC	$1,009,520.00	$2,114,943.00			$3,124,463.00
Legal Services of Central NY			$225,776.00	$512,053.00	$737,829.00
Legal Services of the Hudson Valley		$910,000.00	$490,000.00		$1,400,000.00

2012-13 Judiciary Civil Legal Services Awards
per Judicial Department

	1st Dept	2nd Dept	3rd Dept	4th Dept	2012 Total Awards
Lenox Hill Neighborhood House	$79,800.00				$79,800.00
Make the Road of New York		$141,400.00			$141,400.00
MFY Legal Services	$674,520.00	$449,680.00			$1,124,200.00
My Sisters' Place		$58,488.00			$58,488.00
Nassau/Suffolk Law Svcs Committee		$1,015,000.00			$1,015,000.00
NCCADV		$150,000.00			$150,000.00
Neighborhood Legal Services				$867,828.00	$867,828.00
New York Lawyers for the Public Interest	$31,200.00	$50,000.00			$81,200.00
New York Legal Assistance Group	$387,000.00	$1,161,000.00			$1,548,000.00
NYLAG- Volunteer Lawyer	$52,585.00	$110,003.00			$162,588.00
Northern Manhattan Improvement Corp	$646,000.00				$646,000.00
Onondaga Co. Bar Assn				$28,756.00	$28,756.00
Pace University Women's Justice Center		$109,620.00			$109,620.00
Partnership for Children's Rights	$35,260.00	$50,000.00			$85,260.00
Prisoner's Legal Services			$20,700.00	$39,300.00	$60,000.00
Queens Volunteers lawyers Project		$162,400.00			$162,400.00
Richmond co. Bar Volunteer Lawyers		$60,000.00			$60,000.00
Ridgewood Bushwick Senior Citizens		$122,500.00			$122,500.00
Rural Law Center			$54,121.00	$88,679.00	$142,800.00
Safe Horizon	$83,328.00	$185,472.00			$268,800.00
Sanctuary for Families	$180,720.00	$220,880.00			$401,600.00
The Door - Ctr for Alternatives	$31,000.00	$69,000.00			$100,000.00
Touro/Fuchs/CUNY/St.J/Cardozo	$29,030.00	$91,930.00			$120,960.00
Urban Justice Center	$288,000.00	$288,000.00			$576,000.00
Vera Institute of Justice/Guard. Project	$158,627.00	$353,073.00			$511,700.00
Volunteer Legal Services - Monroe Co.				$120,400.00	$120,400.00
Volunteers of Legal Services	$22,180.00	$25,000.00			$47,180.00
Western New York Law Center				$329,800.00	$329,800.00
Worker Justice Center		$52,417.00	$92,817.00	$139,941.00	$285,175.00
	$5,250,000.00	**$11,699,999.00**	**$3,050,001.00**	**$5,000,000.00**	**$25,000,000.00**

APPENDIX 5:

Witness Lists for the Chief Judge's Four Hearings

The Chief Judge's Hearings on Civil Legal Services

THIRD DEPARTMENT HEARING

Thursday, September 27, 2012

WITNESS LIST

1- **Hon. Eric T. Schneiderman** *(Attorney General of New York State)*

2- **Michael T. Keegan** *(Regional President, Albany-Hudson Valley North Division and Senior Vice President, M & T Bank)*

3- **Hon. Michael V. Coccoma** *(Deputy Chief Administrative Judge for Courts Outside of New York City)*
(Testimony to be presented by **Hon. Vito C. Caruso***, Administrative Judge for the 4th Judicial District)*

4- **JUDGES PANEL**

Hon. Hugh Humphreys, Ret. *(Family Court, Surrogate's Court and County Court, Madison County; Adjunct Professor, Syracuse University College of Law)*

Hon. Nancy Sunukjian *(Waterford Town Justice, Saratoga County; Acting Director of the Office of Justice Court Support & Special Counsel to the Deputy Chief Administrative Judge for Courts Outside of New York City)*

5- **STATEWIDE PARTNERS PANEL**

Stephen J. Acquario *(Executive Director, New York State Association of Counties)*
Karla M. Digirolamo *(Chief Executive Officer, New York State Community Action Association, Inc.)*
Joseph T. Farrell *(Director of Training, New York State Coalition Against Sexual Assault)*

6- **CLIENT PANEL**

Sherry DeShane *(Client of Legal Aid Society of Northeastern New York, accompanied by Victoria Esposito)*
Shari Chireno *(Client of Legal Services of the Hudson Valley, accompanied by Sarah Maida)*
Heisily Rojas *(Client of The Legal Project, accompanied by Natalie Birch-Higgins)*
Holly Ovitt *(Client of Legal Aid Society of Northeastern New York, accompanied by William Niebel)*

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010 and 2011, which are available at www.nycourts.gov/ip/access-civil-legal-services

The Chief Judge's Hearings on Civil Legal Services

FIRST DEPARTMENT HEARING
Monday, October 1, 2012

WITNESS LIST

1- **His Eminence Timothy Cardinal Dolan** *(Archbishop of New York)*

2- **Hon. Christine Quinn** *(Speaker, New York City Council)*

3- **Hon. Fern Fisher** *(Director, NYS Courts Access to Justice Program; Deputy Chief Administrative Judge, New York City Courts)*

4- **Dr. Elizabeth Becker** *(Senior Vice President, NERA Economic Consulting)*

5- **Professor Gillian K. Hadfield** *(Kirtland Professor of Law and Economics, University of Southern California Law School)*

6- **Carey R. Dunne** *(President, New York City Bar Association; Partner, Davis Polk & Wardwell LLP)*

7- **CLIENT PANEL**

Angela D'Arezzo *(Client of The Legal Aid Society, accompanied by Carol Santangelo)*

Richard J. Usera *(Client of Legal Services-New York City [LS-NYC], accompanied by Jennifer Levy)*

Fredesvinda Vasquez *(Client of Make the Road New York, accompanied by Lorelei Salas)*

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010 and 2011, which are available at www.nycourts.gov/ip/access-civil-legal-services

The Chief Judge's Hearings on Civil Legal Services

FOURTH DEPARTMENT HEARING

Tuesday, October 2, 2012

WITNESS LIST

1- LEGAL SERVICES TO VETERANS PANEL

John G. Powers *(Director, Onondaga County Bar Association Veteran & Military Service Member Pro Bono Clinic; Partner, Hancock Estabrook, LLP)*

Hon. Patricia D. Marks, Ret. *(Monroe County Court Judge and Presiding Judge of Veterans Treatment Court; Interim Director of Veterans Outreach Center and current Board Member; NDCI Faculty Training for Veterans Treatment Courts)*

2- VETERANS PANEL

Cheri Caiella *(Mother of Client of Pro Bono Legal Clinic for Veterans & Active Military Service Members)*

Phil Dailey *(Paralegal, LawNY and Veterans Outreach Center; Iraq Combat Veteran)*

3- UPSTATE LAW SCHOOLS AND STUDENT PRO BONO EFFORTS

Dean Stewart J. Schwab *(Allan R. Tessler Dean and Professor of Law, Cornell Law School)*

Sarah Heim *(Law Student, Cornell Law School)*

Dean Hannah Arterian *(Syracuse University College of Law)*

Catherine Sinnwell Gerlach *(Pro Bono Fellow, Syracuse University College of Law)*

4- COLLABORATIONS AND SHARED COSTS PANEL

Jeffrey Unaitis *(Executive Director, Onondaga County Bar Association)*

Anthony P. Marshall *(Chair, Say Yes to Education Legal Support Program Task Force; Partner, Harris Beach PLLC)*

Christopher Wiles *(Assistant Attorney General, Syracuse Regional Office)*

Sally Fisher Curran *(Legal Director, Volunteer Lawyer Project)*

5- HELP CENTER COLLABORATION AT THE MONROE COUNTY HALL OF JUSTICE

Hon. Craig J. Doran *(Administrative Judge for the Seventh Judicial District)*

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010 and 2011, which are available at www.nycourts.gov/ip/access-civil-legal-services

The Chief Judge's Hearings on Civil Legal Services

SECOND DEPARTMENT HEARING

Thursday, October 4, 2012

WITNESS LIST

1- **Hon. Kathleen M. Rice** *(Nassau County District Attorney)*

2- **Hon. Steven Bellone** *(Suffolk County Executive)*

3- **IMMIGRATION AND LANGUAGE ACCESS PANEL**

Martha Maffei *(Executive Director, Services for the Advancement of Women, SEPA Mujer Inc.)*
Rose Leandre *(Executive Director, Haitian American Cultural and Social Organization, Inc. [HACSO])*
Alizabeth Newman *(Director of Immigrant Initiatives and Clinical Professor of Law at CUNY School of Law)*

4- **COLLABORATIONS/PRO BONO PANEL**

William C. Silverman, Esq. *(Greenberg, Traurig, LLP, Shareholder and Head of Pro Bono Program)*
Dean Patricia E. Salkin *(Touro College Jacob D. Fuchsberg Law Center)*
John P. McEntee, Esq. *(First Vice President and Member of Board of Directors, Nassau County Bar Association; Partner, Farrell Fritz, P.C.)*

5- **JUDGES PANEL**

Hon. Arthur M. Diamond *(Justice, Nassau County Supreme Court; Member, NYS Judicial Advisory Council)*
Hon. C. Randall Hinrichs *(District Administrative Judge, Suffolk County)*
Hon. Andrea Phoenix *(Nassau County District Court Judge and Acting Nassau County Court Judge)*
Hon. Scott Fairgrieve *(Judge, Nassau County District Court)*

6- **CLIENT PANEL**

Tenzin Choezom *(Client of Queens Legal Services, accompanied by Jennifer Ching)*
Pamela Sadousky *(Client of Nassau/Suffolk Law Services Committee, Inc., accompanied by Hannah Abrams)*
Mamie Copeland *(Client of The Legal Aid Society, accompanied by Diane Lutwak)*
Felicia Essix *(Client of Empire Justice Center, accompanied by Linda R. Hassberg)*

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010 and 2011, which are available at www.nycourts.gov/ip/access-civil-legal-services

APPENDIX 6:

Transcript of the Third Department Hearing Held on September 27, 2012

STATE OF NEW YORK

COUNTY OF ALBANY

X

IN THE MATTER OF THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES, THIRD DEPARTMENT HEARING

X

PROCEEDINGS held in the Court of Appeals in the above-entitled matter on the 27th day of September, 2012, at 10:00 AM at the Court of Appeals, Eagle Street, Albany, New York.

BEFORE: HON. JONATHAN LIPPMAN,
Chief Justice
HON. KAREN PETERS, Presiding Justice, Appellate Division
LAWRENCE K. MARKS, First Deputy Chief Administration Judge
SEYMOUR W. JAMES, President of NYS Bar Association

REPORTED BY: Cynthia A. West

P R O C E E D I N G S

CHIEF JUDGE LIPPMAN: Good morning everyone. It's a pleasure to welcome you all and for many of you this is the third year of the Civil Legal Services hearings. We have our distinguished Attorney General who is going to be the first witness. And let me just explain what the purposes of these hearings are. And first I'll have to say I'm concerned as the Chief Judge of the State that there's nothing more important to me, than civil legal services for the poor, and for the those most in need. The template we have developed in New York is a first and foremost for public funding of civil legal services and this year we were able to get 40 million dollars in funding which is the most in the country, but yet is the tip of the iceberg in terms of the need.

These hearings are supported by the task force to expand civil legal services in our state headed by Elaine Barnett who a sitting here today, and she

has done a lot of work that's gone into that and basically the reason why we've started this effort is because of the reduction in funding for civil legal services at a national level, in legal services corporation that's now been devastated by cuts in Washington as has our IOLA program, that has gone from 36 million dollars in funding coming out of interests accounts to down to about to six million dollars. The judiciary and the professional entire legal community recognize, that if we don't stand up for those who need legal services in these terrible economic times known will. And so, there's two parts to what we're going to do and one is to raise funding on the public Fiss, and two to enhance pro bono services for the poor. As you know we have just announced the 50 hour requirement for law students or aspiring lawyers to do pro bono work to embrace a culture of work for others before being admitted to the Bar. For us, this is our mission, and our responsibility is our reason for being and that is for equal justice in our

Courthouses, we might at well close the doors. The economy effects the most vulnerable in society, now, above all other times, it is necessary to support legal services for the poor, equal justice is fundamental to our society, and something of which our country -- well differentiates our country from others and other places in the world and that is access to justice is not a luxury in good times and it's something that now more than ever, given what's going on in our state our country is so necessary. Every civilized society is judged by how it treats its most vulnerable citizens and that is what this hearing is all about to ensure that in this state, equal justice prevails in every way. We have a resolution of the Legislature, that puts its imprimatur on the hearing and asks for our recommendations as to what the justice camp is in our state, and that's what is first of the four hearings and is intended today to find out so we can make a recommendation to the Legislature, for additional funding. I'm so pleased that to the open this particular

hearing and how appropriate the hearing is here in Albany at the Court of Appeals we have our great Attorney General Eric Schneiderman the chief law enforcement officer of our State, who has dedicated his life, in the fight for equal justice, in the state in this country, and equal justice in the so m of the good deeds that the Attorney General does every day, applies whether he is talking about the victims of gun violence, those who are most hurt by the economy and fighting for the necessities of life and their safety and the livelihood and the well-being of our people and their families, the roofs over people's heads, that what more fundamental basic issue is there for all of us, the Attorney General has lead the way in the entire United States in terms of this terrible crisis facing our state and country for foreclosures, and the robo signings and all of the things that have now become common knowledge, in the waive of foreclosures here in New York and around the country has been handled. This is all about fairness. The Attorney General

just announced I'm sure he'll talk about it sixty million dollar program to fund legal services, counseling efforts in housing, that we are so proud of his efforts and what he's doing for people who are just desperate and again there's nothing more fundamental, so I'm honored the attorney general comes to us today, and we will our first witness in this first hearing of the year here in the Court of Appeals where you're used to hear the attorney general and his staff argue cases, but I think he's got the best case of his life to argue today, which is, to talk about civil legal services, for the poor, so, attorney general Schneiderman, thank you so much for coming to speak to us.

THE WITNESS: Thank you, Chief Judge Lippman. Thank you for inviting me here. It's an honor to be here with you, and presiding Judge Peters, Deputy Chief Administrative Judge Marks, Seymour James as our great leader of our Bar Association. I do know that I'm sitting in the spot reserved for appellants that I haven't experienced that in my argument, although I

think it's a friendly bench.

THE COURT: I'm sure you prefer this counselor.

MR. SCHNEIDERMAN: I do appreciate the opportunity to be here to speak about something that is tremendously important it me personally as an attorney, and as a New York State Attorney General. But I have to state at the outset more important than that I appreciate Judge Lippman in focusing the attention of both our State government and the private Bar on the catastrophic lack of legal services for low and moderate income New Yorkers. I attend meetings of Attorneys General all around the country, and there is no judiciary and there's no legal division of the judiciary, in any state, that comes close. Judge Lippman is a national leader on the issue. I think it's important at the outset to provide that while we're dealing with the problem facing a very serious problem that New York has made a some major strides in improving access to legal services over the last few years in large

part thanks to the creative work of the our judiciary. Similarly our government have taken steps and I'm proud to say the office of the Attorney General was among them. But frankly the judiciary has stepped into areas why they are used to relying on other branches of government to deal with the problems, and stepped in has called attention of all to the problems and I'm looking forward to more action in the years ahead. I honestly believe that we have long way to go but that the path ahead is clear and we have to continue working together, to close the gap between the need for civil legal services, and the availability of those services which has appropriately been called the justice gap. We know that among the most essential founding principles of our Republic is that every American receive equal justice under law. We also know that without access to legal representation equal justice under law is just and empty slogan. In the criminal Courts we have established the right to counsel and there are many flaws in the system which we need to

correct. I'm very committed to that as well but no one faces of loss of their liberty without some access to an attorney. In our State today, with the complexities of day to day of life even for the people of most moderate means, you need an attorney if you want to keep from losing your home or health care or custody of your child, your right to stay in this country or access to public benefits, it allows you to put food on the table. Essentially matters like these hang in the balance in our Courts every day. And millions of New Yorkers today cannot meaningfully protect their rights because they can't afford to hire an attorney. I know that we have here more about the 2010 report of the task force to expand civil legal services, and among its designated findings is the fact that two point three million mostly low income New Yorkers are unrepresented in civil proceedings in our state in Court every year, and we all understand that this is the decade of deep cuts to legal services coming through. This is not a problem that we got into in a year

or two years and we will not get out of it in a year or two years but we need to turn it around quickly. Funding for the legal services corporation as the judge mentioned, the primary source of federal support peaked in real terms in 1979, and funding has been cut 60% in real dollars, since then, and there's been periods of reprieve but the budget in dollars, adjusted for inflation, is now at a all time low. The issues that people in America have to deal with get more complex and the need for a lawyer grows when the federal funding for legal services again is at a all time low. And I must also add, because I am spending some time with our federal counterparts these days, I'm very concerned about the possible revision to the distribution formula that will hurt New York and it's I think we have to be clearly alert, and all our colleagues in state government about. Putting aside federal issues and the state funding for legal services in New York has been fragmented and most of the important sources comes from the interest on the IOLA account funds, the IOLA

account that's produced a lot less revenue in last few years because of the recession and low interest rates around 32 million in 2008 to just 6.5 million in 20120 and 2011, and then into this grim picture steps our heroic chief judge and that really is where the progress is that I spoke of earlier and progress has been made. New York judiciary provided an emergency lifeline of fifteen million dollars for the last three years to the IOLA funds that prevented the IOLA funded from falling off the cliff along with interest rates. Our chief judge gave us 12.5 million dollars fund for the civil legal services office out the judiciary's own budget at a time when all of our budgets are being squeezed and increased that funding in 2012 and 2013. We know how much of an impact, we know how much of an impact these funds have had, from all of our dealings in the Attorney General's office with both providers of legal services and the people they serve. Without the leadership of the judiciary and without this funding many many people who would be

homeless who would be without benefits to which they're entitled would not be able to enforce their right to be free from the domestic violence, you have funded the lawyers to protect New Yorkers and we have to follow that lead. I have to also note the innovative programs that have been introduced here in New York to resolve problems before litigation, expand pro bono representation and taken the visionary step that has kicked off very recently making pro bono work a mandatory requirement for admittance to the bar and this is really a matter of national leadership and there's no one in the United States close to our chief judge when it comes to innovation and commitment in providing legal services for all. So, thank you, for your amazing work and I want to state clearly that my office is a committed partner in the struggle for equal justice. There is really nothing as a lawyer that should be more important than the idea that there's one set of rules for everyone, that the American commitment to equal justice under law is s strong as it

was at the founding of the Republic as I travel around the State, many people have lost confidence in our government and to one set of rules for everyone and equal justice under law. My own experience confronting the justice gap almost immediately after I game Attorney General was pretty dramatic and when I was sworn in, there was a set of negotiations also underway, between the major banks that had been involved in services, mortgages, there was a crisis of foreclosures and other Attorney General and federal agencies were trying to negotiate a settlement. At that time, we had 345,000 mortgages either in default, or delinquent if our state and in number of homes underwater that; home owners owed more money on a mortgage than the home was worth, was unprecedented, and in the middle of this wave of foreclosures, I learned that had half of the people who were facing foreclosures at that time were forced to do without speaking to a lawyer at any phase of the process. We heard tales of abuse and we gathered evidence of the abuse, as we

investigated the foreclosure crisis and working with my federal colleagues, we found overwhelming evidence all across the country mortgage services and law if I recall representing services had committed numerous violations of state and federal law. The they couldn't keep up with the volume, because of the rationale of mortgage backed security market and they were foreclosing on people using robo signed documents, often not serving people with serving services and people have the right to renegotiate their mortgages were unable to exercise those rights, ten of thousands of New Yorkers were unaware they'd those rights and the abusers of the system were only able to engage in these practices like robo signing and sewer services because they were able to safely assume, that New Yorkers or other Americans were going to have no access to an attorney and not going to have the legal advice they needed for a fair fight and for a clear disposition, and to exercise their rights. So the point at which I entered office I raised some objections to the proposal for a

national mortgage settlement and wanted to focus on two issues: First of all, I was adamant that we had to pursue two goals simultaneously or I wasn't going to sign on. First we had to get a down payment that would provide immediate relief to struggling home owners including legal assistance. The issues on the table had to be restricted to the abusers in the foreclosure process and we had to preserve all claims related to the actual conduct that blew up the American economy. So we did get a substantial down payment but we preserved all of our other claims to hold wrongdoers accountable which we have to do and that's the kind of meltdown that took place in 2008 and I hope it never happens again. In addition, to hold wrongdoers accountable and getting further relief to those that are hurt. Some of the objections the Banks raised were significant but they were all dealt with in the final settlement on mortgage services fraud and required the banks to put in place unprecedented new mortgage loan standards to commit 25 million dollars to resolve

violations of state and federal law, and we were able to preserve all the claims related to pre-crash conduct that we were concerned about. There's New Yorkers eligible for reductions in mortgage rates and to me most importantly, as the state's chief law enforcement officer, we are providing immediate significant funds for legal services. We know in New York we have an innovative and creative and talented judiciary, and we know we have actually pretty good laws to protect people from wrongful foreclosure, if you have a lawyer so you can get the information about those laws that you need. At the beginning of this hearing we were able to I'm proud to say address the crisis because all the state money for foreclosure prevention work was set to dry up on April first. There was no money allocated in this years budget for such service and in March my office was able to, announced that we can dedicate fifteen million dollars from the national mortgage settlement to save foreclosure prevention services this year. And its as the chief

judge noted, we are dedicating an additional sixty million dollars all coming from this first settlement regarding foreclosure abuses, and over the next few years to a home owners protection program, which will funds provides housing counseling and the legal services, to help struggling families stay in their homes. Just 3 days ago, we announced the first round of grants of twenty million dollars for the first year going to organizations across the state, to protect home owners rights. And in keeping with the theme the Chief Judge mentioned earlier which home owners are represented by counsel it not only benefits the home owner it makes our Courts more efficient for everyone and it saves the State money. The task force to the extent it accesses the civil legal services found that judges -- and this found that pro se litigants a all this the only experience in pro se litigants not only fail to present relevant evidence or question witnesses effectively, that they have, they often clog up the Courts with procedural complications created by a lack

of knowledge on how the system operates and they make our judicial system less effective and that prevents settlements of matters that could be settled and delay trials. This that this is a matter of cost savings as well as a matter of ensuring that their rights are protected. With counsel on the case, issues are sharpened, resolutions strengthened and frankly we heard from bank lawyers and they are very excited about the prospect of having counsel to deal with as they seek to implement a settlement and it wasn't their idea to pay out 25 bill they will rather have a lawyer to deal with, and we know that this saves money, we know that this makes our judiciary more effective. So, my commitment to you, is, as I pursue the cases related to mortgage fraud and mortgage securities fraud if I have anything to do with it, no New Yorker will ever been wrongfully foreclosed on because of a lack of legal representation. That's the least those of who brought this on our economy can provide for those who have suffered and I want to close by coming back to the

procedure problem and to the fact that in a way in my mind it's very clear in New York, in a lot of the country, over the last few decades in the last five years they're emphasis in many circles and giving people procedural rights, but not nearly as much emphasis as providing the resources, that enable those people to effectively and easily exercise foreclosure rights and this an issue, that I speak of with my colleagues in the Legislature frequently and as New York State lawyer I'm proud of the fact as I travel through this State and I often speak to the right to counsel. As the right that's enabled us to protect all of our other rights. For the home owner, the immigrant and the elderly victims of domestic violence and the risk from the lack of representation are profound. The need is vast and our commitment to meeting that need must be unwavering. We need every level of government at the state local and federal as well at the private bar to attack the justice gap with the same urgency and creativity that our judiciary has and we

need to take all legal services out of the annual budget battel in Albany and I'm committed to work with you to identify a dedicated stream of revenue to do just that. As the state's chief law enforcement officer, both in defending the State and prosecuting and enforcement of the state law, I can attest, that eliminating the justice gap is not only a matter of fundamental fairness, it will improve the efficiency and effectiveness of our judicial system and improve the quality of the outcome and will save the state money. Everyone in evert part of our government on both sides of the aisle should be in favor of an independent stream of funding so that no New Yorkers is denied legal services that they need. That's path forward working together and I know, that we can and we must fulfill the quintessential American ideal of equal justice under law for all the people of our state. Thank you very much.

CHIEF JUDGE LIPPMAN: Thank you attorney general Schneiderman and we could not have a better partner for the fight for

equal justice just to eliminate the justice gap that so obviously exists in our state and our nation between the dire need for resources available and I just want to ask a few questions and I'll ask my colleagues if they have any. You've done such a terrific job coming up with sixty million dollars that will go such a long way in the battle for fairness in the foreclosure process, and how do you determine those monies going to do the most good? What where is it going and what for process can you tell us a little bit about that?

MR. SCHNEIDERMAN: Sure we have identified two anchor partners the Empire Justice Center and the Center for New York City Neighborhoods to help us monitor and to delivery of legal services and there was there's a lot of data about where people have larger numbers of underwater homes and where the foreclosure problem is worse, and one of the great sources of information for that in fact are that housing counsel, and legal services providers, they were providing funding to. We have as a part of

the national mortgage foreclosure settlement, a federal monitor in place and the banks have to report to us regularly so we get feedback on the status of their loans all over the country. Our partners in the federal department of housing and urban development are working closely with us to make sure that he we've identified where the problems are worse and make sure that the funds get to those problems. We are just beginning the process but I'm very confident that this is the most sophisticated approach to the problem that I have ever seen and we are urging everyone in the state, and it's sort of an odd situation because we're urging everyone to come forward and the bank contacts to say we have to renegotiated your mortgage and a lot of people are hesitant to contact the bank and we're using the folks in housing counsel and legal services to try to educate people and they now do have the right to renegotiated and they will have lawyers there to help that in that.

CHIEF JUDGE LIPPMAN: That makes such a difference as the banks want to see a

lawyer there and it's such unequal playing field that it now it works to everyone's disadvantage. Staying on the federal level for a second I think you're the co-chair of President Obama's working group that's dealing with the crisis and the after effects of where do we go from here on which this whole process that came out of the mortgage backed security, where is that now?

MR. SCHNEIDERMAN: The working group was set up, beginning in February and announced in the President's State of the Union address, and it took a few months to staff up, but there are quite a few investigations under way and I think you can look for action, in the very near future. The beginning of acts because it's a long way to go. And I would like to, underline the fact that the working group, is focused on, pre crash conduct. The working group is focused on the packaging rules and the marketing of the mortgage backed securities that are particularly responsible for inflating the housing market and that lead to the crash. In addition to that, they're

are still more banks that we will welcome on board with the foreclosure settlement and provide more money, for relief for home owners. Under the time that we're providing, all right because of the first five banks, that signed up the first foreclosure settlement only includes the five largest banks and there are more banks that will be getting on board and things that we are seeing and further -- and I'm confident and we see further action from the mortgage banks securing group in the weeks ahead.

CHIEF JUDGE LIPPMAN: You talked about thank you. You talked about on the criminal side we have this Constitutional guarantee while not perfect and we all know there are issues around the state and country as to criminal representation but you have that guarantee, what did you see on the future in terms of civil legal services will we ever get to the point with a similarly recognized right in quotes, or where people have as a very basic part of their lives, if they can't afford a lawyer,

they can get one in a civil case that's something what been referred to as a civil remedy is that on the horizon? What do you say?

MR. SCHNEIDERMAN: I'm not sure we will get it from, the current Supreme Court, but I think that there is, that the idea is something that is becoming increasingly clear to people like me, in all parts of the politic spectrum and it's something very appealing to state government, because, the areas in which people are not represented commonly are with credit problems, tenants in housing problems, unrepresented, unrepresented victims of domestic violence, people with problems with receiving funding or services or entitled to which they're supposed to have access, all of their costs in our state government and this money all of this results in a reduction of benefits to the people in our state, and it's in our own interests and in the interest of our own government to ensure they're provided counsel. Funding for health care increases

when you have more lawyers representing people so then their right to health care funding for education, for housing similarly increases when people know what their rights are and I believe we will get there not by a Supreme Court ruling but as a matter of public policy as it is against everyone's self interests, to have the justice gap that we have today.

CHIEF JUDGE LIPPMAN: Thank you Attorney General. Justice Peters?

PRESIDING JUSTICE PETERS: I just have one question you know you're correct that when one creates a legal right, it's a hollow act unless one has the opportunity to exercise that right. And you mentioned the national mortgage settlement proceeds that you used to fund several legal services I'm just wondering when those will expire, and if there any thoughts on a long-term funding stream?

MR. SCHNEIDERMAN: Well we have a three year commitment, so that's -- I know you're filling in a lot of the gaps, filling in the housing, and the legal services for

housing issues, and we can take care of that for three years out of this settlement, and I do believe that there will be more money forthcoming, from other banks in the first settlement and also from the work we're doing, in the cases that I anticipate working on.

PRESIDING JUSTICE PETERS: I was hoping you would say that.

MR. SCHNEIDERMAN: But its also the case and I enjoy getting good results for the people of the State of New York, that we shouldn't be dependant on the recovery on a specific case for the judiciary taking a part of their own thinly stretched budget for this -- this is the situation where we really do need to have a dedicated stream of funding in the state. I'm committed to working toward that and I am to happy to work with our colleagues in the Legislature and executive branch and any sort of a creative approach, but we can -- but this will make this a much better and more just frankly -- a richer state if we can.

CHIEF JUDGE LIPPMAN: Justice Marks.

DEPT. CHIEF ADMINISTRATIVE JUDGE MARKS: One question you talked about in the context of foreclosure cases, there being an ineffectiveness and inefficiency which is apparent in self-represented litigants. That your office handles a tremendous amount of litigation in the State Courts so do you find that those problems carry over to the whole range of litigation that your office is involved with and to the lawyers in your office, that they prefer to have a lawyer representing a party, rather than an unrepresented litigant?

MR. SCHNEIDERMAN: I think yes, there's a very clear distinction that you can make with the lawyers in our office, they would always rather be dealing with opposing counsel because -- and that's not inconsistent with our view or as to our ethical obligations that we have to make sure that our people know what's going on and its up to the judge and opposing counsel to make sure thing are done properly.

There's a big distinction between cases, with respect to the a robo signing, for the fraud that takes place, where no one knows up in Court at all they're default judgements which, some these abusers of the process actually like it in cases where you have a pro se litigant. No one -- no lawyers likes to be dealing with pro se litigants and that takes a lot more time to get a simple result. I think that it's, been proven to be true to say and judge so yes we favor having counsel for everyone in every case. And it's something that I realize that it's tough to get across to other people in the government, that they say well, we really don't have enough money for health care and not enough money for housing, having legal representation for all New Yorkers and will get us more funding for health care and housing and keep more people in their homes and avoid the collateral damage of homelessness and eviction and what happens to children, pulled out of school because their parents have lost their home and there's so many benefits, and there's no

bigger bang for the buck than providing people with legal services.

CHIEF JUDGE LIPPMAN: You know it's so true that you say that, you know the task force has concluded for every dollar spent on civil legal services five dollars, are returned to the state. And I think it speaks the truth, and to say it's counterproductive, that the -- to let people fall off the cliff because of a lack of representation. The results work to everybody's detriment and it seems so obvious.

MR. SCHNEIDERMAN: Well we have to continue our efforts to make it clear to even those who HAVE trouble seeing it today.

CHIEF JUDGE LIPPMAN: President James, anything?

MR. JAMES: You indicated attorney general you believe there ought to be a permanent dedicated funding stream and that this is something that you envision being automatically renewed annually?

MR. SCHNEIDERMAN: I think so, and there have been various efforts to come

up with strategies for this in the past and we do have dedicated funding streams for some programs, in the way they structure the tax code and budget and it just seems to me that that is, first of all, the numbers are a lost smaller than for a lot of other areas of the state budget and the cost benefits to the state as the Chief Judge just noted are really tremendous. I think that ultimately that this is something that requires just raising the visibility of the issue and raising the consciousness of the public about it, and getting, the bar actively engaged, and establishing an atmosphere that is obvious to everyone, that there are benefits and obviously that we're not complying with our moral obligations to provide equal justice under the law if we fail to do this the dedicated source of funding is absolutely essential and we have to continue our campaign and following our chief judge's example to make sure that everyone understands that the benefits and everyone understands the need for fundamental justice.

CHIEF JUDGE LIPPMAN: Thank you. Thank you for your time and your honesty and for your presence, thank you so much.

MR. SCHNEIDERMAN: Not at all.

CHIEF JUDGE LIPPMAN: Okay. The next witness will be Michael Keegan, the REgional President of the Albany Hudson Valley North division, senior Vice President of M&T Bank. Mr. Keegan, nice to see you, and with me I'm sure you've figured out by now is Chief Justice Peters, first department chief administrative judge Lawrence Marks and Seymour James president of the State Bar Association. And we're glad to have you here, and we welcome you to begin your testimony. I note in the audience that there are a lot of the members of the task force, to expand civil legal services and in addition to Elaine Barnett, and so, you have an audience ready willing and able to hear your testimony. Thank you so mush.

MR. KEEGAN: Thank you, Your Honor and good morning everyone. I did provide some written testimony and I'll try

to be brief.

CHIEF JUDGE LIPPMAN: We have it.

MR. KEEGAN: And I'm certainly open to any questions you may have. The approach that I really took in terms of preparing for this was from the banks charitable foundation perspective and M&T has a charitable foundation that distributes millions of dollars every year to its several communities. And what we have found along the way, is we're so involved with the different organizations, and that there is a dire need for these services. So, the work that you have done Chief Judge, is honorable and its gone a long way, but in each case when we meet with the Empire Justice Center, the Legal Project, and Legal Aid Society, is that there's a shortage of funds and they're grappling to fill those gaps. So what we see is that, we hear the demands consistently. We also see it in the world of houses and what we look at it is the basic needs that are citizens our people in our community need, from housing, food and shelter and those organizations are also

struggling so this boils down to the what the Attorney General just suggested and that the fact that people who are just struggling to get by don't have access to legal services so they don't know where to go and how to resolve a matter. And what you appropriately and accurately said is that in all of our organizations including banks, legal representation is a benefit to all. It's a benefit to the bank in terms of resolving matters, and it's a benefit to individuals, who need those services, and it's a benefit to our community. Lastly I would suggest, is that in what we're talking about today, doesn't just extend to housing, and things of that nature. It's also domestic violence, families that are profoundly effected by abusive relationships and their need to seek counsel and I to have a network of -- a support system a safe network if you will. To try to provide them with a way out of a challenging problems. And the reason I raise that with you is because when I was a young child my parents were both psychotherapists and we which all

had a lot of fund with that reality.

CHIEF JUDGE LIPPMAN: You seem none the worse for wear.

MR. KEEGAN: So far, thank you. But toward the end of the Vietnam war we heard stories from my mother, with clients who were victims of domestic violence and their inability, to access the legal system, in a way where we could we matter appropriately. And one community in particular, they took on that cause, it's a city of Quincy Massachusetts, where the court system and judges made an example based on restraining orders and working with law enforcement, to make sure that the people who were abused were not continuously harassed by those people abusing them. So I have a history of really trying to understand why banks are relevant in a community that we serve. Why the bank that I work for, is, I'm particularly proud of the fact that the organization, from housing and legal services, that we get involved with not getting their share and -- and there's certainly a need for a money stream

of funding that can be provided to do that on a consistent basis and that would certainly be a benefit to everyone.

CHIEF JUDGE LIPPMAN: Thank you so much. It's really effecting and I would ask I would like to ask you, let me acknowledge right now before I do anything else, the presence of my colleague Victoria Graffeo who is here today, so I'm pleased se was able to stop by and Judge Graffeo just headed or advisory committee on the 50 hour pro bono requirement and thank you Vicky for being here and it's a pleasure to have you here. Let me ask you Mr. Keegan, on a very parochial level why is it that important to M & T Bank or to any bank or area of expertise that that is your bottom line impacted by whether people in the community that you serve, get legal services from funded providers and in all these different issues that they deal with in their lives, whether that be housing or physical safety or their entitlements or other well-being of the families or credit cards, consumer credit cards, why does it matter or does it

help your bottom line, when people receive civil legal services in a community that you serve?

MR. KEEGAN: So, let me start with the basic foundation of --

CHIEF JUDGE LIPPMAN: Putting aside your ethical high standards which we so much appreciate.

MR. KEEGAN: Well thank you. I think if you start with the notion that we all have an obligation to the informed, we all have the right to legal representation. But one of the challenges that we've found as an organization individually is we get involved in organizations like Habitat for Humanity and some of the housing groups they're many of them that do wonderful work. And the financial literacy is inconsistent and on an across the board basis is lacking in our state. There is no mechanism for the in grade school or college or even with young adults people can go and become more financially aware, of what their rights are, what are their responsibilities are, and how they should manage themselves and it's a

huge challenge. And so we're on that bubble out into where we start to play, that we're supporting organizations that are entering the fray and trying to help people out when they don't understand the interest rates on a credit card or don't understand if you rent from one ever these rental places that that couch may cost you several thousand dollars when it could be only a couple do dollars a week. So, that we're entering this process late in the game. So legal representation to kind of really cut that problem off, is very very important and I don't know if its just that we don't have enough people that are doing pro bono work so that the notion of mandating certain amounts of hours in order to be admitted to the Bar and stay, I think is a wonderful idea. I think there needs to be from my perspective with all due respect, a sense of urgency around what the business community needs to be more actively involved in this problem. And hopefully we can get more people to engage in a process of services.

CHIEF JUDGE LIPPMAN: Did it

hurt you when people loose their jobs or have to go on welfare or families disintegrate and does it hurt your industry banks and the banking business, it is harmful to you?

MR. KEEGAN: It hurts everybody, a broken family, a lost job, a sense of insecurity, domestic violence, that destroys the fabric of our community and there's nothing worse than to have this disintegration among us and if you look at the financial crisis I think that if you look at what the financial crisis did for all Americans is that it raised a profile on the issues that are very relevant to how we should live our lives and the fact that, there were abuses that did occur and the attorney general appropriately points that out and there's also an opportunity for us to look at this crisis and provide a better remedy for how we move forward, financially and literacy is currently one, equal access to legal representation is certainly one, and the list goes on and on.

CHIEF JUDGE LIPPMAN: Thank you.

Any other questions from the bench?

PRESIDING JUSTICE PETERS: Mr. Keegan, we met before and I actually am a Hudson Valley resident and a client in fact. Previously so I have to disclose that.

CHIEF JUDGE LIPPMAN: I think the bank is very good shape if you're a client.

PRESIDING JUSTICE PETERS: I just want to thank you for the incredible efforts of your bank that it's made in our community and in the Hudson Valley. I know fully the extent to which you do fund raisers and get involved in community organizations, the YMCA the YWCA, the woman's shelter in both Ulster County and Albany and I want to thank you so much for encouraging your employees to do pro bono work. It's really wonderful.

CHIEF JUDGE LIPPMAN: Anything else? Thank you so much. Its so important that I think our business community and the banking industry speak out about these kinds of issues because I think its as you

indicated, that this effects everybody, and yet it's not a good sense this is not just gee, people with their hands out saying we need public money to fund this. It's impact is overwhelming on not only those individuals, but on the whole economic well-being of our state including you know the bang and the bust around the state and the fabric holding them together so we have prosperous and a vibrant community too for whether it's M&T Bank or a local business or any of the different things that make our economy the envy of the world, but we cannot afford to let people bleed with the beliefs transforming a crisis without legal effort. So, thanks you.

MR. KEEGAN: Thank you for your leadership on this.

CHIEF JUDGE LIPPMAN: Thank you. It was a delight having you. Thank you. Next Judge Coccoma Deputy chief Administrative Judge for Courts outside the city, he couldn't be with us today, but he sent a terrific emissary, in justice Vito Caruso administrative judge for the 4th

judicial district, judge Caruso do want to come up to the table? Judge Caruso is used to not testifying, but presiding but today he's going to testify.

JUDGE CARUSO: Its unusual to be on this side.

CHIEF JUDGE LIPPMAN: Yes you were at one time.

THE WITNESS: At one time, correct.

CHIEF JUDGE LIPPMAN: Go ahead Judge Caruso.

JUDGE CARUSO: It's great to be here, I appreciate the opportunity given to me by our Deputy Chief judge to speak in this very important area and to convey his remarks. I certainly will do that and I will actually read his remarks exactly as he presented them so you can get the full context. I can tell you that this is an area that I personally have been very supportive and strongly in favor of and would be happy to answer any questions as pertains. We interact in these areas and I also would like to add my own voice to that

of many others in our judicial legal community, in praising or Chief Judge Jonathan Lippman for championing this cause and it's not a popular thing and it's not necessarily popular even with judges in term of the money that is necessary, but it's an important thing, and it takes a big man to stand up in this state, and champion this issue in our state and also nationally and no one stands up to you chief judge in this regard.

CHIEF JUDGE LIPPMAN: Thank you judge I appreciate it, and appreciate your being here and if you could give your testimony, and we may break in a little bit, during it, so I want to ask you particularly, and one to start giving your testimony about the local situation in your area, what you see in terms of the need for legal representation, because, it's really the ground level that this is issue is so apparent that you can have all the pontificating about it but you see it at a very direct level so I don't want to interrupt so you bring your testimony and

thank you for your kind words.

JUDGE CARUSO: You're welcome and I'd like to read this as he wrote it, and it starts with, good morning and introduces himself as Michael V. Coccoma, and he's the Deputy Chief Administrative Judge for Courts outside of New York City. Also an elected Supreme Court justice, in Cooperstown. I have been asked to address the panel about the impact of this years funding awarded to 56 civil legal service providers in New York State. I will confine my remarks to addressing the providers in the Third and Fourth Department, as my colleagues the Honorable Fern Fisher and Deputy Chief Administrative Judge for Courts within the City of New York will be addressing the panel regarding providers of the First and Second Department. Let me again with he quote from the late Franklin Delano Roosevelt, the test of our progress is not whether we add more to the abundance of those who have much, its whether we provide enough, for those who have little. The quote certainly sums up what we're trying to

do with civil legal services. Those involved in civil legal services are trying to provide fundamental legal services necessary to assist them in the essentials of life. In just this short period of time, that civil legal service funding has been made available to the judiciary, that has begun to make a profound difference in the lives of those who cannot afford legal representation. In upstate New York, 27 providers have begun utilizing their funding, to provide direct client services, as well as initial activities which assist those who have a need of obtaining and maintaining the essentials of life. Housing, health care, better opportunity at employment and my remarks are not just about the programs and the stats, I would like to focus on some of the up close and personal stories of direct client contact which has made a difference and certainly justifies continued efforts to fund these programs. The funding providing was awarded to a cross section of providers, in order to cover a broad structure of needs across New York

State. Awards were granted to providers in urban locations, as well as our rural areas. You will see the differing needs of these desperate populations and how the awarding of funds to go best meet the needs of clients. Their needs range from those involved in litigation, health care benefit issues, domestic violence matters, unemployment benefits, and discrimination claims. The individuals receiving assistance through civil legal services have all but one thing in common, without this funding, they would have no way to pay for this badly needed legal advice, not only have no way to pay for it, they have no where else to turn. Outside the City of New York, in the Third and Fourth Departments, civil legal services provides and has assisted clients in a variety of ways. Some provided direct legal assistance such as representation in our Court proceedings, other providers use the funds to assist clients using a more broad based methodology. Free education programs, distribution of information and materials,

helping them by having help lines hot lines for referral services. Let me first take the example of rural law center of New York in St. Lawrence County, this program has assisted with the most serious matter of child neglect abuse, termination of parental rights in our Family Court. By diverting the most appropriate cases away from the Courts, into a voluntary need agency. The rural law street has used civil legal services funds to go promote mediation coverage between parties and local departments of Social Services, in an effort to find mutually agreeable solutions to these often painful and difficult problems. The rural law center is also part of an innovative program which partnered with the New York State Bar Association, in subcommittees with Courts on Appellate jurisdiction. The partnership with the rural law center created a practice that assists low income clients with appellant representation in the areas of child custody, child support, shelter and housing, and subsistence income and benefits as well as health and education matters.

This partnership is also developing an appeals guidance for unrepresented in central New York. The legal aid society mid New York used its funds to support its central New York legal help line, which has provided advice and brief services to over 13 hundred low income people in central New York. This help line also provided almost 3,000 brochures and referrals to legal and non legal resources. The Frank H. Hiscock Legal Aid Society in Central New York used its funding to award funding awards to retain attorneys in paralegal positions that were due to be lost, as a result of cuts in funds from other sources. As a result, the Hiscock Legal Aid Society was able to provide representation that benefited 824 persons and these cases involved domestic violence, evictions and foreclosures and unemployed benefit cases, and helping clients maintain income and security for their families by helping families overcome obstacles, the long term benefits will be seen for generations to come. The numbers are impressive, but numbers aren't the only

part of the equation. What do the numbers represent? Here are some examples of what funding to the legal services providers really mean. In Buffalo, New York the city brought a foreclosure action against a single mother who owed less than $500. The volunteer lawyer project attorney and a pro bono attorney co-counseled to represent her and negotiate a repayment agreement, that kept the woman and her children in the home and prevented them from being homeless. Also in Erie County, a pro bono attorney assisted a maintenance man being bullied by public employees. As a result this man lost his job, and the pro bono attorney assisted him in obtaining much need unemployment benefits, even successfully representing him through an appeal by the employer.

CHIEF JUDGE LIPPMAN: Judge let me stop you there, I know they're are particularly good things that these moneys go for, and we're going delve a little later in the program with the client panel, but tell us when they first can experience, tell us from your firsthand experience what did

you see out in the 4th Judicial district and explain, what your geographic of your jurisdiction and what you see out there, what's the need you know.

JUDGE CARUSO: As you know --

CHIEF JUDGE LIPPMAN: At ground level.

JUDGE CARUSO: Thank you. I'm the administrative judge for the 4th Judicial District in which Judge Peters is the PJ, Judge Peters Department, and we are the largest geographic district in the State of New York. And by being the largest geographic district, we have some disparity between our urban, rural and suburban areas and some --

CHIEF JUDGE LIPPMAN: People think some people think that all of the poverty in our state is down state, in the New York City area, do you see it in a big district that is your up state.

JUDGE CARUSO: One of our largest we go up to the Canadian border. We have 11 counties and one of our largest counties is this district is Hamilton County. Hamilton

County probably has and not counting the Summer time when he people go up to enjoy the beautiful lakes.

PRESIDING JUSTICE PETERS: Or cows or anything else.

CHIEF JUDGE LIPPMAN: Not many lawyers, right judge?

PRESIDING JUSTICE PETERS: That's one of the problems.

JUDGE CARUSO: Probably 5,000 permanent residents in the County and it's a huge county. And probably five lawyers in the County.

CHIEF JUDGE LIPPMAN: How do you deal with I assume that there is a good share of poverty.

JUDGE CARUSO: What we have found --

CHIEF JUDGE LIPPMAN: People of both modest means?

JUDGE CARUSO: Our district we also have urban areas where there's poverty and people of dire needs and modest people and terrible things happen. You wouldn't expect it, perhaps in rural areas but there

in Hamilton County, our least populated County it has one of the highest rates of spousal abuse in the our district. It has a tremendous group of people who pray on those few people who live there, and take them through various aspects of not being able to afford what they're providing for them, sharp practitioners in a sense in the business sense, and these folks are really without the ability to hire attorneys and without attorneys that are available. We have seen an increase in our rural law center in sending pro bono attorneys into the areas to assist in these day-to-day, living situations. Yes there are major events in these folks lives that need legal representation.

CHIEF JUDGE LIPPMAN: They come judge to get an -- they come from -- so we bring in the lawyers from outside the county?

JUDGE CARUSO: They will.

CHIEF JUDGE LIPPMAN: And provide a lot of assistance and they get is especially pro bono lawyers.

That's why I used that as an example. There you have a, you have somebody you have just a few lawyers there and you have a judge, who does all of the courts one judge, you have a District Attorney, Public Defender and County Attorney, and pretty much that takes up all of the attorneys. So, you have to bring in, you have to bring in attorneys who want to go to this very rural area, or who volunteer to go to this very rural area and provide pro bono legal services. In a civil sense as well as a criminal sense.

CHIEF JUDGE LIPPMAN: Do you think it's a mix that you need both the public funding the Keyser programs, that were in Judge Coccoma's testimony where we give grants to a particular area, do you also have, in that mix, lawyers --that you just volunteer to do pro bono work and private sector lawyers?

JUDGE CARUSO: Absolutely, absolutely, I think that I think our numbers are under reported in the pro bono sense and that's my personal feeling. I think that

our lawyers do take this to heart. And many times don't report their efforts at pro bono but as judges we see them, we see them in the courtroom and they may not report it or work through a network, but they were there doing that as well.

PRESIDING JUSTICE PETERS: You mentioned in your testimony the New York State Bar Association Committee the Court of Appeals jurisdiction which I used to sit on before I became presiding judge, and they have a wonderful program that you described in brief in which members of the State Bar Association take on appeals pro bono for several clients who just don't meet the minimal standard but can't afford an attorney, and I mean I have -- for one thing that's -- I'm very grateful that private attorneys are willing to do that for country litigants.

JUDGE CARUSO: They're -- it's a specialized field, appellate practice is a specialized field and to have attorneys who step up to take on the people who cannot afford that representation but need it, it's

a great things.

PRESIDING JUSTICE PETERS: There's a large group of people and it takes a lot of time. It's not just a couple hours.

JUDGE CARUSO: I think also judge that's correct and I think also it's true that this funding that we have, has done in areas other than providing attorneys, providing information, is sometimes as critical and vital as particularly in rural areas. Its critical to have brochures available and help yourself information available how to contact attorneys, how to get involved with pro bono representation, and that is done with this money as well and that's another aspect of how this money is being spent by our various legal service providers, is they're providing information.

CHIEF JUDGE LIPPMAN: So all the money we get it's really to spread all around the state and it's not what we're making or saying geez, its terrific look at what we accomplished, and it's not a hell of a lot of money but what I want people to

understand is you're dealing with really human beings lives and they're not all, down state in the big -- counties of New York City, but that this need for funding is so obvious in almost all rural areas, and consistent with this need for pro bono assistance, so --

JUDGE CARUSO: Absolutely and the money as you said, its so, its at lot in terms of the big picture but it's more than we had, but it's so inadequate and in so many ways that we need to have a permanent funding stream for this vital thing because people, truly need it in all areas of our state. Not just the rural not just the urban all areas of our state. The other thing is that the money goes for such different thinks. Training of young attorneys and old attorneys, training to represent people in these niche areas of civil legal representation, education law to help a family with a handicapped child get through the individual education program the IEP process, and it's sometimes you have to have an attorney to get the benefits that

you're entitled to.

CHIEF JUDGE LIPPMAN: It's people dealing with the necessities of life the education or housing or family disputes or some of these things are so critical I think that the most fundamental message that anyone could bring so we have Judge Coccoma's testimony, and we will give it some weighty thought and it's most important to let people see as you see it every day in the field.

JUDGE CARUSO: I think that's why he asked me to come and present my example and hopefully that we would be able to expand on the remarks.

CHIEF JUDGE LIPPMAN: It's a huge district that covers so much of New York State. Any other questions from the panel? Judge Caruso, thank you so much for coming down we appreciate it, and please tell Judge Coccoma how pleased we were that he selected such a great emissary to come down. Thank you and we appreciate it. We are trying to stay on schedule so, I would ask each of the panel left the next two are

Hugh Humphry and Nancy Sunukjian, who are going are judges on the panel. Hugh Humphreys is a retired County Court Judge in Madison County and adjunct professor at Syracuse University and Nancy is a Waterford Town Justice, Saratoga County and acting director of the office of Justice Courts and special counsel to the deputy chief administrative judge of courts outside of New York City. And what we would like you to do is, tell us what you have to say and let's leave a little time for a dialogue back and forth and hopefully to hear firsthand what your view is, we have submitted written testimony we have but don't feel constrained to read it to us, tell us in your own words. Who wants to go first?

JUDGE HUMPHREYS: I think judge would you like to go first?

JUDGE SUNUKJIAN: I'll go first as we're sitting at the table I was told not to be nervous and so of course that's the first thing that you do.

CHIEF JUDGE LIPPMAN: Tell us, I

think that's the point, let's hear from you, what is from a judge's perspective, what is this all about?

JUDGE SUNUKJIAN: First of all I would like to tank you for inviting me. I'm very honored to be here in this beautiful room before you all. As was mentioned I am acting director of the Office of Justice Courts Support and Special counsel to Judge Coccoma as well as the Waterford Town Justice so in presenting my remarks which you are already have, I presented them from those two different perspectives if you would as director of the office and with the Courts and then secondly as the judge in the Town of Waterford. What the office does, is we support we provide the we're helping the law clerks and the county, village judges the throughout New York State among other things and we do -- we provide and aid and assist in training, for all the town and village judges throughout New York State. Which there are many as you know many that are not attorneys and I think about 45% or 35% of the judges, on the town or villages

are attorneys, and the rest are not. What I have found through my twenty years working for the office Court of Court Administration and attorneys, and non attorneys, is they are very consciousness, hard working, dedicated men and woman who I have been incredibly proud to serve over the last many years.

PRESIDING JUSTICE PETERS: Would you agree that, town and village judges see more pro se litigants than any other Court in the state?

JUDGE SUNUKJIAN: Undoubtedly judge, the town and village judges are dealing with pro se litigants and I would suggest more than any other person that you here from today, that's submitted information to you.

CHIEF JUDGE LIPPMAN: And how that impacts on the judge's job.

JUDGE SUNUKJIAN: The impact upon the judge is tremendous. As you already heard, we would also prefer that the parties be represented by attorneys. It makes the system itself, I believe, work better to

fulfill a mission it needs to fulfill. When a judge is confronted with unrepresented litigants, it creates a myriad of issues for the judge not only ethical but certainly more difficult for the judge him or herself to get through the proceedings. Obviously we're you know, one of the main proceedings I would like to discuss would be the summary proceedings and revision in the town village Court when individuals actual roof over there head is at stake.

CHIEF JUDGE LIPPMAN: Can they get justice without an attorney?

JUDGE SUNUKJIAN: I believe they get justice it's just -- some of the information is -- that's on line, is the availability to these individuals on line and has been helpful. They can get justice in the local courts, if you've got a judge who is willing to do their job to the best of their ability which is to make sure that the litigant is heard, and has access to the justice they need to have.

CHIEF JUDGE LIPPMAN: Is it difficult though to do your job when you are

also not that your actually doing it, but in some ways, you feel like you need to represent the person who appears before you as much as a judge and there is that inherent conflict with that.

JUDGE SUNUKJIAN: It's incredibly ly difficult, there is an inherent conflict, and a potential ethical conflict that the judge has to be cautious of all time whether there's an attorney judge or non-attorney judge. We have had this argument or this conversation around for years now and doesn't matter, I think there is it a ethical conflict that the judge needs to be concerned with, whether an attorney or not. It's crossing ing over the line of giving legal advice and not giving legal advice and which we have to be careful to do. The judge needs to remain unbiased. The judge needs to remain neutral but when you have an unrepresented litigant before us, we're the Courts and we're the closest to the people we want to help the people. They're standing before us without an attorney and I want to be able to help somebody. And while

our role does help as we are the judge we have to be sure we don't cross over that invisible line, being an advocate for the unrepresented litigant. And I think it's a very difficult line for the judge. Judges call our office, and the first question is is the individual represented and when we find they're not, the conversation takes on a different turn, because they're asking for help, from these judges, not simply when they're standing before the judge but because if they even get to court they're contacting the court.

CHIEF JUDGE LIPPMAN: And I don't mean to lead you, legally, but I'll ask you a leading question, doesn't that skew the whole process when you really had to do either job, correctly, being a judge, which is a fairly you know, looking at the different sides, you can't as you say really represent litigants, the whole judicial process is distorted with that?

JUDGE SUNUKJIAN: Judge I would agree, it does become skewed, all we're asking for is that everyone has a level

playing field that they're entitled to. And whether the litigant is unrepresented there's an inherent conflict that exists for the judge the judges to act in his capacity or her capacity as the judicial arbiter or then to assist, when the requirement is that you need to advise litigants of the procedural requirements before this.

CHIEF JUDGE LIPPMAN: And that's the reason why we wanted to have the two of you here, is to make the point, that a lack of legal representation not only effects the individual litigant it effects the entire system and particularly with the heavy volume that you have in town and village courts or down state, big city, you know, metropolitan courts, the time that is spent dealing with these kind of cross currents that you are trying to figure out how to handle a situation and the impact on the whole judicial process efficiency and its quickness, its fairness the ethics of a very basic judicial procedure which would, are not as simple as just okay call the case you come up, and we'll hear both sides, and you

know, make a air resolution. So I think --

JUDGE SUNUKJIAN: I will agree judge, and I apologize to you judge, I would absolutely agree in the smallest of the town and village courts, the issues they're facing with the unrepresented litigant is far reaching throughout the state and all courts are dealing with this. I would hope there could be resolution and when I took the bench several years ago and I have been doing this job for years and I very feel competent in the law and what I quickly learned as the unrepresented litigants come before me it simply is not. And to the time that it takes to get through those procedures with the unrepresented litigant, it has an effect on the entire court system.

CHIEF JUDGE LIPPMAN: Let's.

DEPT. CHIEF ADMINISTRATIVE JUDGE MARKS: Quickly and this is an important point, in the town and village courts where you as you said, as many as two thirds of the judge are not lawyers, and where you have many or a disproportionate number of litigants who appear without lawyers,

doesn't tat compound the problem, that most of the judges are not lawyers? A party doesn't have a lawyer and the judge him or herself is not a lawyer? Doesn't that make it worse?

JUDGE SUNUKJIAN: I believe it does but I believe that you can gain perspective to a certain extent and certainly the judge can ask or reach out to our office for legal guidance and we do our best to educate the Judges and help them conduct the proceeding and if they have questions, but when you have a non-attorney judge and you have an unrepresented litigant, the issue of a potential unethical or conflict that exits is paramount. At a trial the judge wants to help so maybe certainly advising an unrepresented litigant and to be quite blunt, it may be inaccurate. The unrepresented litigant before the judge, the other litigant may be represented by an attorney and the represented litigant certainly could object to the judge going too far over that line and that creates a problem and the entire proceeding itself so

to have an unrepresented litigant facing, a non attorney judge --

CHIEF JUDGE LIPPMAN: It complicates.

JUDGE SUNUKJIAN: It makes it more difficult as I said I think the non-attorney Judge in the town and village courts are incredibly conscientious.

CHIEF JUDGE LIPPMAN: They do a god job.

JUDGE SUNUKJIAN: In our office we get a lot more phone calls from non attorneys than we do from the attorney judges and under the circumstances it's a simple fact that --

CHIEF JUDGE LIPPMAN: Let's hear from Judge Humphreys and see if the panel has any further questions. Judge, what's been your experience over the years with non-represented litigants and how that effects your -- how did that effect your tenure on the bench?

JUDGE HUMPHREYS: Well, it wasn't as bad as being in the justice court, I mean I have been doing this business for over 50

years now.

CHIEF JUDGE LIPPMAN: You look so young.

JUDGE HUMPHREYS: I know I did, and I feel young, but there are times when I get disappointed. I have been with the legal aid society in Utica for the last twelve years this week and I was in three cases this week, two larcenies --

CHIEF JUDGE LIPPMAN: You've seen it from both sides.

JUDE HUMPHREYS: I've seen it as a private lawyer before the town and village justice, and frankly, I can think of many instances where I would prefer to appear before some of the local judges that are not attorneys, than that are attorneys. As the judge said there are some sterling non lawyer judges in those cases. But what I am finding now, is that this help line that Judge Coccoma referred to, that I referred to previously, is running out of our office really, and Utica we're reaching about 13 counties except for Syracuse and Utica, Binghamton, and to some degree Cortland and

Norwich and the rest is rural. I live in Madison County and that is where I served. You have no idea what they're doing with that help line. We have last year, over 4,000 direct legal advice is given to clients and a lot of clients that are coming into the judges courts for evictions is tremendous advice. We tell them what to do, we tell them what their rights are and they tell them like you have to get out of the Sheriff will try to you get you some more dates or the thing is wrong, but we're able to do what the local judges can't do and on the telephone. We can't get down to Green, New York, we can't put a lawyer over in Delhi, but we can sure tell them what's happening.

CHIEF JUDGE LIPPMAN: How's that funded judge?

JUDE HUMPHREYS: Well it's funded, it's funded out of our general funding as far as I know and I can't answer that question when I try to do that a lawyer answers.

CHIEF JUDGE LIPPMAN: You can

use more bodies to manage this?

JUDE HUMPHREYS: Oh, man, excuse me, oh, Your Honor we could use, far more bodies, we have people that are working there for $38,000 a year, lawyers, who are getting a 7 percent cut and we can't hire lawyers to fill the slots we have.

CHIEF JUDGE LIPPMAN: Lawyers are part of the working poor in the state.

JUDE HUMPHREYS: When they come to our office they are, but judge, paralegals and everything in our whole office, if we could have a stream of funding as the officer from the M&T Bank said, and Mr. Schneiderman said the same thing that would be a vast help, because what happens is the faucet gets turned off and one of the providers says we can't come up with any more money, and so we have to -- we wonder how are we going to -- what will the fall out be when the grant expires and it was renewed.

CHIEF JUDGE LIPPMAN: Violence against woman.

JUDE HUMPHREYS: When these

questions come up for example on the immediate stuff like evictions we get in there. Yesterday or the day before yesterday, we were involved in one and there were lawyers in that office one who had been there twenty years, myself and it was called in because there was a question, and I won't get into the legal side of it, but we were able to resolve it, and get an eviction set aside really, because we got the lawyer in there, the judge had already made a ruling, but we went back, and we were able to open it up.

PRESIDING JUSTICE PETERS: Judge, I read your testimony, and thank you so much for coming and as I said I read it and you talked not only about the challenges that sitting judges fails with pro se litigant you also talk in your testimony about the challenges even the Court clerks face, and would address the problem in addressing the problem of pro se litigants wanting to file cases or petitions?

JUDE HUMPHREYS: Exactly.

PRESIDING JUSTICE PETERS: Do

you have any subject on a method of dealing with that problem?

JUDE HUMPHREYS: Well, it's like the Town Justice, you get a good lay person whose committed to help, and you put that person outside out front, like we did in Madison County, we know you're going to get the right results and if you get a person who is going to go down and look at 14 (a), and (b) subsection (7), forget about it. Because a lot of these people, need to know, all they, they're smart, they don't know the legal process, they're nervous as cats, and they the clerk can be aiding him. Look, put your data birth here all you have to fill in these five questions and we'll get this to the judge. And there's an emergency application for an Order of Protection, so they can be a tremendous help and they are part of a system, which is why I put it in here.

PRESIDING JUSTICE PETERS: Correct.

JUDE HUMPHREYS: And not just the judges that's the office of Court

Administration and the training they're giving. That I find I don't think I could have done it in Madison County, when I would sit as the Family Court judge I would be sitting on a criminal case with a jury and I will look at the back door of the room and in pops the Department of Social Services attorney with a couple o case workers and I know they're there and they want to pull a child, and I'm going to have stretch the noon hour on that. Now, that's fine, when they have the attorney coming in, but what about the person coming in downstairs, who has been beaten or has been harassed.

PRESIDING JUSTICE PETERS: So in essence it's critically important that the clerks be receptive to pro se litigants?

JUDE HUMPHREYS: They have to look like we're here to help you. We're not here to be a road block on some of the people in our court system as in our life, are that way.

CHIEF JUDGE LIPPMAN: You know the problem with it too is as we all know the clerk is also walking a tight rope, as

indicated, the judge indicated before, that the clerk can't give legal advice and yet he or she has someone in front of them, who desperately needs help and the question you raised about it may be usually a non-lawyer clerk trying to be helpful, and it's just very difficult. I mean the bottom line is that, there's two strands of this, for more public funding, for legal service providers and to have more volunteer lawyers, willing to perform pro bono work is so essential to this overwhelming need. You know, it differs in all parts of the state but to give an example, Steve Banks was sitting here from New York City, in New York City the legal aid society, turns away 8 of 9 people, who come to them seeking assistance. And it's not that, it may manifest in a way in a different way in a rural area and there's no lawyer to be sent or no help line sufficient to -- sufficient to provide assistance needed but, regardless of how it exactly comes to the floor, the need is so much greater than the resources that are available and that's why, we're seeking as

the Attorney General framed it before a systemic permanent funding stream that's for civil legal services that's what I'm trying to do with this hearing, hearing the two of you really I think graphically I know you will separates the problem from a different side of it, but it really does, we thank you for being here and coming up, and thanks so much and it was great to see both of you.

JUDE HUMPHREYS: Thank you.

Can I make a suggestion.

CHIEF JUDGE LIPPMAN: You can.

JUDE HUMPHREYS: In response to Judge Peters question, when somebody is in there, and that clerk knows they really need help, but the clerk knows they can't give legal advise I think there should be an open line, between the clerk and the judge. I know some judges don't want to get involved in that; I didn't mind it. That's within the court system.

CHIEF JUDGE LIPPMAN: That's something that you don't have a problem with.

JUDE HUMPHREYS: It's not a real

probable but something that would help.

CHIEF JUDGE LIPPMAN: Great. Thank you both. Okay. Our next panel is the statewide partners panel, and we have Steve Acquario, Executive Director New York State Association of Counties, Karla Digirolamo, Chief Executive Officer, New York State Community Action Association and Joseph T. Farrell, Director of Training New York State Coalition Against Sexual Assault. All I think partners in this effort, and recognize and see so many of the problems that confront us. So, who is going to start? Karla you want to sit in the middle? Do you want to start? As we indicated feel free, we have your testimony, most of you submitted written testimony, tell us what's on your mind so we can maybe engage you with some back and forge of what the real problem is.

MS. DIGIROLAMO: Thank you very much. Thank you very much to chief Judge Lippman, Judge Peters, Judge Marks and Mr. Seymour, I really appreciate the opportunity to testify before you, to talk a

little bit about the forms of civil legal services in New York and particularly, in the impact on the community that we serve at the Community Action Association. I am Director of the Community Action Association which is a statewide association representing the network of community action agencies. The community action agency in New York as around the country are federally designated anti-poverty agencies in each County. They have been in existence for over 45 years in New York State. In 2011, as I noted in my testimony we received over 60 million dollars in community services, block grants money which came into the community to provide a foundation for services to low income people. As I know you're well aware and we've heard throughout the day, the problems facing poor people in New York State throughout the country, are growing worse every moment. Despite good work done by other networks of community action agencies in New York and around the country, poverty remains abundantly high and devastating to communities in New York

State. Over 46 million Americans live in poverty. And in New York State over 14% of our residents live in poverty. Of particular concern is the rate of poverty among children that children are particularly hard hit with over 25% of our children in the state living in poverty and more than 30% living at 150% of federal poverty line. Those poverty rates are even higher in the upstate communities. People living in poverty presents a daunting array of challenges, from the need for legal services to assist to maintain their housing, to access their legal rights and entitlements, and to encounter and overcome the barriers that poverty creates for them in every day living. Each percent rise of poverty directly leads to a heightened need for legal services. People living in poverty, face foreclosure, evictions they face credit and bankruptcy needs, they face homelessness and the rapid need for rehousing needs and community support, debt collection, unemployment.

CHIEF JUDGE LIPPMAN: Hold on,

and I correct and do I understand that, people in poverty or people of modest means these -- see these types of issues much more than the rest of the population?

MS. DIGIROLAMO: Absolutely they do. I think that the fact of being in poverty also contributes to this that if you can't pay your rent you face eviction, when you can't pay your bills you face debt collectors, when you can't negotiate your legal rights, when you don't understand your -- that you have actually have a right to housing, that you have a right to receive assistance it creates this growing mountain of legal challenges, that then you're even more overwhelmed in trying to address and trying to find affordable legal services. So yes I think that the problem that we see in the poverty that we have, are the same legal issues that many of us might face in difficult time plus a whole mountain of additional problems is created by the facts of living in poverty.

PRESIDING JUSTICE PETERS: You talk about the more forward, is it -- are

you describe is those individuals who previously had full time employment, and consistent income who are now struggling to just stay in the home?

MS. DIGIROLAMO: Yes, I think what we're seeing now at least in the community action, and I believe throughout the state and country is that the -- that you have those folks who traditionally thought of poor people, and now you have a new population of people who have lost their jobs, who have seen their wages stagnate or who are facing foreclosure, and financial challenges, who are now swelling the ranks of our poor and working poor and creating an even further challenge to our system which --

CHIEF JUDGE LIPPMAN: So what we're seeing is, that these people who never did come into Court before, because as we talked about, the poor are the ones who face or know -- but it's the ones who face or mostly new indigents and are frightened and come to the Court house not really knowing what you're facing or being able to deal

with.

MS. DIGIROLAMO: Exactly ad one of the things that we've learned in doing poverty work, is that people who have experience living if you will -- living in poverty, have experience in the navigating those systems. Frankly sometimes we in the system, get frustrated at how good they are at navigating the system, they have learned to survive. Those who are the new poor as the judges have noted have no experience. They don't understand, how to navigate through that.

CHIEF JUDGE LIPPMAN: How do you interject with the legal service providers? How does that work for an entity like yours? You're around the state is there a very close relationship with legal service providers, this work?

MS. DIGIROLAMO: We have a very close and long held relationship with the legal services entities, such as Legal Project in the Capital Region and legal aid societies throughout the state. And many of our programs have longstanding partnerships

with the legal aid providers. And clearly, as you know better than we do, those legal aid providers are increasingly unable to met the needs of the poor.

CHIEF JUDGE LIPPMAN: Can you do your job when they're unable to do theirs?

MS. DIGIROLAMO: No, if the fundamental issue, and we've seen this happen, someone is facing a foreclosure, eviction, a garnishee of the wages, any range of things, they may actually be legally entitled to remain in their home. They may have a legal entitlement to defend against those things, but we can't access those services without the legal support to do that. And as you discussed here, we don't have an attorney at our program. We have lay people who try to learn everything they can about what legal services people are entitled to, about what general services people are entitled to, but without the ability to even consult with an attorney that's what we're hearing in many of our communities, not only do people not have an opportunity to have an attorney represent

them this Court proceeding, they don't even have an opportunity to talk to an attorney, so you have people who are going to defend an eviction proceeding, who may have a solid legal defense, but without some legal aid.

CHIEF JUDGE LIPPMAN: And no ability to get to it.

MS. DIGIROLAMO: Even minimal advice that says you're right, you have a right to be there, these people are losing their homes, their livelihood and sometimes there's children, and again, our program serve beyond those kinds of victims of domestic violence, you know, a wide range of people and the impact of that.

CHIEF JUDGE LIPPMAN: Thank you. Let's hear from your colleague here on the impact -- Steve how does it impact on the counties and the association of counties have to do with all of these people falling off the cliff, and as with Karla's different groups and you can't help them because they can't provide legal services. What do the counties and what's the impact Steve?

MR. ACQUARIO: As the

representative of the 57 counties and the City of New York, part of our organization, we would prefer that as an enforcement agent, and that's what we do is enforce the law, that's foreclosures, serve notice the Sheriff, District Attorney on te side, the County Attorney on the civil side is often in Family Court proceeding and we would prefer to have adequate civil legal defense.

CHIEF JUDGE LIPPMAN: Why?

MR. ACQUARIO: Because it is better for the government to make sure someone gets due process and justice is given to those that don't understand these complex systems, whether it's foreclosure, whether the needs of bankruptcy or needs of housing, their home and then only to find out there was something that could have been done to save that home, and that the government went through five years of tax payer funded initiatives, to get a tax collected to go through all these measures and all this staff time, it helps the system work. It helps the law make sure that the purpose for which they work drafted, and

enacted into law serves their purpose to make sure they're being followed and that's that kind of process where --

CHIEF JUDGE LIPPMAN: The process were you go lieu the time and the effort and the money. People are hurt in the end who may well be able to survive if they he had representation and all that doesn't do much good for the economic health of our counties or state, does it?

MR. ACQUARIO: No. And I appear here today on behalf the counties and government, they are doing their part and we have a role and we have responsibilities, and we are in the middle of an entire criminal justice system as we are in the civil justice system as well. And as human services providers, Medicaid, human services the safety net, the backbone of help of public assistance that what we do, food stamps, and if individuals are entitled to these benefits, are entitled to the benefits, they may not know that they're entitled to the benefits or they don't know now to access the system and it's good to

make sure they get their benefits whether we're paying for that or the federal government or state government is paying for that. Why? It helps a human being number one but number (2) it helps the local economy and state economy which is an economic return on investment in civil legal services. It's not just -- just whether it's paramount but also its economic and it helps our economy to homes, to families. And so that's why I chose to come here today. I was asked by two board members from the southern tier, Steuben County and Westchester County, William Ryan a legislator asked me to appear here today which is out of character for what we would normally do in County government.

CHIEF JUDGE LIPPMAN: I think Steve it's important, people don't understand that this is not just about doing the right thing, but this the about an investment that serves our entire state and the economic health of our state, that again we I think I mentioned it before that every dollar invested get $5 back to our state,

it's allowing people lives to fall by the wayside and be dependant on government for, their subsistence, and that isn't helping in this case or their families is, and isn't helping the kind of robust and vibrant communities that we would like to see. So I think it's so very important that, in some ways as you say it's counterintuitive when the counties or the banks or the you know whatever it might be or the housing authority or the no one benefits when people are left without legal recourse and without legal representation. So that's really and that provides a whole different vantage point, and Mr. Farrell, where do you fit into this coalition with sexual assault? Where does this fit into the whole puzzle?

MR. FARRELL: Good morning and first of all I'd like to thank you Judge Lippman, Judge Marks and Judge Peters and Mr. James for the opportunity to speak to you this morning. You have my testimony, and the facts and figures there, with regard to the cost of a sexual violence across the country and what the sexual violence does

cost us as a community, and thus as a state relative to individuals not being able to access services and the long term effect of not being able to access services. Approximately 60 percent of sexual assaults are reported. But if you take a look at the numbers that I have in the testimony, in a point in time, rape crisis programs serve over 27,000 new individuals as opposed to, excuse me, 19,000 new as opposed to 27 hundred reported, to law agencies. That being said, victims still seek some from of justice, and accountability or reparation and they do so through civil legal systems, that they access sometimes long after the Statute of Limitations has expired from the criminal standpoint even though there are, that the Statute of Limitations on certain sex offenses within New York state that's been changed, and that been very positive. By an individual who looks to access the services are most often, disenfranchised and marginalized and not served in the communities and that are -- victimized because of their stature, within the

community. They can't access these services because they don't have the resources to look to programs such the legal project that we talked about earlier and the civil legal aid society that was referred to earlier, we partnered with the legal project in the capital district in early 2000 on a project that afforded civil legal representation and access to systems that they might not have been able to access prior to engaging the Legal Project and we would act as a referal for the 76 or 77 rape crisis programs across New York State.

CHIEF JUDGE LIPPMAN: The Legal Project which I'm very familiar with, does a terrific job. So what about when you don't have a Legal Aid Society or whatever that group might be that fills this gap, what happens to the people? What's the impact on our society?

MR. FARRELL: Someone that could not access the program, rape crisis and may not decide to come forward until two or three after an assault, maybe longer, seeking some form of accountability

sometimes some form of justice, the rape crisis program may not have the ability to refer to a local level, to a legal project or a legal aid society, and if they do, geographic concerns come into play with regard to the rural areas so they call us, at the coalition, what can this individual do, how can we help this person? Have you talked to you know the Legal Aid Society have you talked to any resources in the area and exhausted and they're still unable to come up with a solution for that individual . So will turn to the Legal Project, and without funding --

CHIEF JUDGE LIPPMAN: What happens to the individual if you don't?

MR. FARRELL: They now fall into a situation where they aren't or can't become whole they are seeking justice or getting justice and there's no accountability for what happened to them so through now unable to work, unemployment rolls go up, you get into the loss of income you get into the separation of families because in a lot of instances it's the

partner who has committed the crime.

CHIEF JUDGE LIPPMAN: Those problems fester and lead to tragic consequences.

MR. FARRELL: Also become as we a burden on the county, a burden on the state and a burden on the community that the people are in, and it further emphasizes the need for legal services civil legal services not in just a major metropolitan areas where the problems do they but rurally as was referred to earlier by the Judge were there is none.

CHIEF JUDGE LIPPMAN: Well, any questions?

MR. JAMES: Mr. Farrell, you both work in collaboration in the legal services provider referring to, and are you finding that a great percentage of those individuals are not able to be serviced by the legal services provider.

MR. FARRELL: Yes.

MS. DIGIROLAMO: And in my experience yes not because they're not willing to do it, but in a majority of the

people who seek help and are not able to get help. There's simply not the resources available. And throughout the state, whether it's legal aid, the State or attorneys that we call, for advice and assistance, they're very concerned -- they're very, you know, wish they could help but in reality there's no resource.

CHIEF JUDGE LIPPMAN: And this has gotten worse because of the economic crisis. Did you see a difference?

MR. FARRELL: Yes we do.

MR. ACQUARIO: Yes, yes.

CHIEF JUDGE LIPPMAN: Okay. Thank you so much.

MR. FARRELL: We appreciate the opportunity.

CHIEF JUDGE LIPPMAN: Coming from three different points of view, but arriving at the same point. We appreciate all of you coming in.

Our next panel a client panel is really kind of on the front lines. I would ask Sherry DeShane, accompanied by Victoria Esposito, Shari Chireno, accompanied by

Sarah Maida, Heisily Rojas, client of the Legal -- the Legal Project, accompanied by Natalie Birch-Higgins and Holly Ovitt, clients of the Legal Aid Society of New York accompanied by William Niebel. Are there chairs for everyone? Okay. What I'd ask you first is don't be nervous, all I want you to do is just tell us your story, and you can read from your statement or tell us, what happened, and we may, don't be insulted if -- we may cut in and ask you questions because we know, that you have got serious legal problems and we want to get a sense of how it was dealt with, and how it impacted on your life. Let me ask, Sherry, first, do you want to tell us what your story is? You have Ms. Esposito with you.

MS. DESHANE: Yes.

My name is -- first of all good afternoon, good morning Judge Lippman, its still morning, and members of the panel, my name is Sherry DeShane, and I live in Massena, New York and I live alone. I was originally referred to Legal Aid, by either the renewal house or mental health, for my

divorce, and -- in 2004 and 2005. I had worked off and on as a health care aid when my husband allowed me to, and I liked it. I would have kept working if I had been able to but because of my anxiety and depression and PTSD I had to stop being able to work at about that same time. I started getting SSI. After the divorce, I got half of my ex-husband's 401K, I reported that money to the Social Security, right away as I knew I had to. Since my husband had been very controlling, and had not allowed me to work much, I had no savings, and no prospects of a pension. I had hoped to keep my money for the future. I heard nothing from Social Security for years and then my payments stopped because of the money I had received from my divorce. I had to go on public assistance. I felt terrible having to ask for that and I felt like I had hit the bottom. I was told that once I show I had spent all the money from my divorce, I would start getting my SSI again. I had nothing and I spent the money that I had thought would be my savings, on a vehicle, a bed,

furniture and basics for my home. After I spent the money, I went back to Social Security to get my payments back, they told me that I would have reapply and start the process all over again. I filed a new application, and I thought all I had to do was file the application, and I would get my SSI back. Instead my application was denied because they said I wasn't disabled and they never asked my doctor what he thought and my depression got worse after that. I couldn't stand being torn down again and it felt as though my dignity had been taken away. I couldn't leave my house or talk to anyone. I talked to my counselor about getting legal aid help again -- legal aid for help. Just knowing that I had someone who would listen to me was a help. Once I had a lawyer Victoria Esposito I felt more at ease with my case and Legal Aid made he feel like they would take care of my case. I was more secure knowing I didn't need to worry about my case by myself. I will always have my depression and anxiety, but knowing that I have someone helping me made me feel better

that I could live in the house and I could get out of bed. We appealed the decision and went through the hearing. Victoria explained what we were here to do.

Even though it was two so hard for me to sit in the room and have to explain to someone what my problems were. I was really nervous and shaky, I didn't want to talk about my problems, but when I had no choice -- I even had a panic attack at the hearing and had to step out of the room. It still gives me chills thinking about it now. I got my SSI back after the hearing, because I -- I am disabled. Unfortunately, Social Security said I have been over paid, and when I had my ex-husband's 401K, and they threatened to take the money from the retroactive award that I was entitled to because of the long delay and re-qualify for SSI, I can believe they wanted the money back. Now I felt they owed me for the year I had lost my SSI. I had no lawyer, I was very upset and Victoria took all of my receipts and added them up and we filed an affidavit, and I explained that I had

reported the money, and then spent it on the necessities that I had bought, and the receipts and done everything they have told me to do and after a little while I was told that I did not have to pay the money back and that the overpayment was waived. With my back payments I was able to replace my car, which had been totaled and without it I had to pay for a taxi to get to the doctor appointments and to get to the store and to shop. If I had not had a legal aid lawyer, I would still be on public assistance. I would not have a car and I would have nothing. I have things now that are mine. I can go into my apartment, and feel the comfort and security of a home. I can pay my bills, my food and medicine and gas for my car and I have a little bit of money left over and I am more independent than I was on public assistance. I would not have been able to go through the hearing process or to get a waiver for the help. People in my position don't know anything about Social Security, or SSI, and we need legal aid to see us through otherwise I would be

clueless.

CHIEF JUDGE LIPPMAN: Sherry so what you say, having a legal aid lawyer, dramatically effected your life?

MS. DESHANE: Yes.

CHIEF JUDGE LIPPMAN: It must be -- it's good to be able to turn to with a legal problem?

MS. DESHANE: Yes, definitely.

CHIEF JUDGE LIPPMAN: And without it you would have no idea how to deal with Social Security.

MS. DESHANE: Absolutely and when you're not --

CHIEF JUDGE LIPPMAN: It's very gratifying to hear you talk about your disability and how a lawyer enhances so much in your life. Thank you so much.

MS. DESHANE: You're welcome.

PRESIDING JUSTICE PETERS: It seems to me, that from your testimony, that not only did you get back the funds that you deserved but you feel empowered and apparently you are sitting here very calm, with us giving testimony where it would seem

historically you would not have an ability to be so calm, and secure, and to appear before people like us; have I got that right?

MS. DESHANE: Yes.

PRESIDING JUSTICE PETERS: Congratulations.

MS. DESHANE: Thank you.

THE COURT: Shari, do you want to tell us about your story.

MS. CHIRENO: Good afternoon. My name is Shari Chireno, and I'm a former client of the Legal Aid Services of the Hudson Valley. The story that I'm about to tell you began with my family and that we had the misfortune of renting a home in a neighborhood that was devastated by the floods from the Hurricane Irene. Our home was flooded and we lost all of our belongings, when the flooding consumed several feet of our basement and many of our belongings were there and when we contacted our landlord to see what we -- how we -- what we can expect with all the water damage and for it to be repaired. We got no

response. We were watching efforts taking place at other homes on our street and we had the added misfortune of coping with my brain tumor that had metastasized because of my breast cancer. We knew that the mod would be particularly dangerous to me, because of my surgery went through my nose, and the exposure to all the environmental hazards that I would breathe were through my nose. At this time, I didn't know the legal services of Hudson Valley and I didn't know that I could to educate myself, with my rights as a tenant. We waited for the landlord to do what he is supposed to do, to make our home safe for me, my husband and our two children, when I ultimately learned from internet research that we have the right to withhold rent to live until the necessary repairs are made. When my doctor told me the mold in the apartment was potentially dangerous to anyone exposed to it, obviously I was concerned for not only the safety of my children, but the risk to me was particularly acute at this time. We made the decision to withdraw our presence,

and because we did not know what else to do my husband, who is the only one employed, and who was already having his wage garnished because of medical bills. We also lived with the knowledge that my headaches would continue --

CHIEF JUDGE LIPPMAN: Take your time Shari.

MS. CHIRENO: And that we would face other judgements because of the -- resulting from the continued need for my medical care.

A short time after contacting our landlord, we are received eviction papers. We had to appear in a Ellenville Justice Court as a result of our decision to withhold our rent. Still unaware of the services that could be provided by the Legal Services of Hudson Valley, we proceeded to -- we prepared to go to Court, without representation. Well I felt confident that I knew my rights, I knew nothing of the Court procedures, and how to effectively advocate for myself and my family. I went to Court on the date listed and on the front

of the petition and despite my best efforts my landlord got a warrant of eviction, with no stay, meaning the Sheriff's office could ask us to leave any time, with the three days notice. Also we had a money judgment awarded against us for the rent, from the months we had withheld. I was shocked and saddened by the result of our day in Court and tried to get more information, about what recourse we may have and the reality of our situation is we could have been homeless in three days. My daughter was a week from graduation and my children endured so much, that not only from my health, but being told that we had to leave our home. I contacted the two attorneys immediately from legal services and they immediately started working to help us. They began to file emergency applications, called an Order to Show Cause, when the Judge in Ellenville was unavailable to read the papers we took the papers to Ulster County Court and the Judge signed the Order which is called a Stay, and we were temporarily prevented -- the landlord from having us thrown out of our

home and it gave us a Court date and to appear in Ellenville to be heard regarding the assertions contained in the Order to Show Cause. Legal Services, Sarah, appeared in Court with me and she was successful in getting the Court to vacate the warrant and a money judgment, that had been entered against us and the judgment was even dismissed on the landlord's petition. While this was a temporary reprieve we new that the landlord would re file if we remained in the apartment so but we had time to find a safe place to live and the money judgment against us would be vacated. It also meant that if we went back to Court the attorneys from Legal Services of the Hudson Valley would be there to advocate for repairs to make the apartment habitable. Thankfully we were able to find a new home and our situation is better than it was and I'm grateful, so very grateful for the Legal Services of the Hudson Valley, they provided to me, and my family. I'm grateful to the Office of the Court Administration for providing the funds to make it possible.

And I just want to say, too, my husband goes to work every day, my husband is a federal employee and we were in a position then, we don't meet the qualification of the poor, yet without the services, I couldn't afford an attorney.

CHIEF JUDGE LIPPMAN: So what you're saying, what you're saying is that this isn't necessarily people who have no resources whatsoever, this is average people trying to go about life and yet when you're confronted with a life transforming legal crisis you need help and you can't -- you don't have the resources.

MS. CHIRENO: Not just resources, you have to already figure the situation that you're in, and you're already robbing Peter to pay Paul. So, at that time, I'm as I said I have a doctor and the doctor said I just can't work at this time.

CHIEF JUDGE LIPPMAN: It's so instructive to see that people, you know, that the people get legal services, don't necessarily have this -- are in a position and are people -- people with jobs, they are

assisted, that not all the cases --

MS. CHIRENO: No and I think there's the category that's not on the poor put people in the middle class -- people who go to work every day and do the right thing, and they just get one paycheck behind and in my situation, all it took was a storm and we had to evacuate from our home and you come back and you've lost everything. And how do you recoup?

CHIEF JUDGE LIPPMAN: And dealing without.

MS. CHIRENO: I couldn't have done it and we had -- I had used all of my husband's retirement money for medical needs. So, without them, I would have been ready to take our children and go to a homeless shelter.

CHIEF JUDGE LIPPMAN: Thank you for telling us your story and it really graphically illustrates the good done for human beings which find themselves by circumstances in a difficult situation.

MS. CHIRENO: Not only that but, they have give, a -- a feeling that there's

somebody that really wants to help you for the right reason. And they give you that dignity back. Especially when you go to Court, without an attorney, and they basically belittle you that, you just didn't want to do something, and what are you going to do to about that. It moral principle, and without somebody giving you the respect as a human being, and it makes a difference, and I when we talk to Sarah the first time she was going to be out of the office, but she said come over within an hour, we are leaving there with a piece of paper that said I was not hot going to have to move overnight.

CHIEF JUDGE LIPPMAN: Thank you for telling us your story and we appreciate your coming in.

MS. CHIRENO: I appreciate your hearing me.

I appreciate so much, that the stuff that's out there is available to people like me, and I hope that you continue funding it because being the way the economy is going and you see people working winding

up in the same situation. I've never been a court of law in my life and I could only imagine the terror of somebody else who didn't have someone and what were you going to do.

CHIEF JUDGE LIPPMAN: We'll keep trying, that I can tell you.

MS. CHIRENO: Thank you.

THE COURT: Heisily Rojas?

MS. BIRCH-HIGGINS: (INTERPRETER) First I'd like to say hello and thank you.

THE COURT: Why don't you move to mic closer to the two of you if you can?

MS. BIRCH-HIGGINS: I want to tell you a little bit about what happened to me in my life. And the life of my children. I came to this country from Costa Rica. We came here and my husband was already here so he had an attorney for immigration, and all the paperwork for that. We came here legally and my ex-husband said that he had an attorney to do all of her paperwork for immigration. So he said that he needed money to help pay for the attorney, for all of the legal papers so I started to work to

to be able to help him financially. So some time passed and before we realized it that he received his documents and his work permit but just for himself. Not for anyone else. So we believe we can continue to live together, but then after some time he wanted to send me back to Costa Rica with my children. My children came here when they were very small. My children didn't want to go home and they said this is my country and I love this place. We continued living together but the arguments and the abuse in the household continued.

It's very difficult to explain the story because there are so many things. He tried to abuse my daughters, sexually. An example daughter and my little girl. So, the day that I came home from work and I saw with my own eyes, what he was doing to my little girl only two years and 7 months old. And that's the moment that I began to get strength you can say that, from something terrible that's when I was able to get the strength to move forward and for me and my children. So, we called the police, that

was the first thing and the they came and took my husband from the home. And thank God that since that moment he's never come back to my home. I tried to move forward with my children the best I could. But it was very difficult because I was not married legally. I couldn't ask for help from DSS or Medicaid or any place. It was very difficult for me to continue. So one of these days my ex-husband wanted to ask for the legal papers for just my older son, because I have three daughters and one son. He only wanted to ask for his son. So, I accepted for the good of my son, and we met with an immigration attorney. That's where I met the immigration attorney Steven Lawrence. We had our first meeting. And after that first meeting, the attorney Lawrence, Steve, contacted me saying he wanted a meeting alone with me. So I said yes and we had our first meeting with Steven Lawrence. And so, when I met with him and luckily he spoke Spanish so he could tell me and I can tell him my story in Spanish and a when he found out what he wanted he wanted

to send me to the Empire Justice Center. That's when I came in contact with the attorney. He's an immigration attorney who I have a lot of -- I really care for him. And I thank him. Thanks to him and his program as we start to move forward, me and my children. And thanks to him and his good job they do for me and my children to stay legal -- legally in the country. And when I was with -- when I wanted to get a divorce. My answer was yes and he sent me to the Legal Project. And that's how I heard of the Legal Project and Natalie and Karla, and other friends. I'm very thankful for the help and the programs that offer help in this country. It's admirable having come from another country me and my children are and we have -- we can get the help from so many people and so many friends. The Legal Project helped me with my divorce and that I have at the moment. I am divorced now. But there's something more -- more than to me that I would like to point out at this moment. And that's because of my youngest daughter. And I would like to point out

that with the divorce documents, that it's so important to me that I have custody full custody of my youngest daughter. I'm thankful to the Legal Project and I feel that my youngest daughter, being she is so young she's safe now. You know that the hearing the schools require documents, so that certain people cannot pick-up this children from school, especially fathers. And parents. The document that I have that's signed by the Schenectady Court, says that he cannot pick my daughter up from school that is something very valuable to me. He can't come close to her. This a something that the Legal Project has done for me and my family and I'm very grateful. The divorce was very important, but it was also very important that my daughter is safe. These programs like Legal Project that are accessible to those of us that don't have the means to pay for them for legal services. I know that you know how important these programs are. But I want to come here and talk about the things that have happened in my life and how important

these programs are. Now today, we live better. My children are very good, they're excellent children. They continue to study they will get their careers. And even though what we've lived through this and it will effect our lives forever, we keep fighting to be better every day. Without forgetting then and being thankful with our hearts to everyone that's helped us, we're thankful and to God and to everyone who is in that -- that higher position, to help us, that God bless them and so they can continue to help us.

CHIEF JUDGE LIPPMAN: Thank you. Thank you for that beautiful statement and we can see that -- that your life has been touched by being able to have help from the Legal Project, and from the other legal services that you received, and this is exactly the story that we want everyone to understand. As to how legal services, for those who can afford it, can't afford it really effect their lives and gives them a new life. And thank you so much for coming in. Okay. Holly Ovitt, accompanied by

William Niebel. Thank you very much for coming here today, for such an important cause.

MS. OVITT: And it's very quite an honor for me. My name is Holly Ovitt and I am a single mom, I have two boys, they're 8 and 11 years old Dylan and Payne. I work as a rehabilitation specialist at the Washington County ARC. I assist mentally and physically disabled individuals to more enrich their lives. And I help with their daily tasks. Earlier this year I had a legal issue arise in my life that required professional help. I couldn't afford a lawyer, so I called Legal Aid Society of New York and I was referred to them by friends, I have a unique situation, and I wasn't exactly sure what my rights were. I needed expert advice. On my first call I spoke to a couple of different people, and they graciously listened to my predicament and referred me to the most appropriate lawyer which was William. I was being evicted along with my two boys from our home of ten years, and I have never been in that

situation before. And Mr. Neibel guided me through the whole legal process. He explained to me the problems with my landlord's case, my legal defenses, my rights, and the process that my landlord needed to go through in order to -- to proceed with the eviction. He told me what the landlord was -- what he was trying to do, when he was evicting me for nonpayment of a new rental amount, that I had not agreed to. I was originally paying $400 a month and he upped it to $750, and I thought that was an unreasonable increase. Instead since I didn't agree to pay, the landlord give me one month notice to terminate at that time. When I was finally served with Court papers for eviction, I was given a very short time, about two weeks to leave the premises. I lived there for ten years. It's not a lot of time. My lawyer used my defense to fight so that I would be able to remain in the home, for the remainder of the school year. Which was very important to me, had he not done that my kids would have been uprooted and probably would have had to

change schools with just a couple of months left to the school year. My older son has autism and this would have been especially devastating to him. I also attend classes as ACC and am working toward an accounting degree. I'm a single mother so of course money was another important issue, and he helped me negotiate a reasonable rental payment that was far below the landlord's requested amount for the months that we continued to live there, which saved me hundreds of dollars, and the Legal Aid Society, helped me with that money and I was able to turn around and use that as a deposit on a new apartment. There's also a huge relief to have a third party, communicate with my landlord since he was my ex-fiancee and the father of my two children. Mr. Niebel spoke on my behalf and shielded me from unwanted intimidation. It was uncomfortable to say the least. When I was served legal documents it was very scary and I -- I didn't have the knowledge of the legal system to comfort and to handle my case or fully understand exactly what steps

I should take and again what my rights were, because of the Legal Aid Society's help, the helped me and my children and I had a very favorable outcome to the case. I was able to save money and they were able to stay to finish out the school year. I didn't have to be in direct contact with my landlord. Legal Aid Society was hugely beneficial to me and I really hope it continues to be funded as a resource for individuals faced with difficult legal situations, such as mine.

CHIEF JUDGE LIPPMAN: Well thank you. That's another example of why legal services is really a lifesaver in so many ways.

MS. OVITT: Yes.

CHIEF JUDGE LIPPMAN: I assume without their help, you just wouldn't have been able to deal with that?

MS. OVITT: Well my situation was unique, but I was part of the process in purchasing the house, we did it together, and then throughout the course of our relationship we split up, I remained in the

house, so I felt like entitled to it and when I really had no legal -- right to it, essentially.

CHIEF JUDGE LIPPMAN: And it's so much the case with intimate partners, and it gets very complicated and --

MS. OVITT: There was a lot of emotion involved and he was able to steer me toward the legal aspect and what I could and could not do, and he made everything good.

CHIEF JUDGE LIPPMAN: Well thank you for all your stories as I think they all graphically illustrate what this is all about and what we are trying to do and I think that your stories really cap off our day in that we heard from the Chief law enforcement officer of the State and the banking industry, and the judicial community, and some of the different entities that try and help people who have limited resources, and in part in other words to try and deal with the issues and no one tells the story better than you and we're going to -- and the purpose of the hearing will be to go back and figure out

when the Attorney General talks about the justice gap and the need that you and so many others have in our state and yet, the limited amount of financial resources that we have, and what we will try and do with the task force members, and some of them are here today, Barbara Finkelstein, Fern Fisher, Lillian Loy of local fame, and Mary Moan the counsel to the task force, have all done a terrific job of setting up the hearings for all os us here so we can figure out, what moneys we need to ask for, to provide the resources that you need in the situations like all of you are in. The help that you're entitled to, and we want to make sure you get it. I want to thank everyone for being here, Justice Peters and Seymour James the President of the State Bar and Judge Marks, and we will take all of your testimony, and we have three more hearings to go and take a good look and talk with the task force and see what we can do to continue this fight. And this really is a fight to make our partners in government, and the public understand, the dire need,

for assistance and what it means to real human beings with real problems, and do everything within our power to ensure that the resources and there -- that this issue is a priority in our State. It's as important as housing and education and medical care, that legal services is so important, and such a vital part of human being lives. So, we thank everyone for coming and everyone who testified and thanks especially this last panel you all are really are terrific and so appreciate your laying out your personal issues, which we know are not so easy to tell in public, but it does graphically illustrate the problem.

PRESIDING JUSTICE PETERS: Thank you to the lawyers for your dedication and we know that you don't make a great deal of money for doing that job and we are so very grateful.

CHIEF JUDGE LIPPMAN: Without question. So this hearing is adjourned. Thank you all.

(Whereupon, the proceedings concluded in the above-entitled matter).

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C E R T I F I C A T I O N

I, CYNTHIA A. WEST, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby CERTIFY that the foregoing record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of the same, to the best of my ability and belief.

_____

Cynthia A. West

Dated: September 28, 2012

APPENDIX 7:

Transcript of the First Department Hearing Held on October 1, 2012

SUPREME COURT OF THE STATE OF NEW YORK

- FIRST DEPARTMENT -

THE CHIEF JUDGE'S HEARINGS

ON CIVIL LEGAL SERVICES

HEARING

7 Madison Avenue
New York, New York
October 1, 2012

B E F O R E :

HON. JONATHAN LIPPMAN,
Chief Judge

HON. A. GAIL PRUDENTI,
Chief Administrative Judge

HON. LUIS A. GONZALEZ,
Presiding Justice
Appellate Division First Department

SEYMOUR W. JAMES, JR.,
President, New York State Bar Assoc.

ROBERT PORTAS/GLORIA BRANDON
SENIOR COURT REPORTERS

W I T T N E S S L I S T:

HIS EMINENCE TIMOTHY CARDINAL DOLAN,
Archbishop of New York

HON. CHRISTINE QUINN,
Speaker, New York City Council

HON. FERN FISHER,
Director, NYS Courts Access to Justice Program,
Chief Administrative Judge

DR. ELIZABETH BECKER,
Senior Vice President, NERA Economic Consulting

PROFESSOR GILLIAN K. HADFIELD,
Kirtland Professor of Law and Economics,
University of Southern California

CAREY R. DUNNE,
President, New York City Bar Association;
Partner, Davis, Polk & Wardwell, LLP

C L I E N T P A N E L :

ANGELA D'AREZZO,
Client of the Legal Aid Society
(Accompanied by Carol Santangelo)

RICHARD J. USERA,
Client of Legal Services-New York City
(Accompanied by Jennifer Levy)

FREDESVINDA VASQUEZ,
Client of Make the Road New York
(Accompanied by Lorelei Salas and
Francisco Valencia, Official
Spanish Interpreter)

OPENING/HON. LIPPMAN

(His Eminence Timothy Cardinal Dolan enters courtroom.)

HON. LIPPMAN: Good morning. That was not the judge who just walked into the --

(Laughter.)

HON. LIPPMAN: In a sense it was the judge.

We're so honored to have His Eminence Cardinal Dolan be the opening speaker today at this third year of our legal services hearing. I'd mention just before I give you a sense of why we're here that I told the Cardinal that it is kind of a little bit church-like in its ambiance, and I think he sees that that's very much the case.

So I welcome -- I welcome all of you to the third year of our legal services hearings. I want to make clear at the outset that nothing is more important to me as the Chief Judge than civil legal services for the poor and the ones most vulnerable and most in need in our society.

The template that we've developed in New York has resulted in $40 million of public funding for civil legal services, the most in the country and yet the tip of the iceberg in terms of the need.

These hearings are supported by the Task Force to Expand Civil Legal Services in the State headed by

OPENING/HON. LIPPMAN

Helaine Barnett -- Helaine, you want to stand up? -- who's the former head of the Legal Services Corporation. And we're so pleased to have her here today. And it's basically -- this whole effort has been triggered by the economic climate in our city, state and country that's resulted in a great decrease in the legal services corporation's budget in Washington, and to Loyola, here in New York. And it is our belief that the judiciary and the profession must stand up for those most in need of legal services for the poor. If we're not going to do it, who is going to do it? And it's not only the money that's involved; the lawyers must give up their time in pro~bono legal services. As you know, we just implemented a new requirement that new lawyers will have to embrace a culture of service and contribute 50 hours of pro~bono legal work assisting those most vulnerable before they will be admitted to the bar. They must embrace a culture of service.

It is our mission and our responsibility in the judiciary to foster equal justice. It is our very reason for being. We might as well close the doors of the courthouses if equal justice for all is not what happens inside those courthouses.

The economy has hurt those most vulnerable in society. To some the answer is, "Gee, the economy is

tight, we can't afford this." The answer is that we can't afford not to provide legal services for the most in need and not allow them to fall off a cliff during these difficult times.

Equal justice is fundamental to our society, to our way of life and to the rule of law. Every civilized society, going back to biblical times, is judged by how it treats its most vulnerable citizens. And certainly -- and, Cardinal, you'll forgive me, going back to the old testament and biblical times from the very outset, there is this recognition that you should pursue justice for the high and low, the rich and poor alike. That is the fundamentals of our society and our spiritual side and has been with us for so long. And that's what these hearings are all about, they are pursuant to a resolution in the legislature that asks us to hold these hearings and report back on the needs to fill the justice gap in our state, the justice gap being the difference between the need for legal services and the resources available.

And there could be no better opening witness for this hearing talking about our ethics, our morality, than Cardinal Dolan. He honors us, and it moves me personally that he has come here to be our first witness. He epitomizes the highest moral and ethical values in our society. He has fought his entire life to help those

most vulnerable, those who can't help themselves, the poor, the indigent, the working poor, the near poor. He tends to his flock, recognizing that every human being is entitled to the necessities of life and to God's blessings. And it is a great honor for us that he's here today. I believe, and I know the Cardinal believes this, too, that the social agenda of the church under His leadership is not just about spiritual needs, which it's all about, but it's also about the values that we all share and that we all cherish of dignity and justice and respect for every human being, regardless of their station in life.

So to know Cardinal Dolan for even five minutes is to love him and to honor him and respect him. His heart is so strong and his compassion is so deep. And New York is very, very proud of Cardinal Dolan. And I am so personally proud that he's here today. So, without any further introduction, everyone knows who we have here as our first witness, it's a delight to have you here. Thank you so much.

CARDINAL DOLAN: Thank you.

HON. LIPPMAN: We're honored by your presence.

CARDINAL DOLAN: The honor is mine. I'm the one who's grateful.

Chief Judge Lippman and presiding Justice

CARDINAL DOLAN

Gonzalez and Judge Prudenti and Bar Association President James and so many neighbors united in this noble cause of justice and service.

Judge Lippman, you're right, this reminds me of a magnificent basilica. This is in better shape than St. Patrick's.

(Laughter.)

CARDINAL DOLAN: It is like coming into a church. I saw Speaker Quinn when she walked in was looking for the holy water.

(Laughter.)

CARDINAL DOLAN: But if you try to have a collection, I'm out of here. All right?

(Laughter.)

HON. LIPPMAN: Fair enough.

SPEAKER QUINN (From the audiendce): Late for mass again I am. Sorry, Cardinal. I apologize.

CARDINAL DOLAN: I come this morning very grateful for the chance to promote an initiative that I consider crucial and very promising for this city and state that I'm now very proud to call my earthly home. I come with a very deep admiration for you, for your prophetic leadership, Chief Judge Lippman, and I come encouraged by other esteemed jurists, like Judge Prudenti and Mr. Thomas Moore and our own Catholic Lawyer's Guild of the city.

CARDINAL DOLAN

It's obvious that I come hardly as a legal expert or a politician but only as a pastor, to hartely support an endeavor that I'm convinced is going to bring justice to people who, simply put, have nowhere else to go but to the courts, which enflesh the assurance of this great country that there is indeed equal protection under the law.

See, as a pastor, I daily hear from my sheep. For instance, I daily hear from our Catholic charities about struggling people evicted from their rooms or little apartments without proper notice or a chance of any type of legal recourse.

As a pastor, I daily hear from our parish priests who have people at their door hungry. Why? Because, well, they were terminated from jobs, apparently without just cause a few days before with no severance, no backpay or no benefits.

As a pastor, I hear from educators. I'm thinking, for instance, of Sister Michelle who tells me of her kids at one of our schools, her school in the Bronx, who had to spend the night on the street because of violence in the home, because their moms don't know where to seek protection and recourse from an abusive situation.

As a pastor I hear from our parishioners who run

CARDINAL DOLAN

the daily soup kitchens; they tell me about their guests who have lost lodging, salaries, maybe their immigration documentation, even their kids in custody battle who cry for somebody to represent them.

As a pastor, I reflect on the assurances to which you hinted, Judge, of the Jewish and Christian scriptures in the bible that God is a Judge who will guard the rights of His downtrodden people and before whom all have innate rights and dignity. And, as a pastor, I praise that God. Because, through Chief Justice Lippman's proposal, civil -- not only criminal, but civil legal services might now be available to those who have no means to afford it otherwise.

As a pastor who happens to be proud to be a New Yorker, I want to be able to boast again that this great state so often in the lead on urgent issues of justice and compassion is once more showing the nation the way. And, as a pastor who happens to be an American, I want to be able to claim that our noble values, such as equal protection under the law, that all stand before the bench as equals and that one has inalienable rights based not on bank accounts or stock portfolios but because what is made in God's image and likeness, that those promises are real not hollow, they're serious, they're not shams.

As a pastor, the refrain I so often hear from

CARDINAL DOLAN

our poor folks is, "I don't know where to turn." Chief Justice Lippman, with your enlightened proposal that our struggling neighbors will now have access to civil, as well as criminal legal representation in our judicial system, and that our attorneys who are, I hope, I want to believe, attracted to their vocations because it's not just a job but a call to serve, that they would pledge hours of pro~bono representation in civil cases, our people will indeed have someone to turn to. God will nod in agreement that his assurances to his people have been realized, and Lady Liberty will smile that the tired, the searching and the poor have here found a sanctuary of justice.

So, Judge, God bless your efforts and you can sure count on my prayers and support. And thanks for letting me be the Derek Jeter in a very -- in a very important lineup of people who are going to testify on behalf of this noble proposal. Thank you.

HON. LIPPMAN: Thank you, Your Eminency. Again you honor us, and we're so pleased that you're here. And your support is really meaningful and helpful, and we couldn't be happier about it.

I'd like to ask you a few questions.

CARDINAL DOLAN: Sure.

HON. LIPPMAN: As unaccustomed as you are to

CARDINAL DOLAN

testifying in courtrooms.

(Laughter.)

CARDINAL DOLAN: I'm usually up there. I usually have the big chair.

HON. LIPPMAN: That's true. That's true. You could sit in this chair any time you want.

CARDINAL DOLAN: Thanks.

(Laughter.)

HON. LIPPMAN: I did want to ask you a few questions.

CARDINAL DOLAN: Sure.

HON. LIPPMAN: At the very ground level, what does the local priest do in the local parish when you have someone who comes in with a problem that, while it's obviously a very human problem --

CARDINAL DOLAN: Sure.

HON. LIPPMAN: -- it has this legal -- These legal implications? What does the local --

CARDINAL DOLAN: You got to it, what's he do. Our parish priests, what do the women and men involved in social ministry in our parishes, what do they do? Well, what we -- please God, it's what they will be able to do if your proposal gets traction, which I certainly am enthusiastically on your side. Right now what do they do? Well, you know, they can go light a candle for the people,

CARDINAL DOLAN

because prayer is so important. They can maybe try through human contacts to tend to the problem, maybe knowing people to call or social service agencies. They can, Judge, thanks be to God, go to Catholic Charities of the Archdiocese of New York, because we've got a very robust legal representation network. They could call our Catholic Bar Association that tries its best to rally pro~bono lawyers to tend to their cases. They could do those kind of things, and they do.

And you and I want to be the first to thank all those people that are now part of that ability to respond. And in no way do you and I intend to say, "Oh, that's -- that's just mediocre." It's not mediocre, it's excellent. They'd be the first to say, "But it's not enough. It's not enough." We have to systematize this. We've got to formalize this. We have to make it so that a pastor or one of our sisters or one of our women or men involved in the social ministries of the church have on their Rolodex, "Let's call this number and you're not leaving here until I get you an appointment and that we know that you have excellent legal representation for the civil grievance that you have." That's what this will allow us to do. Thank God we've got some of it now. But what we learn all the time is it's just not enough.

HON. LIPPMAN: Thank you. And that's what we're

CARDINAL DOLAN

trying to do --

CARDINAL DOLAN: Yeah.

HON. LIPPMAN: -- to build these bridges between the legal services community and the places where people go when they're in trouble.

CARDINAL DOLAN: Sure.

HON. LIPPMAN: And what could be more --

CARDINAL DOLAN: Sure.

HON. LIPPMAN: -- of a place than the church?

CARDINAL DOLAN: Sure.

HON. LIPPMAN: And you alluded in your remarks, and I did a little bit, too, about biblical teachings --

CARDINAL DOLAN: Yeah.

HON. LIPPMAN: -- and that going back as far as we can remember, this idea that everyone should be treated equally --

CARDINAL DOLAN: Uh-huh.

HON. LIPPMAN: -- is so much a part of our society, the Judeo-Christian --

CARDINAL DOLAN: Yes.

HON. LIPPMAN: -- traditions. And, you know, I sometimes get into almost feel like a preacher in talking with the bible and what it says. This really is -- this idea that everyone is treated -- everyone is entitled to justice is not just one that we have in the profession;

CARDINAL DOLAN

that really does emanate from biblical teachings.

CARDINAL DOLAN: Does it ever. I'd like to think that's the core of the western juridical tradition. That would come from the Judeo-Christian.

You just celebrated, Judge, Yom Kippur. And if I understand from my rabbi friends, part of that is repentance. And part of the readings that you have from sacred scriptures on those feast days was God reminding the people of the need for repentance. When he says, "Your fasting is fine. Okay? But this is the kind of fast that I want. This is the kind of sacrifice that I want: That you help a widow, that you come to the aid of the orphan in need, that you take care of the immigrant, that you take care of the hungry and the homeless. That's what I want."

I just had the chilling experience, Judge, in when I was made a Cardinal. Okay? Now, a lot of people have heard this story, but it's worth repeating here: That night I got to bring my 900 guests from New York into the Sistine Chapel. Can you believe it? You think this is nice.

(Laughter.)

CARDINAL DOLAN: And we had it to ourselves. I'm walking into the Sistine Chapel in my new duds. All right? They are -- oh, my gosh, I'm basking in the claim and my

CARDINAL DOLAN

new fineries and old people led by my whom mom and calling me "Your Eminence" and everything. All right?

And I'm walking up feeling pretty good. And as I get to the top of that room what I do look ahead of me? You know the Sistine Chapel. What's ahead of me? What's there? The last judgment, Matthew 25. And what dawns on me is, "Dolan, when you stand before God, this isn't going to help." He's told us what he's going to ask us: Have you fed the hungry? Have you visited those in prison? Did you take care of the stranger? Did you go to bat for those who didn't have anybody else? Do you look to the widow and orphan? That's engrained. See? That's engrained in the scripture that gave rise to the most noble juridical system known to humanity, western jurist prudence. And we're the sons and daughters of that; right? And if I understand you right, all we want to do is give a steroid shot, a booster shot to something that's already engrained --

HON. LIPPMAN: Absolutely.

CARDINAL DOLAN: -- in our code.

And, boy, God bless you in doing that. So --

HON. LIPPMAN: Thank you, Cardinal.

I have one final question. I know you have to go off to the Bronx where Judge Gonzalez hales from. Our profession, you know, the legal profession, I think is a

CARDINAL DOLAN

noble one. And, you know, we've just put into place this requirement that the new lawyers, before they begin --

CARDINAL DOLAN: Bravo.

HON. LIPPMAN: -- have to provide 50 hours of legal service for the poor and those who need help. What do you say -- I only ask you this because I know you're going on Wednesday to say something to the Catholic lawyers --

CARDINAL DOLAN: To our Catholic Lawyers Guild, yeah.

HON. LIPPMAN: How does all this that we're doing today have to do with the profession and what your message is to them in terms of what we think is this noble calling?

CARDINAL DOLAN: Bigtime. You know my friend Thomas Moore --

HON. LIPPMAN: Of course.

CARDINAL DOLAN: -- you know, a very prominent attorney here in town. He studied for the priesthood at one time. And he's now happily married. He discerned another vocation and he's a very prominent attorney. But he's often eloquently told me the parallels that he sees between the call to priesthood and the call to the legal profession, because both are based on what you eloquently call a culture of service. I hear -- I hear some of my attorney friends say to me--and they're not bragging,

CARDINAL DOLAN

they're simply stating a fact--that they are into what they call tithing of time. Very often the biblical concept that you give a tenth back to God. By the way, am I ever for that. But that just doesn't refer to money, it refers to our time. All right?

And I've heard lawyers eloquently say to me, "For every ten paying clients I get I make sure I take one who can't pay." That's tithing of time and talent, isn't it? That's extremely pleasing to God and so necessary for our commonwealth.

I'd like to think that at the core of the call to the legal profession is a call to noble service, that these men and women would look at this as not a job, not a resume -- All right? -- not just a chance to advance in prestige and clout, but as a chance to be of service. Of service. And I think all you're doing is reminding them of that. All you're doing is saying, "Let's put some teeth into what you are mouthing and let's see that this becomes a reality." I'm with you all the way.

HON. LIPPMAN: I know you are.

CARDINAL DOLAN: Thank you.

HON. LIPPMAN: Thank you.

CARDINAL DOLAN: Good questions. I was afraid you were going to ask me if it's a Cardinals/Yankees series what side I'm on. I'm going to leave before that one.

CARDINAL DOLAN

(Laughter.)

HON. LIPPMAN: We won't go there of all places.

CARDINAL DOLAN: Thank you.

HON. LIPPMAN: Your Eminency --

CARDINAL DOLAN: Am I dismissed? Thank you.

HON. LIPPMAN: -- thank you so much.

CARDINAL DOLAN: God to be with you all. Thanks a lot.

(Witness excused.)

(Continued on the following page.)

oOo

Quinn

JUSTICE LIPPMAN: Okay, so Derek Jeter has hit a home run, so batting second we have our fabulous Speaker of the City Council, Christine Quinn, who has a tough act to follow.

SPEAKER QUINN: I know. I'm speaking to you later, Judge.

JUSTICE LIPPMAN: This is the third year that Speaker Quinn has been here at these hearings. She batted number one the other two years, and she's batting in the second position. The second is very, very important in setting the table, and she couldn't be a more loyal and supportive person in public life than Speaker Quinn. She not only does this as a public official, but as a passionate believer in helping those most vulnerable in our society, and she doesn't just pontificate, she acts and her good deeds are legendary, and she is a very great public servant, and a great human being, and I couldn't be more proud, or more delighted to have her here to speak to us again this speak year.

Speaker Quinn, thank you for being here.

SPEAKER QUINN: Thank very much for that incredibly kind and generous introduction, Chief Judge. Thank you very, very much.

Chief Presiding Justice Gonzalez, thank you.

Quinn

Chief Administrative Judge Prudenti, thank you. President James, thank you for all of your work, and then if I can number two to Cardinal Dolan, I'm good. I'm good, and I think it's really wonderful that he was here today. It really adds I think a very significant and very important voice in our overall efforts, so I congratulate you, Chief Judge, on expanding our coalition in this benefit.

Before I deliver my testimony, I want to thank all of you for including us so significantly in the work of this task force, and also just want to thank you, the members of our General Council, Liz Fein, David Sheehan is here, as well as the members of the Finance Division who have taken this partnership very seriously. I want to thank them because as some of the other people in this room, that what I deliver is really their work today, so I want to thank them.

You will see there's a difference in three years. The first time I did this, there were no glasses, but that is life.

JUSTICE LIPPMAN: Okay, okay.

SPEAKER QUINN: Thank you.

I'd like to address the significant work that this historic task force has done under the

leadership of Chief Judge Lippman in my testimony. I'd also like to review the work that is the council has done in support of this task force in the past year, and offer some suggestions on where we can go from here to continue to advance the cause of equal justice in all our community.

Judge Lippman's task force have secured important funding for legal services and set significant standards for pro bono work for the legal profession. I want to congratulate Judge Lippman and the task force for your tremendous work on behalf of equal access to justice over the past year.

First, you secured unprecedented stable and secure funding for the legal services by including the funding in the judiciary's budget. Let me tell you something, in negotiating the City's budget, I really do mean thank you.

JUSTICE LIPPMAN: All right.

SPEAKER QUINN: I commend you for the commitment of $25 million for legal services in this fiscal year. More than half of these funds now support legal services in our City, and many of our City residents facing eviction, needing food stamps, facing loss of Federal benefits, people who are victims of domestic violence who in the past were

unrepresented, now because of your work have legal representation, which can make all the difference in the world.

Second, I want to applaud your new pro bono requirement form newly admitted attorneys. I'm making a list of projects they can do with the City Council. This both instills in new lawyers and the legal profession the importance of serving the needy as a central element of every lawyer's work, regardless of where they work and will generate countless hours of legal services, which will then be able to be extended to the New York residents.

On behalf of the New York City residents, thank you.

Since last year, notwithstanding all of this great work, the problem of access to civil legal services has only grown. Poverty continues to rise in New York City. Nearly 1.7 million, 1.7 million New Yorkers are now classified as poor up from 1.7 million last year, and the percentage of New Yorkers living under the poverty line has increased from 20.1 percent last year to 20.9 percent this year, and every point there is a person, not just a number.

Last year medium household income in New York

Quinn

City fell over by $800 and medium earnings for worker fell by over a thousand dollars. Now in light of this, we and the City Council still have provided substantial support for legal services to address housing, education, family issues, health and basic subsistency issues. This includes over $4 million for civil legal services, and over $3 million to fund legal representation for residents facing eviction, or foreclosure. The Council is typically concerned by the many immigrants who are being defrauded by people promising to handle their cases when free legal services are available throughout the City, and one of the things I think is a message we need to use your pro bono network to get out there to immigrants don't pay. If someone's telling you to pay, don't use them. You're almost definitely going to ripped off. There's free services that are good services. I think sometimes people just don't understand that. To address this issue of concern, the Council has allocated this year $4.5 for legal services for immigrants, including to help those who want to become U.S. citizens.

We also starting funding for victims of domestic violence. We have allocated $1.5 to the Civilian Complaint Review Board to fund an

Administrative Prosecution Unit to address allegations of police abuse, allegations that are primarily made by citizens in lower income communities.

Now the council also used our powers to help these New Yorkers. This year the Council passed the Living Wage and Prevailing Wage Legislation. We did this to help people who work in New York City be able to afford to live here, and we are defending these laws in Court right now facing a legal challenge from Mayor Bloomberg. We've also challenged the City's plans to limit access to shelter for single adults, which we are also fighting in court, and we will continue to protect the needy in New York through legislation, oversight, and financial support.

We will make sure that the City effectively implements the laws that need to be put on the books to protect all vulnerable New Yorkers.

The question for the task force from all of us is where do we go from here to still meet the dramatic unmet needs of New Yorkers?

In light of that, I have three suggestions to make for your consideration.

JUSTICE LIPPMAN: Sure.

SPEAKER QUINN: First, build on your dramatic

efforts that increased funding for civil legal services. This is not to replace my proposal. Any of the money we put in, or the State of New York puts in. It would be on top of that, a new funding stream that could be funded -- I hope I say this right in a room if you will of lawyers -- pro hac vice. The work that you have done to institutionalize funding for legal services within the budget of the judiciary is historic and momentous. I am floored. Yet we have to continue to find additional funding streams outside of tax revenue to support important things like legal services. That's why I propose that you consider the imposition of the fee for litigants who seek to appear in New York pro hac vice as the attorney can pay a nominal fee to appear pro hac vice. 42 states, and most recently Massachusetts, already charge fees, and at least nine states use the funding for indigent legal services. Models exist to maximize revenue with minimal administrative costs. Certainly no feeds would be charged for pro bono representation for poor litigants, but there appears to be a potentially untapped source of funds here that can be used exclusively to support our efforts and civil legal services, and as we understand it, in some states it ranges from about

$100. Some states charge $400 for the time that they need to do this.

Second, using the crime mapping model, a detailed localized analysis should be done of civil legal services needs. We believe this would increase the efficiency and the effectiveness of precisely targeting legal service resources, particularly if we still struggle to have more resources. The task force in the 2010 Statewide survey was an immensely useful resource. We would like to work with you to take this analysis further, and develop a local analysis of legal services needs, so that we can effectively and strategically target funding and servicing. Mapping has been used to identify crime patterns, to assist police and community efforts to fight crime. We can use the 2010 census, income and employment statistics, poverty rates, demographic information, housing data, rates for foreclosure, arrests for domestic violence, for example, to assess needs. Then we can provide services more specifically to match where we have done this pinpoint mapping.

Third, we'd like to work with the task force to develop a localized cost benefit analysis of civil legal services to build on the tremendously valuable

Quinn

Statewide analysis that you have completed.

The task force consultants report of 2011 clearly demonstrated that the State can actually save money through its financial support for legal services. The report details that $85 million in savings related to domestic violence, $116 million for preventing eviction and homelessness, and $348 million in Federal benefits brought into the State. Now, let's just be clear, if we're owed money from Washington, the place we want it is in Washington, right?

Legal service providers in the City have reinforced the cost effectiveness of legal services and their reports to the council. Providers having estimated that representing New Yorkers facing eviction saves the City $36,000 per family in avoided shelter costs at a time when we are at an all time high in the shelters. The City also reaches significant savings when New Yorkers are able to recover from a Federal benefit, or obtain employment in debt settlements. That doesn't even include the fact that the since this money is going to low income workers, the vast majority of it gets spent and recirculates through lower income communities generating economic development. Most of it is not

put away in the bank. Most New Yorkers have immediate financial needs, so there is an actual additional benefit.

I believe that if we do a program by program analysis at the City level, we can provide justification for a regular and sustained City funding source for legal services programs.

We stand ready to work with you on each of these areas, or any other areas where you think our assistance would be of use.

We thank for your time, your work and your consideration of our three proposals.

JUSTICE LIPPMAN: Thank you, Speaker Quinn.

Those are three really I think clear calls that I think we can do on a pro hac vice.

You know what the problem is sometimes, and I agree with you, it's an untapped resource, and other states do charge quite handsomely for it. You know, the problem we have, and I know the speaker here, and I know Speaker Quinn, sometimes we get fees directly related to the judiciary.

SPEAKER QUINN: Right.

JUSTICE LIPPMAN: But, they're taken away for something else, and so we would seek your council --

Quinn

SPEAKER QUINN: Absolutely.

JUSTICE LIPPMAN: -- as to how to get, kind of earmark --

SPEAKER QUINN: Absolutely.

JUSTICE LIPPMAN: -- those monies for this particular purpose, which is so, to me, such an obvious connection it makes so much sense.

SPEAKER QUINN: Absolutely. I think that's exactly right. That's right.

And then, there's another thing, we have the model from the other states and other areas.

JUSTICE LIPPMAN: Yeah.

SPEAKER QUINN: We don't want -- it's not that they're against funding, but that's not the point here, right. The point is to keep this, so we have to have a targeted and mandated, clearly, kind in a lock box, if you will.

Two, it cannot surplant funds that are already there.

JUSTICE LIPPMAN: Exactly.

SPEAKER QUINN: Let's say this raised 2-million dollars -- I'm making that up -- and it was 25 last year, right. This can't mean the state puts in 23, and you're at 25. This would take to us 27, because 25, as great as it, is it's not meeting

anything, so we would have to create both of those, and it isn't easy, but there are clear precedent to how can do you that.

JUSTICE LIPPMAN: No, I agree with you. I think vigilance is in order.

SPEAKER QUINN: Absolutely.

JUSTICE LIPPMAN: I did see on your other two proposals, which I think can be done, I saw Helaine Barnett shake her head.

SPEAKER QUINN: 0h, good.

JUSTICE LIPPMAN: We're going to see.

SPEAKER QUINN: Great.

JUSTICE LIPPMAN: To get your people, and Elaine, and the task force together. That's exactly the kind of work that we should be targeting where it goes, and this cost benefit, as to why it makes sense, you know, are for everybody, and as you know, the task force concluded that for every dollar invested in civil legal services, $5 are saved by the state. I think that's very true. It's not just another that says gee, this is a good thing. Please, help us. This is where the economic bottom line is.

There are a couple of more general questions, you know, which is, what are we going to really prioritize to get our partners in Government to

understand that this is as important as taking care of our sick, our hospitals, educating our kids, all of the funds, making sure people have a roof over their head? How do we get a message across of being able to balance the different government interests? I know these hearing, obviously, is one way of trying to do that.

SPEAKER QUINN: Right.

JUSTICE LIPPMAN: How do we get the message across that this is a priority? Let these people fall off the cliff, that it so hurts our society, the fact that they are of our society, how do you get this prioritization where people don't say 0h, times are bad. Gee, that's nice, but we just don't have the money?

SPEAKER QUINN: Well, in a weird way -- I hope this comes out right -- given how bad times have gotten is almost an opportunity for us in this dialogue because so many people who ten years ago never thought they would be close to the edge now know they're close to the edge. I mean, the way this recession has impacted people, it has been very, you know, broad swathed folks, so I think there's a deeper understanding now that the economic kind of solid ground we thought there was, there isn't. I

think that has created an understanding in the public that's very helpful in pushing these issues forward.

Two, the foreclosure crisis and the nature of that I think really demonstrated to people how vulnerable you can be in a legal setting.

Three, you need to kind have the dialogue herein, the opportunity of the Cardinal being here could create for ongoing dialogue, him speaking to the lawyers, et cetera sets this up because I think sometimes in the public, or maybe in the press, it's like oh, those people who need those services, and our goal is to break that. It's all people, everybody could be those people at any time, and that's our job here.

You know, the other thing I think is often helpful in these discussions, and the way to kind of break that, those folks' unfortunate attitudes, and we should think about how to do this a little bit, is almost -- this isn't the right way to frame it, but a lump of my network of people who have been served by the legal services, you have the story of somebody now who is a prominent doctor curing cancer, or somehow giving back, becoming a very giving social worker who might have lost their home as a child and not be able to finish high school, or lost their

benefits, so people can see the long-term, you know, impact of all this. I was at a church on the lower east side the day that President Obama's Executive Order of the Young Dreamers went into effect. There was tons of all free legal services there, and I met a young man who is now applying to be a citizen. He goes to City College. He's an engineering student. He told me he's going to cure cancer. He then took me through a whole description of how based on how he understands DNA, he's going to cure cancer. I really did not understand a word this young man was saying, but I'm fairly sure he's going to cure cancer. Why in large part? Because he gets to stay here now and finish his degree. Why will his paperwork be processed? Why will he be able to access that legal right? Because there were free lawyers there that day. Those are the kind of stories we have to get out, so this doesn't seem tangential. Let's be honest, who wants to think about ending up in Court? Nobody. Who wants to think about getting evicted, or something like that? Nobody. We need to make this not unpleasant, but in an empowering discussion to have because of all of the good we can to do.

JUSTICE LIPPMAN: I think you make such good points. You know, we found that these hearings have

really impressed upon me as long as I've been around, you know, that legal services does not just take people who are totally indigent, unable to do anything.

SPEAKER QUINN: No.

JUSTICE LIPPMAN: You get people with graduate degrees, and you know, every station in life who at some point find themselves strapped or newly indigent.

SPEAKER QUINN: Yes.

JUSTICE LIPPMAN: Like a person who for the first time in their life comes into court when the roof over their head is at stake in a foreclosure, or eviction, so it really covers a wide swatch. You are not talking about gee, the people on the street who just don't have a dime in their pocket. I think that's a really, really good point.

I guess there's one other general question, and then I'll ask if anyone else has a question.

If you looked at this from the most global perspective, what do you think are the obstacles in the broadest sense to systematically develop, what we try to do here is develop a template in New York, having a legislative resolution asking us to do this, holding the hearing, and putting the money in the

judiciary budget because we feel this is the most protection for it, and that it's our mission to do this? What do you think overall? What are the obstacles to having the permanent institutionalized process by which civil legal services are funded, recognizing I think the Cardinal mentioned a couple of times on the criminal side that what's not perfect. We know there's a Constitutional right, and everyone in one shape or another gets representation. What's the obstacle for making what they call a civil kitty, Gideon versus Wainwright, the landmark case on the criminal side, so that people would have a right to representation on the civil side?

SPEAKER QUINN: Well, this may seem like a simplistic answer, but the biggest obstacle is forgiveness, right, so anything that doesn't exist in Government, or probably in the law --

JUSTICE LIPPMAN: Yes, especially today.

SPEAKER QUINN: Right, is difficult.

Two, given of the impact of the recession, but really at any time, there's always those of us in budget positions, we're always leary of requiring things that come with money, right, because then they're required, and then they're kind of in the bill locked in before you start budgeting the next

year, and that is an understandable and valid fear if you're in the position, you know, that I'm in, or Silver, Skelos, the Mayor, of the Governor.

JUSTICE LIPPMAN: Sure.

SPEAKER QUINN: That's why the study you have done about cost, doing the City study about cost is so important, because, you know, advocates always tell us that, and they tell us that based on the fact that they have all of their experience, right, but to have it be a documented analysis takes it to a different level of validity that you can then use in a budgeting context, and I think what we need and where we're really headed is to understand that we're not just saying this will cost us more later, but we will actually be able to see it in the ink of the budget process is what we need to do.

JUSTICE LIPPMAN: I think what happens every year, you know, the providers live hand to mouth. They're dependent upon coming to seeing our fabulous speaker, you know, or maybe the Chief Justice puts in money, and then they pray that it goes. Instead of saying gee, we can plan year to year to fill this need, and I think it's really a difficult systemic, you know, and I think that's what we need to work on together. I'm not sure exactly how we do it.

Quinn

SPEAKER QUINN: The other thing I would just add is, we have been talking about civil legal services about 20, 25 years ago, and we may have only been talking about one subset. We all have to think about there's a lot more subsets to that, and that's not bad, but as the need grows, does it ever decrease in one area, so then you shift it over? Are we doing that kind of analysis? Is it just growing? These are important things to understand in the budget context, too that we have to figure out.

JUSTICE LIPPMAN: All right.

Any questions?

JUSTICE PRUDENTI: I would just like to say, I want to follow-up on the Chief Judge's suggestion, it's a very good one, with regard to additional fees for pro hac vice applications.

There are other fees that we can look at.

SPEAKER QUINN: Typically, if it's not a non-New York lawyer. I'm just saying.

JUSTICE PRUDENTI: That makes a lot of sense.

SPEAKER QUINN: Right.

JUSTICE PRUDENTI: We would be able to work together, and we would really like to do this very much, so that we can come up with a proposal that counsel could support, we can go to Albany, that

shows the percentage possibly of the Court fees that are generated, in addition to the requisite sources that we are able to find dedicated to civil legal services?

Is that something that I could reach out to your office on?

SPEAKER QUINN: Absolutely.

JUSTICE PRUDENTI: And we can work it out together?

SPEAKER QUINN: Absolutely. I think it's an important one because that's the point, right, to add, but two, in whatever other fees there are.

Also, I actually think there's also a broader message. If we have fees from the entirety of the Court apparatus, the entirety of the justice system, being dedicated to legal services, I think it sends a powerful message of moving our system to a place where it isn't them and us. It isn't the people with the money, and people without the money any more in this system of Court, and laws and justice. We're all in it together supporting each other, so in addition to the money, which is paramount, I think it also sends a message about how we in the state see our justice system, how we see everybody supporting each other in it, and I think that's an important

message and vision for the City and State of New York.

JUSTICE LIPPMAN: Anything else, Judge Gonzalez?

JUSTICE GONZALEZ: Well, it's intriguing the idea of charging fees to the attorneys for pro hac vice, this is from a provincial perspective, in that here we have a lot of lawyers that come from out of state, and we have judges, we have Justice Mazzarelli who always asks of the law firms isn't there a good attorney here in New York State? That's their pet peeve, but I think she has a point.

SPEAKER QUINN: She does.

JUSTICE GONZALEZ: What I would be interested in, and again, I repeat myself from a provincial perspective, is that we might be able to, if we could generate those funds, and earmark them --

SPEAKER QUINN: Correct

JUSTICE GONZALEZ: -- it would be wonderful.

I'll tell you what, last week we had a case involving a transaction of $2 billion. It was a commercial matter. One of the attorneys for the appellant came all the way from Arizona. The other came on the other side from Minnesota. If we were to base, and forget about the equal protection

clause, if we were able to charge based on the states involved $2 billion, I think in just one case alone it would have been quite a bit of money to provide, obviously, that we can earmark it, and then also it would take some away of the pet peeves that some of our justices had with respect to pro hac vice, so I think it's an intriguing idea. I think it's very worth while of pursuing.

SPEAKER QUINN: Thank you

JUSTICE LIPPMAN: Justice James --

JUSTICE JAMES: You talked about the fact of the profit level decreasing in New York.

Have you or your council members found there are an increasing number of residents applying for legal services?

SPEAKER QUINN: Yeah, absolutely.

I think if you talk to any member of the City Council, they would be able to tell you that the number of people who are calling their offices, stopping by their offices in need of this kind of service is just growing tremendously. I know in my own district office that's true, particularly in the area of housing. I represent the lower west side of Manhattan. There's tremendous pressure on longer term rent protected tenants, and absolutely, at the

number of homeless folks is just going up with no particular end in sight, that you hear more and more stories there, as well.

JUSTICE LIPPMAN: Okay. Thank you, Speaker, again.

SPEAKER QUINN: Thank you guys.

SPEAKER QUINN

HON. LIPPMAN: Okay, so thank you, Speaker. Again, you honoring us in being here. And let me say, not only for your verbal support, but we know there's always someone we can go to for doing the right thing. And in this particular issue you always do the right thing. And we'll try to do the right thing, and together we go forward.

SPEAKER QUINN: Thank you very much.

HON. LIPPMAN: Thank you so much. Greatly appreciated.

SPEAKER QUINN: Thank you very much.

HON. LIPPMAN: Thank you, Speaker Quinn.

(Witness excused.)

HON. FISHER: Two home runs. The pressure's on, Chief.

HON. LIPPMAN: Two home runs.

You could see that this was Speaker Quinn's fan club here (indicating).

SPEAKER QUINN (From the audiendce): I think I did something.

HON. LIPPMAN: Okay, we now have a third real slugger here, Fern Fisher, the Deputy Chief Administrative Judge in charge of the New York City courts and our statewide Access to Justice leader who will testify next.

I just mentioned that Judge Cirparick from the

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Court of Appeals is here today, my colleague. And Judge Acosta from the Appellate Division, Justice Gonzalez' colleague. And we had the pleasure of serving together. Steve Banks, member of the Task Force; Lillian Moy, a member of the Task Force. We're so -- so glad that you're all here with us.

And now Judge Fisher.

HON. FISHER: Good morning, Chief Judge, Chief Administrative Judge, Presiding Justice and President James. Despite the number of pages I have with me, this is a summary of my written presentation.

HON. LIPPMAN: Let me just say I missed -- Chris O'Malley is here, too.

Go ahead.

HON. FISHER: This year the Task Force has asked me to address two topics.

HON. LIPPMAN: Yes.

HON. FISHER: I will first address how the 17 million in funding awards in the First and Second Department to legal services providers and pro~bono efforts have made a difference in closing the justice gap. Second, I will provide an update on efforts to standardize and simplify practices and forms throughout the state. The latter effort was proposed by the Task Force and is being carried forward by Judge Coccoma, the deputy chief

HON. FISHER

administrative judge for courts outside the City of New York, and me.

If you ask individuals who've been assisted by legal services providers how their live's been changed by the assistance they've received from the civil legal services grant money, the answer would be a resounding yes.

If you asked the provider organizations have the grants made a difference in their ability to provide services, each program will uniformly answer yes.

Both clients and providers are grateful that the New York State Court System is forward thinking in understanding the moral imperative to close the justice gap. Our government partners will be happy with the cost savings that legal assistance has produced through these grants.

I have provided examples to illustrate the impact of the funding. These examples are a snapshot of the total picture of the success of the funding and the work that legal providers and volunteers have accomplished. And I'm only summarizing the cases; the full presentations are in my written presentation.

The civil legal services funding provided critical support for Legal Services NYC, my home office, service delivery system in fiscal years '12 and '13 since

the program suffered from dramatic cuts to Legal Services Corporation funding during these periods. Overall, the civil legal services funding supported the delivery of the legal services to thousands of families and individuals. The grants have allowed NYLAG, the New York Legal Assistance Group, to hire fifteen additional attorneys which resulted in the handling of 5,000 more cases. One of the 5,000 cases was Aron, an 80-year-old deaf individual with limited mobility who's living in a rent-regulated apartment that he had occupied since 1960s. The efforts of the attorneys on his case kept Aron, an 80-year-old man, from being evicted. We are a kinder society because of the efforts of that lawyer.

Another individual's whose life was altered was Samah, an immigrant from Tunisia who was a domestic violence victim. The law student working on her case under the supervision of a lawyer was able to get her support and a order of protection. But, most significantly, the attorney -- the law student who was assigned to the case -- and I think this is an -- illustrative of your rule, Chief Judge -- the law student said, "This was one of the most difficult yet rewarding experiences I've ever had as a law student." And Samah said she felt completely relieved now and is fully truly optimistic about the future.

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These grants have allowed providers to assist individuals who have multiple layers of legal problems. Miss P.'s case is an illustration. She was represented by the Legal Aid Society and she was a domestic violence victim who had trouble getting public assistance, and Legal Aid's intervention kept her family from having to stay in the shelter. Miss P.'s life and her children's lives were saved from not having to stay in the shelter any longer, and the City of New York benefited by the savings of no longer keeping the family in shelter.

CAMRA [phonetic] used civil legal services funds to serve 1,112 clients in legal matters in the central life categories, including housing, family law, subsistence income, including consumer debt litigation. The majority of these services were provided to people living in Brooklyn, although some were provided in Staten Island.

In an eight-month period from last year the Bronx Defenders opened or closed 2,206 essential of life legal matters benefiting 3,531 people. They represent an additional 1,563 people on other legal matters ranging from immigration issues to individual rights. Their early intervention model assisted in keeping many legal issues from ripening.

The civil legal services funds last year to the

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Center for Family Representation resulted in remarkable, remarkable statistics. Last year CFR kept 73 percent of children of their clients out of foster care entirely. The children and their clients did not enter state for a median of just 2.2 months, which is significantly shorter than the New York State average of 29 months and the city median of 6.4 months. Furthermore, their services provided notable significant cost savings. CFR services cost about $6,000 per family regardless of the number of children. The minimum cost to keep a child in foster care in New York State is $29,000 per year per child. CFR estimates that their services generated tax payer savings of $6.9 million in a single year.

Legal services providers attorneys and support staff are the underpaid, overworked heros and she-roes of New York State. Their dedication to serve often is unrecognized, but the Court system knows that they make a difference every day, life by life, and we applaud them. And in my own style, I hug them and kiss them whenever I see them.

I want to, however, also recognize the volunteer efforts that the civil legal services funding has provided. These volunteer lawyers and law students have halos over their heads and deserve angel status in my opinion -- and I think the Cardinal would agree with me.

HON. FISHER

The civil legal services funding provided $162,000 for all departments to NYLAG, the Brooklyn Bar Foundation of the New York County Lawyers to partner with the courts to provide limited scope representation to consumer credit defendants in Civil Court.

In 2011, 3,577 defendants were assisted by law students and volunteer lawyers. And, thus far, from July of 2012, 2,666 defendants have been assisted by volunteers. The results of representations are a stark experience compared to the experience of an unrepresented defendant. This effort has national attention for success with limited scope representation and the use of volunteers. With just a little bit of money and a productive partnership, thousands of lives have been improved.

With the numbers of unrepresented litigants still coming into court, the Task Force urges simplification and unification of all court procedures. The simplification and uniformity journey is ongoing. Judge Coccoma and I have formed subcommittees in the following areas: Landlord and tenant, foreclosure, family, consumer credit, small claims, surrogates, Supreme Court and divorce. The subcommittees each have judges and/or court clerks and bar leaders from across the state. The landlord and tenant subcommittee is

tweaking a final draft of a tenant answer in a non-payment proceeding and then we will move on to other things. The family committee has finished a child support modification form that could be used to develop a new DIY program. The foreclosure committee is working on a foreclosure handbook for owners and a uniform settlement conference order. The consumer credit committee is reviewing all consumer credit practices and forms to ensure that defendants receive uniform access to justice and plaintiffs can rely on uniformly. The divorce committee is tackling simplifying the morass of the uncontested divorce process and forms. The Supreme Court is looking first at a uniform court person's petition and procedure. And the surrogates committee is reviewing the Article 81 system.

All forms will be made into plain language. Each subcommittee will send their work product to the main committee chaired by Judge Coccoma and me and then onto Judge Prudenti and/or the administrative order as required. It is a big process.

In the words of The Carpenters, and I'm dating myself, "We have only just begun." Courtrooms are still filled with unrepresented litigants and the numbers seem to keep coming. And legal services providers turn away more people than a democratic society should turn away.

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Without the funding Judge Lippman has obtained thus far, the thousands served would be living different lives. However, we still have far to go before we can rest. The destiny end, a permanent civil legal services funding that's adequate for all.

Judge Lippman, we wish you good health and a sustained abundant energy level so that you may lead us to journey's end.

HON. LIPPMAN: Thank you.

HON. FISHER: Thank you so much.

HON. LIPPMAN: We appreciate it. Thank you for your testimony. A couple of quick questions:

When you look at, you know, in your role as sort of the overall Task Force -- not Task Force, the overall access to justice head in our state, what do you see as the real holes today? Is it more by location? Is it by type of service that's necessary? Where are we lacking? Is it some parts of the state we're doing okay, other parts not so well? Or we're doing okay with domestic violence victims but not on foreclosures? Is it just an overall need or are there pockets?

HON. FISHER: Chief, it's still an overall need. And I think we're putting our best efforts out, but we still have more and more to do. I mean, clearly rural areas are hard to tackle because of the geographical --

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HON. LIPPMAN: Geographical?

HON. FISHER: -- it's just really hard. And I think we have to look at more technology to try to span that problem.

HON. LIPPMAN: Upstate technology would be very important.

HON. FISHER: It would be very important. And I think we can make some strides there. But overall it's just the same problem, every place, everywhere, every type of bread and butter issue.

HON. LIPPMAN: The need is so great.

HON. FISHER: The need is great. We have our fingers in the holes in the dike, but we're still getting holes other places.

HON. LIPPMAN: What do you see on the ground in terms of the viability of providers? Are they still -- even with monies we've been lucky enough to get, the other monies they get from different places, what's the viability of our providers? They're still living hand to mouth?

HON. FISHER: They're living hand to mouth. And I think they're doing an heroic job with the funds that they have, but we're putting a lot of pressure on them by the lack of funding. Their staff attorneys are overwhelmed, their executive directors are overwhelmed, and yet they keep in the course. And you've got to give them credit for

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that.

HON. LIPPMAN: Thank you.

One final question: Volunteers, what else do you think we should be doing? You know, the bar has done a terrific job in putting in for the new members the 50-hour requirement. What else can we do to promote pro~bono?

HON. FISHER: Well, I think that the law student requirement certainly will produce more law students, because we have many already. I think that's a great step in the right direction. I think, you know, this is my issue and everybody knows it's my issue, I think more limited scope, opportunities for volunteers to make it easier to volunteer as long as it's the appropriate case and they're appropriately trained.

HON. LIPPMAN: A structure.

HON. FISHER: We need more of an infrastructure with that. And we can expand that outside the city.

I am very pleased to see that there's a CLARA [phonetic] program opening up in Westchester. That is fantastic. We could see more CLARA programs throughout the state. There's a lot more we can do. I think limited scope is appropriate for certain kinds of cases.

HON. LIPPMAN: Okay. Anything else? Okay. Thanks.

HON. FISHER

HON. FISHER: Thank you.

HON. LIPPMAN: Judge Fisher, as always. Keep up the fight. You're doing great.

(Witness excused.)

HON. LIPPMAN: I would mention that also from the Task Force, Mark Cunha is here over there (indicating), Shelley Dropkin, uh-huh, Debbie Wright is here and Marsha Levy is here somewhere. Marsha. Denise Cronstat [phonetic] is here and Nadia Greeb is here. That's from Assembly Woman Weinstein.

Anyway, our next witness will be Dr. Elizabeth Becker, the senior vice president of NERA Economic Consulting.

Dr. Becker, great to have you.

DR. BECKER: Good morning. Thank you for having me.

I also would like to thank you, Speaker Quinn, for really T'ing up my topic very nicely in asking for a cost benefit analysis of the provision of civil legal services. I -- as an economist, I think it's important to recognize that returns to the provision of civil legal services far outweigh the cost of providing them. I have been asked by the Task Force to focus on one specific type of benefit that is --

HON. LIPPMAN: Doctor, move the mic a little

closer to you.

DR. BECKER: Okay.

HON. LIPPMAN: I can hear you perfectly, but some of the others can't hear.

DR. BECKER: I've been asked to evaluate the economic benefit from just one type of benefit that's enjoyed by low income New Yorkers as a result of the provision of civil legal services, and that's what's the economic benefit that flows to the direct beneficiaries of federal benefits that are received as a result of provision of civil legal services, and then what is the overall impact on New York State as a whole from the flow of those federal benefits into the state.

I've been asked to look at the economic benefit to the beneficiaries of the federal benefits in two different ways. First of all focusing only on the benefits that are enjoyed in 2011 alone, just that one year alone. It also has been shown that once beneficiaries are enrolled in a program the duration of their participation in the program can extend for many years. The estimates are nine to ten and even ten and-a-half years, depending upon which particular federal program you're looking at.

So recognizing that there is an investment value that's been created as a result of the provision of civil

legal services that can generate economic benefits far into the future I've also been asked to look at what that longterm value created is as a result of the efforts that have been made on the behalf of low income New Yorkers.

I also was asked to evaluate the impact on New York State as a whole. Once that money from the federal programs comes into the families who have enjoyed benefits that they otherwise would have lacked, they have that money available to spend on food and clothing and housing, and that generates benefits to others.

HON. LIPPMAN: Ripple effect.

DR. BECKER: Yeah. There's a large multiplier effect.

And then, lastly, in recognition that New York is a net sender of money to Washington, I was asked to put it in context and provide some information about how much of a return to favor treatment relative to our outflow of funds to Washington we're enjoying as a result of some of these federal benefits coming back into the state.

So, in a nutshell, the economic value of the -- well, the positive financial impact in 2011 alone of access to benefits from several specific federal programs is about $378 million. That's just 2011 flow of funds for the federal benefits alone. The longterm positive

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financial impact is far greater than that, because the expected duration of participation in the programs is so long.

HON. LIPPMAN: 370 is what comes in?

DR. BECKER: One year.

HON. LIPPMAN: In one year?

DR. BECKER: 2011 alone. 378 million.

HON. LIPPMAN: Now you're talking more ripple effect from them.

DR. BECKER: Right. The long term estimate of positive financial impact could range as high as $682 million if you projected participation of ten years in the program once -- in these programs once enrolled. So if you put those together you're over a billion dollars in economic benefits from participation in these programs.

HON. LIPPMAN: Over how long a period is the billion dollars?

DR. BECKER: That would be if you estimated it for ten years.

HON. LIPPMAN: Right. In a decade.

DR. BECKER: Right.

In a more modest estimate, if you assumed that the participants would continue in those programs for only five years instead of ten years, you're still very -- you're still at about $900 million. So very

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close to a billion dollars total.

HON. LIPPMAN: Just talking about federal monies coming in, not any other benefits?

DR. BECKER: That's correct. That's correct.

The multiplier effect of that for New York State as a whole is that it's about 1.5 of a multiplier effect. So if you apply that to the 378 million for the 2011 benefits you're over 500 million just for 2011 benefits. And if you apply it to the billion dollars that you've have generated over the ten-year period, you're getting to about a billion and a half dollars in benefits for New York State as a whole over the ten-year period. There's very significant benefits that are flowing both to the direct beneficiaries of these programs and to New Yorkers as a whole.

Putting it in context of what New York State's excess tax burden is to Washington, New York State receives back in expenditures from the federal government less than 80 cents on the dollar for every dollar in taxes that we send in federal taxes. It's about 79 cents on the dollar. And that leaves us with an excess federal tax burden of about $20 billion a year. And so if you're looking just at the $378 million in 2011 of how much we're receiving back in funds for participation in these programs, we're reducing our excess tax burden by only

about 2 percent. So we're putting a little drop in the bucket for fairness relative to -- being treated relative to Washington, but certainly there could be more added to that to restore our position relative to our contribution to Washington.

To just provide a little bit more detail, the specific federal benefits that I evaluated were supplemental security income, which is a federal program that makes monthly payments to low income people who have a few resources, low asset values, and who are age 65 and older or who are blind and who are disabled. The eligibility for SSI does not depend upon having participated in making contributions to social security; the social security disability income program is an additional federal program that pays monthly benefits to people who cannot work because they have a medical condition that is expected to last for at least a year or result in death. That eligibility is tested with very specific and detailed rules about years of work and about contributions into the social security benefits program.

(Continued on the following page.)

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Dr. Becker

DR. BECKER: Another Federal benefit that is tied to state benefits is unemployment compensation benefits. Generally speaking, unemployment compensation is provided at the State level. However, because of the extreme nature of the economy that we're in now, the Federal Government has provided an emergency extension of unemployment compensation benefits that supplements the benefits that unemployed persons would get at the State level, so if you take into consideration the Federal extension, there are some Federal benefits flowing to New Yorkers in unemployment compensation.

Medicaid, again, is a program that is funded at the State level, but some of the provisions of Medicaid benefits is reimbursed by the Federal Government, as well, so there is Federal support coming in if we're be able to provide needy persons with access to Medicaid benefits, and the earned income tax credits is another category of Federal benefits, so persons who are working and paying taxes, but at a sufficiently low income may actually get some earned income tax credits on their Federal taxes if they are aware of and are able to properly qualify for those earned income tax credits.

And then, there are a variety of smaller

benefits, like veteran's benefits, for example, that fall into a more miscellaneous category. I was provided with data from my old office that detailed the incremental benefits that were received as a result of the provisions of the civil legal services, and used that information in order to provide the estimates that I talked about, the short term benefits, the long term benefits, the benefits to New York State overall, and then used them publicly available sources to estimate what the reduction in New York excess state tax burden would be as a result of that money flowing in.

JUSTICE LIPPMAN: Just a couple of quick questions.

You know, there's so much talk in Washington these days about entitlement and cutting back entitlements, and but the point is that what you are reporting on are really monies that are just what that term means, that people are entitled to, and yet New York there's so many people who can't access it because of a lack of a legal knowledge to be able to interface with the different bureaucracies. Is that really a more layman's way of describing what's going on?

MISS BECKER: Yes.

Dr. Becker

If you look at the qualification for those benefits, these really are benefits for the neediest people. They're benefits for blind, disabled persons, persons who are older and lack access to resources to support themselves, and to your point about needing civil legal assistance in qualifying for and maintaining these benefits, I have a Ph.D in Economics. In looking at what you need to do to qualify for benefits, I'm not sure I could work my way through it myself.

JUSTICE LIPPMAN: That's what it is. It is ironic that so many of these benefits are designed to help those most in need, you have to be a nuclear physicist to figure it out.

MISS BECKER: I am truly amazed. In order to understand what your qualifications are, if you go on-line and look at the application process, particularly for the services for disability income, that particular program is extremely difficult to qualify for, and the process can take -- there's a warning even on the Government web site that the process could take up to a year to qualify for those benefits. It's something that I think a low income, or an elderly person might have extreme difficulty in being able to navigate through that.

Dr. Becker

JUSTICE LIPPMAN: None of the individuals are short-changed.

The person who really needs the help of state is short-changed because in some fashion or another, those people wind up being, quote, "a burden" on the state because they're not getting what they're entitled to, and the Federal Government contributes to this gap that we're talking about between what we give to the Federal Government, and what we give back here.

DR.BECKER: That's right. They're going to be a burden to the State because they're going to need these services and the support coming from some source, so having them get it from source to which they are entitled from the Federal Government I think is the wisest way to make sure they're taken care of, and the other economic benefit is that the rest of New York State, New York State residents as a whole enjoy benefits from the fact that this money flows in and gets spent on things that we are providing, and that it also, as a consequence of that extra money coming in and being spent in New York State, there's job creation, as well. It's estimated about 5,600 jobs would be created from the inflow of funds from 2011 alone.

Dr. Becker

JUSTICE LIPPMAN: Just one other quick question; when you talk about the analyses, and Speaker Quinn was talking about it, and we know what the task force has done with your help and others, a number of these sites, how difficult is it to target these kind of studies to a particular part of our City or State?

Is it much easier to do the broader based numbers, or can you do a kind of thing that Speaker Quinn was talking about, kind of a cost benefit analysis broken down into a kind of more discreet area, rather than the State? Most of the data comes Statewide.

DR.BECKER: Well, the data that I was looking at were Statewide, but the way I understand Loyola is maintaining the data, it would be evaluated on a regional basis.

JUSTICE LIPPMAN: Good.

DR.BECKER: We talked about providing some estimates that would be done on a regional basis, and didn't undertake that exercise this year, but because the detailed data is coming from the organizations that are actually providing the civil legal services, you can engage in that exercise, and then the multiplier affects. Those multiplier, multipliers

are also available on a regional basis, so you can also estimate separate regional multipliers.

JUSTICE LIPPMAN: Any other questions?

JUSTICE PRUDENTI: Just one follow-up question, Dr. Becker.

Dr. Becker, you told there are over 370 million people in 2011 seeking Federal benefits.

When you are looking at the data, is there any way to know what additional benefit they could have been entitled to if we were able to navigate the system?

DR. BECKER: If there are additional unmet needs that had been met, I mean, I don't have the information to know that, but I think that based on the testimony from the folks that have come in before me, there are clearly additional unmet needs. There's untapped access to benefits that I think you would probably characterize it as actual value of the benefits, the money that's coming in from the people who have benefits, Social Security, so I think there's -- you know, if you had an estimate of how much unmet need there is, you could project some unmet value I think, as well.

JUSTICE PRUDENTI: Thank you.

JUSTICE LIPPMAN: Anything else?

Professor Hatfield

Thank you, Doctor. Thank you for all your help.

DR. BECKER: Thank you.

JUSTICE LIPPMAN: It is really greatly appreciated.

The next witness is Professor Gillian Hatfield, and I've had the pleasure of dealing with Judge Hatfield -- I'm not sure which Professor Hatfield before, and she is the Kirkland Professor of the Law and Economics at the University of Southern California Law School, and I had pleasure of hearing her up at Harvard Law School. I think she brings a little different prospective to this issue of dealing with the legal problems of the needy, so Professor, thanks so much for coming and great to have you.

PROFESSOR HATFIELD: Yes. Thank you, Chief Judge. Justice Gonzalez, and President James, thank you so much for having me talk to you about a part of the access to justice problem we don't talk about very much, and those are the solutions that we need, in addition to more money, which we also very much desperately need.

As a lawyer, and an economist, and -- I'm a triple threat of equivocating, but I want to unequivocal here.

Professor Hatfield

Money alone can't solve the access to the justice problem. We are behind in terms of the whole country in terms of how much money we put into Legal Aid, and funds for the courts, and the Judges in the United States. It is still only a component of the problem.

The thing I think it's a major mistake for the profession and the judiciary not to be focusing on this point is changes in the regulatory environment to allow non-JD assistance to people with needs. It's perfectly feasible to do this intelligently and in ways that protect the people who need assistance to do it with insuring quality, help, and substantially reduce the Court burden. That's the thing that we don't talk about very much, and I think --

JUSTICE LIPPMAN: Certainly, here in the U.S., right? Around the world there's a lot more of what you are talking about.

PROFESSOR HATFIELD: Yes. Absolutely, that's right, and we are exceptional for the stance to which we require every instance in which somebody has a legally required J.D. Bar license.

JUSTICE LIPPMAN: Professor, I don't want you to scare the press too much.

PROFESSOR HATFIELD: I think this is actually a great solution to our under employment problem for lawyers, as well.

JUSTICE LIPPMAN: I think this can mesh.

PROFESSOR HATFIELD: I agree. I'm an optimist. Again, the economist part of me, as well says -- you know, I have another economist in the room. Fortunately, we are way up there on the demand curve. If we can bring that cost down, there's so many people who can get assistance. There's still lots of money to be made for a lot of people I think. I'm an optimist.

Let me put in prospective the reason I say this is essential. It cannot be something that we just push to the side any longer. I think it's quite a crisis. We need to address it, and that is the disproportion, which is the size of the need that you can concededly ever do with public funding, which I say we absolutely need more public funding. We're behind on that, as well, so your task force report focuses on the fact that there are a million low income households living at 200 percent or less of the poverty level in New York. At least that was true in the 2010 study. We heard earlier that is probably a higher number today. That's some three

million people they have an average of one-and-a-half legal problems. Those are who have trouble, we're looking at one-and-a-half million legal problems in just that group at any one time if you stop people on the street. If you would wanted to provide one hour of legal help for those people at the $200 an hour that is the average rate for a general solo small firm practitioner, right there we're talking about $300 million for one hour of help. Of course, that's not very much. Measure that up against the twenty-five million that's available to your judiciary for the civil legal services initiative. If you spent all of that on help for all of these individuals, it's seven and-a-half minutes of help per household. It's really nothing.

How about pro bono? Clearly, a very important part of our initiative, a very important part of attorneys's obligations to the profession I think, and obviously, something that the State of New York has taken very seriously here. If the 150,000 New York attorneys were going to try and meet this need, they'd have to put in ten hours each additional each year pro bono for every hour of assistance that you needed for that 1.5 million legal needs.

Another little bit of data; the national

average from the ADA 2008 pro bono study showed that the national average for attorneys is spending 28 hours a year on pro bono services directly to individuals. Attorneys also provide pro bono services to organizations. Directly to individuals is 28. They spend an average of 24 hours per case that they work on. That's roughly one person helped per attorney per year. 150,000 attorneys, that's 115,00 New Yorker's with legal problems. That's ten percent of the need among low income households. If I had some visuals here, I'd say here's what we can do with the essential Legal Aid pro bono and public assistance money that we can do, but here's the size of the need, and to fill that gap, we can't only focus on money. That doesn't even -- looking at those numbers, the reason I think this goes up, and up, and up, and can't reach maybe that ceiling means something here. That doesn't include the upfront legal advice for people before they get into the problems that Legal Aid needs studies focus on.

The legal needs study focus on the are you in an eviction situation, are you facing foreclosure, are you in a family crisis? Of course, the organizations, incorporations that can access a lot of legal help, where do they use most of their legal

help? They use it up front to avoid those problems, to get advice about the law, advice how to handle things, to understand their regulatory obligations, so this is -- the need goes up tremendously. This is why I say it's expanding access to justice, and helping to solve a problem with the Court, and the Court burden absolutely requires increasing the supply of lower cost legal help, and I think that requires non-J.D. legal assistance. I know this is something that can cause lawyers in the room to get kind of, you know, foggy headed, and assertive, how can we talking about this, but I want you to think about medicine.

The health care system involves multiple professionals, many professionals. It's a team support, so in the provision of health care, we have RN's. We have nurse practitioners. We have pharmacists. You can get your flu shot at the drugstore now. We have radiologic technologists. We have chiropractors, physical therapists, certified registered midwives, certified registered nurse anesthetists, registered massage therapists. It goes dot, dot, dot, on, and on, and on. A number of these professionals, other than M.D. trained doctors, can provide services directly to people with health care

needs. The nurse practitioner can work in a clinic, not under the direct supervision of a doctor, and he or she is trained to provide various levels of assistance, various levels of care, and --

JUSTICE LIPPMAN: Can you determine where they can provide in our case services, and where they can't? What's the dividing line between, I guess, it's the same issue as within the medical community, you know, where do you need a doctor, and where can you get something else, and how do you deal with the issue that because we've been concerned in New York for many years about the unauthorized practice of law?

PROFESSOR HATFIELD: Right, right.

JUSTICE LIPPMAN: How does that work?

PROFESSOR HATFIELD: So, I think one of the things is that this is something that we need to determine, what would be a reasonable set of guidelines for it, but it's very clear --

JUSTICE LIPPMAN: If you can set the line pretty much where you think appropriate.

PROFESSOR HATFIELD: Well, that's right. This is something that the U.S. has literally up until last month, as you know in Washington state, has no experience with this. Washington state has

only just begun. They're looking to establish an environment for this. The UK --

JUSTICE LIPPMAN: That's in effect in Washington?

PROFESSOR HATFIELD: Yes. September, 2012, they've just set up the forum.

JUSTICE LIPPMAN: I know you're just going to bring up the United Kingdom.

PROFESSOR HATFIELD: Yes.

JUSTICE LIPPMAN: What's going on there now? They have this different approach, which relies to a significant degree on non-lawyers, and yet that's all being cut back now in the UK.

PROFESSOR HATFIELD: Well, the UK has always allowed, you know, anybody, pretty much anybody to give legal advice. You can't call yourself a solicitor. If you are a member of a solicitor's association, you can't appear in Court, unless you are a barrister. They're bringing that down. They have always allowed organizations, consumer organizations, community organizations, online services, paid services to provide services, so if you are a union rep --

JUSTICE LIPPMAN: What is being shut down?

PROFESSOR HATFIELD: Legal Aid is being cut

back. I don't have the numbers in front me, but they are many, many, many times ahead of us in terms of the amount per person of Legal Aid. I think they would have to drop to a third, or less than what they are currently doing to be where we are today. They have full Legal Aid across all --

JUSTICE LIPPMAN: Legal Aid meaning lawyers?

PROFESSOR HATFIELD: Legal Aid meaning both lawyers and --

JUSTICE LIPPMAN: Also, a great support system.

PROFESSOR HATFIELD: So, for example, they have organizations that can be non-lawyer staffed that will specialize in assisting people in Housing Court, or with benefits, and there has actually been studies in the UK to demonstrate that the specialized organizations that, you know, have done thousands, and thousands, and thousands of housing cases, or benefits cases, they develop protocols. They've developed expertise, and they actually produced a higher quality result than the solo practitioner that are the -- often people go to as an alternative because solo practitioner doesn't have the organizational support, the expertise, and can't specialize. This is I think one of the key things.

Professor Hatfield

I know it's very important to think about quality in doing this. I want to a reassure you, I'm very confident, there's many ways to assure quality. It's important to remember that a key source of quality in services is specialization.

JUSTICE LIPPMAN: It's hard for us to understand. President James can probably. We're so used to the fact that, and pride ourselves on the fact that lawyers provide legal advice, and if you are not getting advice from a lawyer boy, you're wading in troubled waters because you just don't know what you are getting. It's just the way they do this. In places where that's done, is it regulated by the Government? Who ensures that the standards of what one would want them to be?

I understand what you're saying. Maybe someone doesn't have the talents of a trained lawyer as a whole, but in a particular niche, could be able to provide very specialized on folks legal advice? What ensures that quality?

PROFESSOR HATFIELD: So, in any of these sessions we are not talking about necessarily unlicensed providers, unregulated providers. You can still license. The nurse practitioner is licensed, so let's think about Washington state.

They created a category of limited licensed legal technicians. That's still a license.

JUSTICE LIPPMAN: That's the --

PROFESSOR HATFIELD: That's the Washington one. That's still a licensed provision. That still requires certification. That still requires, you know, enables the threat of the regulatory board will take away your license to practice if there's complaints.

JUSTICE LIPPMAN: In the broadest strokes, what do they do in Washington state?

PROFESSOR HATFIELD: In Washington state --

JUSTICE LIPPMAN: This new category.

PROFESSOR HATFIELD: Yes. You're going to press my memory, but as I recall, I can check up on this and confirm. So, they can help people fill out forms. That means more than serving the scribner, which is all that's really allowed, even in states that have licensed document preparers. They can say here's what they're looking for on the form, here's what that means. They can furnish legal documents, whether it's court orders, subpoenas. Talk can talk about and respond on Court procedure. They can't represent anybody in Court. They can't appear in Court. They can't speak to the other side. They

can't represent in that sense, but I think they can assist in some of the drafting of this, but a lot of it is really assistance for pro se, unrepresented individuals, so they're not representing, but they can provide a lot more assistance, and explain some basics, and they are obligated under the terms of, again, the licensed instructions being worked out, and being obligated to pass on and recommend somebody to speak to a lawyer for anything that goes beyond their scope and competence.

JUSTICE LIPPMAN: What do you think can be the impact in a state like New York, let's say for the sake of argument, doing something along the lines of Washington state?

PROFESSOR HATFIELD: What would be the impact?

JUSTICE LIPPMAN: Impact on this particular justice gap that we're interested here in, which is the gap between legal services, the need for legal services for the poor, and people of modest means as compared to the resources that might be available?

What could that do in New York?

PROFESSOR HATFIELD: I think that can make such a difference.

Number one, it can, so my colleague before

me spoke about the multiplier effect. I want to think about there's a way in which allowing the instructions in place can really multiply drastically the effect on the public both by providing structures in organizations, and protocols that can make effective use of the lawyer's use of the services that you have, so that can somebody can be, using for example, a differently licensed individual for assistance in interpreting a form. Then when you need representation, or when you need more than advice, if you're going to defend your eviction claim by saying that your roof is falling in, you have no heating, as you heard about at one of your earlier hearings, you need -- I don't think you need a J.D. for somebody to bring something along. I think you can also -- because if you really put it together with the lower cost services, and you allow community organizations to do it, remember right now we're not only closing out for profit organizations, we are closing out other community organizations, unions, and so on.

JUSTICE LIPPMAN: What about, do you think the legal service providers would welcome assistance in terms of the array of services they apply under their roof to a lot of these people?

Professor Hatfield

PROFESSOR HATFIELD: Yeah. I think, for example, I know it's a scary option for a lot of lawyers to think about, although I think it's very important for us to keep in mind our primary obligation to regulating the profession to provide access, and not preserve our current, our current market position on that, but I actually think the law, if you are able to work, for example, if you are a licensed attorney, and you were able to work with non-lawyer providers, you could, basically, significantly increase your capacity to perform your own services because there wouldn't be the same kind of direct supervision that was required. It's a little bit like if I'm a doctor, and I had a nurse practitioner, I can ask the nurse practitioner to work in a clinic without having to come to me for approval on everything that he or she is required to do. There's many ways in which you can. One of the key things that drives up the costs of legal services for ordinary people is incredibly small scale that the practitioners operation. We don't have the benefits of sharing organizational capital, the phone calls. Anything in the light of that scale should reduce the cost, as well.

JUSTICE LIPPMAN: Thank you. Professor,

that's a good thing.

President James --

PRESIDENT JAMES: You discussed, or you talked about preparing the cost of a solo practitioner. Legal services providers, if they had paralegals working under the supervision of an attorney, wouldn't that, in effect, provide the same type of services that you are discussing because then you would have an organization, which was working with the non-attorneys and providing them with guidance?

PROFESSOR HATFIELD: You really need something. I think, for example, you could be at the courthouse and working, working in an office that doesn't have the direct supervision in order to; yes, it would be helpful, and I assume there is some use of paralegals that goes on at legal services corporation. Again, what we're thinking here is you need to enable people to come in and start performing, and serving in these organizations, in organizations that aren't funded through public money. We can certainly do more.

JUSTICE LIPPMAN: You are talking about community based, and not necessarily not-for-profit.

PROFESSOR HATFIELD: Not necessarily

not-for-profit, yes. I think you can have both profit and not-for-profit organizations that are doing this.

JUSTICE LIPPMAN: But, in answer to President James's question, there's really -- it's optimal use from the perspective of what your suggesting and would not necessarily be in a big legal services entity, it would be more sort of on a localized basis where people come in and get help, and wouldn't necessarily be going to a lawyer?

PROFESSOR HATFIELD: Yeah.

JUSTICE LIPPMAN: They're going to some for-profit or not-for-profit entity that provides in, quote, "legal assistance," and maybe those people are in some way registered, or in some way licensed --

PROFESSOR HATFIELD: Yes, yes.

JUSTICE LIPPMAN: Is the template that you are talking?

PROFESSOR HATFIELD: Yes.

And part of the opportunity is also provided services on-line, on the phone, and in other kinds of environments in other sessions.

JUSTICE LIPPMAN: Very interesting.

Anything else as presented?

JUSTICE PRUDENTI: The only question I have,

again, if you can follow along with what the President was saying so far is that, you know, in New York there's extensive use of this, and the difference, if I understand correctly what you are talking about in the Washington state guidelines, they set up individuals, whatever you might call them, paralegals, or whatever they may be called, are licensed individuals that are on their own, not with the structure of a law firm?

PROFESSOR HATFIELD: Yes.

JUSTICE PRUDENTI: They're duly licensed attorneys?

PROFESSOR HATFIELD: Yes, yes. That's right, that's right. That's also the indicated throughout the U.S.

JUSTICE LIPPMAN: Judge Gonzalez, anything else?

JUSTICE GONZALEZ: No.

JUSTICE LIPPMAN: He's not sure. That's why Professor Hatfield is here, to suggest that maybe we have to look at new avenues.

PROFESSOR HATFIELD: Yes.

JUSTICE LIPPMAN: Anyway, thanks so much. So interesting to get this different prospective on it because I think the issues, we know we're seeking

public monies to go in a certain direction, and we're seeking volunteer efforts on the part of the Bar to supplement that.

The question is, what's the mix of that with maybe some other mechanism of providing the service, so it really is very entertaining. I so appreciate your coming down and coming here, and as always, it was interesting and provocative.

Thank you so much.

PROFESSOR HATFIELD: Thank you, Judge. Thank you, Judge.

JUSTICE LIPPMAN: Provocative in New York.

C.DUNNE

HON. LIPPMAN: Our next witness is the president of the New York City Bar Association, President James, who's counterpart here in the city, the president of the storied New York City Bar Association, Carey Dunne who's a partner in Davis, Polk & Wardwell and is the president of the city bar.

President, I'm so grateful to have you here.

MR. DUNNE: Thank you. And, Chief Judge Lippman, Judge Prudenti, Justice Gonzalez, Mr. James, just for the -- so the record's clear, I am not a Ph.D. in economics.

(Laughter.)

HON. LIPPMAN: To set the record straight.

MR. DUNNE: A couple of hard acts to follow there. I'll do my best. I do have a sense this is about money, so that's economics, I suppose.

I'm obviously honored to testify before you today. As you know, the city bar has long been committed to providing access to justice. We work to achieve this, as I think you know, both on the local, national, international levels. In addition to our legal and policy work in this area, our public service affiliate, the City Bar Justice Center, is the arm through which we provide direct legal services which tries to leverage the efforts and the resources of the city's legal community

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to bring access to justice to low income individuals.

The city bar in particular applauds the Chief Judge and -- as well as the Task Force, for its efforts and leadership in this area which have made, we think, New York a nationwide leader in the provision of these services to the poor. We note that as a result of these efforts and despite our difficult economic times our judiciary budget provided a $12.5 million increase in legal services funding both last year and this year for combined 25 million which we think is a remarkable result in these times.

As we all know, however, this funding increase is well short of where we need to be. Unfortunately, we are still confronting an intractable demand for civil legal assistance that all of we legal service providers and all of the considerable pro~bono efforts that are being brought to bear cannot still come close to meeting.

There are a lot of statistics obviously thrown around; one that I just can't get past is the number of 2 million, that is over 2 million New Yorkers who walk into court each year without legal counsel. They generally obviously don't have the skills and often even the language ability to pursue, defend their legal positions and are therefore very much at risk of losing shelter, subsistence or their families in many cases. We

think that if these parties received representation not only would their chances of success be greater but their cases would be more efficiently and effectively handled by the court system and they might be able to recover some of the hundreds of millions of dollars which New Yorkers are owed every year in federal benefits for which they're eligible but which in many cases are not receiving.

Unfortunately, nothing happening in the larger world these days gives us any comfort that these needs are going to be met any time soon. Recent census statistics show that the poverty level in New York City grew in 2011 to 20.9 percent with almost 1.7 million residents classified as poor. Median income obviously declined, unemployment still stubbornly high. And these figures don't even reflect those who have given up looking for work.

So obviously these statistics are -- painted a very difficult picture. And we note also that given the redistribution of federal legal services that's likely to happen as a result of increased funding to other jurisdictions around the country given what's happening to their communities, even if the national allocation of legal services' monies remains the same, the award that's given to New York may actually see double digit declines

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in the coming years.

So what can be done? We think it's -- there's no real silver bullet as we see it, it comes down to money and to money in the form, frankly, of pro~bono resources. We need -- you know, desperately need more additional civil legal services funding. We think that there is no single means of providing these services to the poor which is as effective as the tried and true experienced legal services offices and lawyers that operate so heroically in our communities. They simply need more money, both to offset federal losses and to try to meet the enlarging need.

We note that they, as reported, turn away at least 80 percent of those that come to them for help. So we urge that the judiciary budget continue to include substantial increases to move closer to the $100 million goal that has been set by Chief Judge Lippman.

We also, again, need to get help from other sources. And mobilizing the private bar remains a judicial secondary way which can help to achieve this goal. Many lawyers obviously have heard the call and give very generously of their time. For example, the City Bar Justice Center, we have 2,171 trained volunteers who work with the staff every year and which last year assisted nearly 20,000 people in need. And that was an

increase of a value of pro~bono legal services donated through these programs from 18 million two years ago to $20 million last year. So these things can be increased in various ways.

And -- However, even with these efforts between our bar associations and others and the private legal community, the current pace of pro~bono activity still needs to be increased. And obviously one of the questions is how to do that. For this reason we fully support the recent 50-hour requirement that was imposed for admission to the New York Bar. We applauded that from the outset. We see the requirement as something that will hopefully inculcate the spirit of pro bono throughout the profession exposing new lawyers to the rewards of pro~bono service. And, honestly, with 9,000 new lawyer applicants each year, that should generate a substantial amount of new legal services. We think that the rules now applied are flexible enough to give students a broad range and means in which to help do that. It's now obviously up to legal services providers like the city bar, law schools, bar associations and others to develop ways to make sure that this gets implemented in practice, and we are committed to helping the community do that in every way possible.

We also need experienced lawyers to do more.

C.DUNNE

There has been a lot of effort to encourage pro~bono, obviously, among established lawyers, but that should be intensified. We've at the city bar long been in favor of the controversial concept of mandatory pro~bono services for admitted lawyers. We recognize that there is a lot of dispute about this and has been for years. We also, however, support another perhaps secondary approach to encouraging admitted lawyers to provide pro~bono service, and that is the mandatory reporting of pro~bono activities, which is a topic which has received perhaps less attention to the more controversial form of mandatory pro bono services, would not be mandatory pro~bono.

In 1997 the city bar for the first time proposed that New York lawyers be required to report the extent of their pro bono commitments, as well as their monetary contributions to organizations which provide free legal services to the poor. That report is submitted along with my written testimony today. At the time back in 1997 that proposal drew on the experience of Florida, which was then the first state to establish the reporting -- mandatory reporting of pro~bono activities and financial contributions. And in -- the experience back then was that as soon as Florida imposed this rule upon its lawyers that the reporting and contributions to

pro bono organizations grew substantially, we think as a result of the reporting requirement. Since then, eight different states now have forms of this mandatory reporting in place, and we think it's time for New York to do the same. It could be handled in a wide number of ways, but probably the easiest, as we proposed back in 1997, would be simply an additional series of questions for the biennial form that gets filled out with respect to registration renewal.

That's just one of a number of details which would need to be worked out. But, frankly, at this point, having just been through the 50-hour implementation and coming up with the rules there I think that it will follow nicely on the heels of that effort. For example, the question of what defines pro~bono has already in my view been settled as a result of that effort and could be adopted here as well.

So it's just a suggestion, but it's been I think successful in the states which have done it to date. And we at the city bar would be happy to work with the Task Force in coming up with additional ideas along these lines or to help implement such a proposal.

So, in closing, we face an historic opportunity to step up the funding for legal services, as well as through pro~bono efforts. We think that new bar pro~bono

requirement will bring law schools further into pro bono work and will become partners more with legal services providers and bar associations which can only help. We must -- we take -- we need to take what we've learned from the past 50 years of expanding access to justice and create smarter and more efficient ways to reach more people, and the city bar pledges its full support for these efforts.

HON. LIPPMAN: Okay, thank you, President Dunne. A couple of questions. Let's start with the last specific proposal on mandatory reporting:

How would it work if we asked lawyers to put in the number of hours that they work each year or whatever? Is the contribution an alternative to that, in other words? Or it's just again reporting information? Or is it sort of suggesting -- which I don't think it's a bad thing. That was originally suggested when Victor Marrero's report years ago came out recommending mandatory pro~bono, they said, "Well, if not, then contribute." Would this be, "So report to us your hours and at least if you're not going to report the hours, tell us, you know, you've made a contribution to legal services"?

MR. DUNNE: Right. That's obviously one of the questions of how it would be framed. And I believe that is

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the way we framed it back in 1997. I can't speak at this point on that issue for all the other states. But, yes, one clear way to do it would be -- First of all, I think it's important -- it would be important to articulate aspirational goals at least -- again, not mandatory -- but to --

HON. LIPPMAN: Right.

MR. DUNNE: -- issue something that suggests that we said it's a goal for lawyers to do.

HON. LIPPMAN: For lawyers.

MR. DUNNE: And I think back then it was 250-dollar, you know, contribution or, you know, 20 or 25 hours of service. It was rather modest, at least at that time.

HON. LIPPMAN: Right.

MR. DUNNE: It could be tweaked obviously at this point.

HON. LIPPMAN: So there could be some relationship between the hours and --

MR. DUNNE: Yes. But, you know, for those who don't have access to the resources necessary to offer pro~bono or for personal reasons prefer not to, then the aspirational goals would suggest that they could meet the same aspirational standards by making a contribution. And that contribution obviously also could be geared according

to one's, you know, compensation level, as well, which was part of the earlier proposal where there would be an area on the form where you'd be asked to give a range of your income for the year and the aspirational goal for your contribution would be measured against that as well. So there are a variety of ways in which that could be done.

HON. LIPPMAN: I think the reason why I asked, obviously while we're -- the focus of so much of our efforts is on this public funding of civil legal services, the providers depend on so many different sources of income, including what would be a logical constituency contribution from the private bar.

MR. DUNNE: Right.

HON. LIPPMAN: So I think it sort of plays together nicely.

Let me ask you another question: We talk about pro bono work, in particular city bar, as you say, for a long time is a supporter of mandatory pro~bono, I think 15 years or so.

MR. DUNNE: At least that, yes.

HON. LIPPMAN: Yes.

How do -- How does the economic woes that we have today affect your organization, Seymour's organization at the state level, affect lawyers' willingness to give voluntary pro~bono? You think it's

made a difference that the economy is so bad, many lawyers themselves are struggling?

MR. DUNNE: Well, they're obviously struggling. But, in fact, I think the fact that our in kind value of the hours that we've enlisted people to put in rose actually last year from 18 million to 20 million in fact shows that in these difficult economic times when people perhaps have less work than they had before, that a good number of them, happily the silver lining is, will turn to pro~bono work instead, to keep themselves busy, to keep their skills up to speed. Particularly the younger lawyers who are having trouble will look to assist in the pro~bono efforts or look to join legal services or other organizations where they could get those skills as well.

So I think that, you know, the willingness to make financial contributions obviously is very much hampered, and understandably so, but I think we have seen that the willingness of people to pitch in on the pro~bono side has not been diminished, and, if anything, at least in some segments of the legal community has increased I think as a result of the economy.

HON. LIPPMAN: One more question, really two parts that relate to different proposals that we've had here or I've heard recently being out speaking on this issue. One is: Today Speaker Quinn suggested that we put a charge for

pro hac vice in New York, as a number of states do. And that's one thing I'm interested to hear your comments as president of the bar. And the other one was -- sort of goes to this idea of lawyers have more difficulty finding work today, and that is that new lawyers, particularly a lot of them who can't find jobs today, that we ought to incentivize their doing pro~bono work. And there's I guess a lot of thoughts of how one might do that, given that, if they're not able to find, you know, full-time employment now, gee, maybe we should do things that gear them in this direction, either till the economy improves or till they find a job. I'd be curious as to your reaction to those two things.

MR. DUNNE: On the latter point, yes, we do a lot of work in the city bar these days geared to new lawyers, especially new lawyers who are struggling looking for work and, you know, trying to figure out how best to network to look for opportunities, that kind of thing. And part of that is encouraging them to participate often for the first time in the pro bono efforts that we do, whether it's legal counseling on a Monday night, a one-on-one session, or joining in some of the other organized pro~bono activities that we provide. And the pitch obviously is that, "You know, we will help you through this process, get some of the early skills development --"

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HON. LIPPMAN: Right.

MR. DUNNE: "-- that you would otherwise hope to be getting in a paid position."

I think the difficulty there, though, is, you know, obviously it's not a tradeoff for actually earning a living. And then the variant on that, which I think is more difficult is -- and it's not experienced so much at the city bar but with the legal services providers directly--and this happened for the first time a couple of years ago, others can speak better to this than I can--but when there were layoffs or postponements by some of the larger firms and people were encouraged to -- in many cases gravitated to taking positions in legal services organizations instead, but for a temporary period, I think there that's a more difficult sort of, you know, prospect as in terms of longterm solution for anything, because obviously it's great for an organization like that to get an influx of some handful of people to help. On the other hand, the supervision requirements for that are difficult --

HON. LIPPMAN: Sure.

MR. DUNNE: -- and can be especially taxing when otherwise the support -- legal support is going down and the number of supervisors may be going down. And it also can be difficult, too, if the people who are doing this for

nine months or a year are fully expecting to then turn around and go back to the big firms or wherever they were heading in the first place. It's not really a longterm solution and I query whether it actually aids in the longterm health of an organization like that in having sort of temporary help.

So, yes, providing -- encouraging people to do pro bono I think is a good idea and has lasting results, but in some cases the way it's being implemented I don't think is a longterm solution to anything.

Back on the pro hac vice charge, I've not studied that or heard the details of the proposal. My only comment there I think -- and this is probably with respect to what most bar associations is, we are always concerned whether we are imposing impediments to pro hac or other sort of, you know, admissions on either particular cases or for particular times or jurisdictions that are not imposed in a reciprocal way in the other states --

HON. LIPPMAN: Yes.

MR. DUNNE: -- because their natural reaction is to say, "Well if, you're going to charge, you know, people from our state $250 to participate in the case, we're going to make it 250 also." And that to me just discourages the free flow of legal democracy.

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HON. LIPPMAN: Another thing I thought was interesting, I wasn't quite aware what she said, 40 some odd states have a fee for --

MR. DUNNE: Well, if they're charging our people, then I'm in favor of charging them.

HON. LIPPMAN: Thank you.

Okay, any other questions?

MR. JAMES: I saw in your testimony that the rate of participation pro bono activities in Florida increased after the mandatory reporting. Do you have similar studies for the other states as to what occurred?

MR. DUNNE: We have not. But, as I say, we'd be happy to put some people on that. I think it would be easy enough to do some research and find out. My sense is the answer is yes, that there has been.

HON. LIPPMAN: That's an interesting point. I think that that's true. What's the actual -- beyond getting information, which is very helpful, does it have a kind of --

MR. DUNNE: Right. I mean, obviously the theory behind it is, even though it's not mandatory, it's -- to some extent you are what you measure, and if you ask people, remind people every two years about this obligation, or at least this aspirational goal, that people will feel more obligated, perhaps, to pursue it and realize

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that it's just part of the culture of being a lawyer.

HON. LIPPMAN: Exactly. But the other side of it, the other rationale that is given for mandatory reporting is while we think we have some sense of, you know, what the Bar does in terms of pro~bono, it's a little bit of a guesstimate. You know? And it would be helpful -- it's hard to address the problem, what the funding brings, which we're trying to analyze -- in fact, Speaker Quinn was suggesting let's do some more really detailed by locality, what's happening in terms of, you know, the funding and what it does for us. By the same token, it would be helpful to have a better sense of what the more precisely -- not precise, but at least within a certain framework of what the Bar brings to the table in its wonderful pro bono efforts to give us a sense of how to attack it all.

MR. DUNNE: Right.

HON. LIPPMAN: You know, so there's two sides. One is the one that President James said, "Well, gee, will it energize --" you know, biennial report -- if you say "Gee, I'm more aware"?

And, second, we have a better idea what you do and don't do. And the problem with voluntary, which was also considered here in New York, is that sometimes you get a skewed view of it, because a lot of people don't

answer, and then when they do answer maybe it's the ones that do a lot of it, not enough to get really an accurate --

MR. DUNNE: Yeah, the data gathering would be very useful and could be, I think, perhaps used as one of the biggest advertisements as to why it's needed.

HON. LIPPMAN: Yes.

MR. DUNNE: To gauge how much is being provided and offset that against the amount of federal or other funding we're getting, we would like to have an accurate picture of what actually is happening in the field. And right now, of course, much of the data comes from the large firms that do their own reporting for their own purposes, et cetera.

HON. LIPPMAN: Exactly.

MR. DUNNE: Of course, you know, the percentage of people working at these large firms that are doing reporting is a small fraction of those in New York. And those in smaller firms, the solo practitioners, just don't have the opportunity to report; we don't know exactly what that amount of services comes out to.

HON. LIPPMAN: Exactly.

Anyway, thank you so much for your testimony. Appreciate it, as always.

MR. DUNNE: Thank you.

C.DUNNE

HON. LIPPMAN: For being here. City bar have been great supporters of ours and we greatly appreciate it. Thank you.

(Witness excused.)

HON. LIPPMAN: Okay, next we're going to have our client panel, which includes Angela D'Arezzo, client of the Legal Aid Society, accompanied by Caarol Sangangelo; Richard J. Usera, who is a client of Legal Services New York City, accompanied by Jennifer Levy; and Fredesvinda Vasquez, a client of Make the Road New York, accompanied by Lorelei Salas.

So come on up. And if we don't have enough chairs, we can bring some more over.

(Continued on the following page.)

oOo

D'Arezzo

JUSTICE LIPPMAN: So, Angela D'Arezzo, we've asked you to start. We're so glad you're here today.

Tell us your story.

MISS D'AREZZO: Okay, good morning. My name is Angela D'Arezzo.

JUSTICE LIPPMAN: Good morning.

MISS D'AREZZO: I'm currently applying to the Legal Aid Society, and I'm here today to tell you how the work of the Legal Aid has helped me to maintain access to the Medicaid fund, the personal care systems. Without that help, I would have had no choice, but to go into a nursing home.

I'm 52 years old, and I have muscular dystrophy limited type since age fifteen. Muscle dystrophy is a devastating disease that weakens your whole body. That means I have a lot of limitations, and I don't have range of motion like everybody else. Right now I have severe impairment of my trunk and my -- and my four extremities. The only way I can stand is if somebody lifts me to extended position, holds me, and stays with me to take a couple of steps. I mean, I could take a couple of steps, but I could not walk, so I have limited strength in my arms and hands, and I'm not able to grasp and hold things with weight. For example, I can, you know,

hold this piece of paper like this, but I cannot hold a cup of tea, or anything that is weighted like a fork for a long time, so I really need a lot of help with all activities of daily living and with personal health, very personal needs.

I also suffer from fibromyalgia, which causes severe pain if I stay on one side too long, and that's especially a problem at nighttime because I cannot stay in one position for a very long time, so because I cannot turn myself, I need someone to come, and turn me, and position me, and it could be every hour, could be every two hours. It's unpredictable, the timing.

With the assistance of Medicaid personal care assistant, I've been able to live on my own. It's been 19 years that I live on my own, and I live at Redwood Gardens, which are apartments for the disabled and the elderly. My brother also lives there. He also has muscular dystrophy. Even though I keep a positive outlook in life, I need help and continuous -- I need continuous care provided in two 12 hour shifts, seven days a week, well, you know, in order to function and keep living on my own, yeah, and the Legal Aid Society has made it possible for me to maintain my services.

D'Arezzo

I had been receiving services since 1999, but in February, 2012 I received a notice from HRA that they want to reduce my hours from a split shift, which are two 12-hour shifts a day to 24 hours a day, which means instead of having two people taking care of me, one in the day, one in the evening, I would have one person work 24 hours on me day and night, which is very difficult because the person would have to sleep at nighttime.

JUSTICE LIPPMAN: Sure.

MISS D'AREZZO: Could not really come and help me as often, and I need the help, so that's when I called Legal Aid Society and I was very, very happy that they called me right back and they started helping me. Miss Santangelo right here came to my home to take a video to bring it to Court. She represented me in Court to show them why, you know, I needed the help.

According to them, they said that the previous record showed that I didn't need as much help, I needed partial assistance with transferring, ambulating, not total assistance. They were wrong, but we had to prove them that they were wrong, so that's when the Legal Aid came and helped me, took a video, went to the hearing for me, and they showed

that I did need continuous help.

JUSTICE LIPPMAN: You never went to the Legal Aid Society?

MISS D'AREZZO: No. Actually, a friend of mine told me, yeah. At that point --

JUSTICE LIPPMAN: What would you have done if you didn't go to the Legal Aid Society?

MISS D'AREZZO: I was all devastated. I couldn't even think.

Okay, so I was -- until now the services have been obtained through the fee for Medicaid Program that contract directly with home care vendors.

The Legal Aid Society also helped me in pro bono partnership with the Bank of New York Mellon and assessed my eligibility for a full supplemental needs trust, which is a mechanism that the disabled individuals like me can use to maintain Medicaid eligibility. This past July, the Legal Aid and Bank of New York assisted me in joining a trust maintained by the Center of Disability Rights. As a result of Legal Aid's representation, the risk of having my home care services suddenly discontinued for failing to meet a spend down has been reduced, so I'm really happy about that. I feel like I'm settled right now, and I can live without being in fear.

JUSTICE LIPPMAN: Well, thank you for telling us this story. That dramatically demonstrates why Legal Services are so important. You're a human being with problems that need to be interfaced with a lawyer to help you deal with them.

Thank you for coming.

MISS D'AREZZO: I am really grateful.

JUSTICE LIPPMAN: Thank you. I could see what it made in your life. Thank you.

MISS D'AREZZO: You're welcome.

JUSTICE LIPPMAN: The next is Richard Usera, who is a client of Legal Services-NYC.

MR. USERA: Yes, sir.

Good morning, your Honor. My name is Richard Usera.

I'm a resident of the Bronx. Been there for three years. Served in the US Navy in '81 to '85, plus I am a veteran.

Last four years, I worked in the retail industry, Lord & Taylor, women's shoes. I worked for straight commission, nine and-a-half percent. Generally speaking, I have $35,000 income two years ago, and a rent payment of $800 based on that from NYCHA. In January it went to $26,000. That was reduced from the sales force. It's no problem, but

Usera

in February I went to NYCHA saying I can't maintain that rent payment. Next they told me we can't change your mix, your portion of your rent mix until this month, so for a year -- I mean, actually, March I received Court papers. I received Court papers. I went to Bronx Housing Court. I went to HRA to get a one shot deal, and just continued getting eviction notices, so finally I guess in July 23rd I went to Court again saying -- still awaiting my HRA one shot deal. They have not made a decision yet, and August 1st came back. Two marshals knocked on my door. I was asleep, and they actually came in the apartment, said you have ten minutes to leave, so I was in the street like that day, okay, calling the VA -- excuse me, saying hey, I've been evicted and I don't know what to do, so the VA really called Legal Services in The Bronx. I never even heard of them, so I'm glad. Her name alone, Katie Walker, Katie Mitchell called them. I say I spent a night at my friend's house in the East Village. Then I had to go to 30th Street and First Avenue, a homeless shelter, so anyway, the next day, went to Court immediately. I met with the representative of Legal Services, and I obtained a subpoena from the Judge, and she helped me find how to serve it on the landlord's

Vasquez

representative. The next day, I met Elizabeth Marrus who just took everything by the horn. She walked in the HRA office, said what's the decision on his case regarding his one shot deal? She got the paperwork, went to the Judge with me, and they had a stay, so nothing could be released from my apartment. They couldn't re-rent it. Went back to the shelter for the weekend, and Monday I met Alex Schwartz, and Alex Schwartz is a heck of guy, I got to tell you. He had a little folder full of all the paperwork, everything is correct, and there Elizabeth Marrus is working my NYCHA to reduce my rent. It's still pending.

I don't know what lawyers do, but magic happens. That day they had a decision from HRA to grant me the payment. The checks were cut. He somehow got the checks from the HRA office in The Bronx, dealt with the lawyer, exchanged the checks with the landlord's rep. Friday morning I got a call saying Richy, you can go back to your apartment now, so I thank this program, this funding that you have available for this to occur for me to get represented because me on my own would never be able to do this in that amount of time. At least, I probably would still have my hand out, and still be in the shelter, so thanks everybody.

Vasquez

This is my testimony.

JUSTICE LIPPMAN: Thank you so much. I think it graphically demonstrates what we're talking about, why you have needs, and needs to be met. To have a problem like you had, you got to have someone to turn to, and thank you for coming, coming in and telling us your story. It's greatly appreciated.

MR. USERA: Thank you.

JUSTICE LIPPMAN: Okay, Miss Vasquez.

(Whereupon, Fredesvinda Vasquez testified through the Official Court Spanish Interpreter.)

MISS VASQUEZ: Good afternoon.

My name is Fredesvinda Vasquez. I thank you for allowing my testimony, and for the thanks for Make the Road By Walking because they have worked hard for me. Without them, I would not be here today giving my testimony. They have helped me a lot in having to go to the office of NYCHA.

I am 55 years old and I have a disability. I went there because they had told me my case was closed and I had nowhere to turn. After I went there, they told me the case was closed and I said why? I have done nothing wrong as far as the landlord's concerned for you to close this case. The worker for NYCHA told me to leave, your case is

closed. I had explained to him I'm a disabled person. I have nowhere to go. I'm living with my grandchildren, my grandchild, and I have my daughter taking care of me. They closed the case, they kicked me out, and then I got a letter. I went back there asking why have you closed my case?

For a year I was living outside of that apartment, without an apartment, living with families from here to there. With what Social Security gives me, it is not enough to pay a rent for an apartment. I've had to walk, you know, looking for apartments, but the apartments are very expensive, and I went back there even in March. Then I went to the organization. I went to seek legal representation, and they then helped me to revise the papers. They have helped me alot. They said they were going to fight with me, and we're going to reopen this case. They are fighting with me. They are asking me to go back to the Court to speak up because they are willing to help me now, these lawyers. They have made tremendous effort. They have told me that I have to seek, you know, go back to the Court because otherwise I will be in the street.

After an extensive investigation, Make the Road By Walking helped me repair and presented a

petition in Court against NYCHA and the Supreme Court. There was an investigation done and every effort was worthwhile. The attorney of NYCHA then agreed to make a settlement with us to settle the case in order for me to get a new voucher out of my name for me and my family.

We are now back to living in a dignity household with accessibility. I am very grateful for the hours and struggle that the attorneys put in that case, and without the help of Make the Road By Walking I would never have been able to have access to such legal representation. They helped me fight for my rights against NYCHA, and to make them accountable for their errors.

I had much fortune, much fortune for having this legal access, which was free, and these attorneys went the extra mile to make the effort to protect me for my rights, but there thousands of tenants out there who have such desperate needs, this need for legal representation, otherwise they would be losing their homes. We need the Government of the State of New York to find a solution just and appropriate for this lack of service that exists for this civil legal service that our State needs, and thank you very much for allowing me to make my

testimony and listening.

JUSTICE LIPPMAN: Thank you. Really it's a very powerful, and you can bring her up to Albany, so I want to thank our last panel. You've been terrific.

That this concludes our hearing today, and I think we've seen so much. We've seen the Cardinal Dolan who came this morning, and I think it explained that the spiritual needs of those who are dealing with the most needy in our society are matched by these legal needs, that it's not enough to be able to help people mend their souls if you don't have a helping hand to turn to the services that are needed, and I think the Cardinal put in perspective going back to, obviously, biblical times, and then we had the current Government Leader, Speaker Quinn, explain the practical way of what she thought was necessary to continue to get more public funding and to support Legal Services; Judge Fisher, who seasoned at the ground level around the State giving us an idea of what, how much we've been able to do so far, and what success we've had, and what still needs to be accomplished; our Dr. Becker with a cost benefit analysis, and what is so much a part of what we're trying to get across to the political folks as to

what all this means in terms of dollars, and Professor Hatfield, which I think, again, looks at this from a very different perspective that I think we need to at least grapple with here in New York, that what is the mix of services that we need to provide legal help, and then the organized Bar, Carey Dunn, which from their perspective indicates the programs that they have, and what they've been doing, and what they think needs to happen, and then, of course, our last panel, which to me says it all, and no the other speakers are really necessary when we hear your stories, and what Legal Services have been able to do for you in your lives, and to allow you live with respect and dignity, and to be able to deal with the serious legal problems that you've had effecting the necessities of life, so I thank you all for being at this hearing.

Rest assured that it's been very helpful in terms of this ongoing effort that we have to provide public funding for those dealing with really life transforming crises effecting the necessities of life, and what are the reasons, why this is necessary, aside from the very happiest, basic human needs that this last panel has provided to us, but gives us a really bird's eye view of the different

tacks that we have to take, the different strategies to achieve the kind of prioritization in this State for civil legal service needs that we think match all the other essentials of life; the housing, and hospitals, physical safety, schools and everything else in our society. Human beings need legal systems to help them live their basic lives, and the Bar has stepped up to the plate to be very helpful to us not only in terms of supporting these efforts for funding, but also in terms of pro bono work, and volunteer work that Seymour James, the President of the State Bar on this panel, and so many other lawyers around this State have done so much on a volunteer basis that is very much a part of this puzzle, so we continue this effort.

There are two more hearings, one in Syracuse tomorrow, and one in Mineola on Thursday, and when we finish those hearings, Helaine Barnett and the task force will put it all together, and it will be the basis for our questions to the legislature this year, and rest assured that we will seek, continue to seek additional monies beyond what we have thus far.

I'm very pleased with our partners for really coming through with the greatest public funding than anywhere else in the country, but it's not near

enough given the need. That's why we continue these efforts to institutionalize the support group, civil Legal Services in our State, so thank you all for being here. It's been a pleasure, and you don't have to all come up to Syracuse tomorrow, but some of us do.

Anyway, thank you. I appreciate it.

(Whereupon, proceedings adjourned.)

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Certified to be a true and accurate transcription of the minutes taken in the above-captioned matter.

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Robert Portas

Gloria Ann Brandon,

Senior Court Reporters.

APPENDIX 8:

Transcript of the Fourth Department Hearing Held on October 2, 2012

STATE OF NEW YORK

FOURTH DEPARTMENT HEARING

THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

October 2, 2012

Onondaga County Courthouse
Ceremonial Courtroom 400
401 Montgomery Street
Syracuse, New York 13202

B E F O R E:

HONORABLE JONATHAN LIPPMAN
Chief Justice of the State of New York

HONORABLE HENRY J. SCUDDER
Presiding Justice, Appellate Division

HONORABLE A. GAIL PRUDENTI
Chief Administrative Judge

DAVID M. SCHRAVER, ESQ.
President, New York State Bar Association

JUSTICE LIPPMAN: Please be seated. Okay. So delighted to see you all. We're very pleased to welcome you to the third year of our services -- our hearings on civil legal services.

This is the third hearing of this year. We've already held hearings in Albany and in Manhattan, and this is the third hearing, then we're going to have a hearing in Nassau County on Thursday.

And the purpose of our hearings is to look at the justice gap in New York between the dire need for civil legal services and the resources that are available.

I want to make clear at the outset that there is nothing more important to me as Chief Judge than civil legal services for the poor and the vulnerable and those most in need in our society.

The template that we have developed in New York is to hold these hearings around the state pursuant to a resolution of the legislature, and then to have the Task Force Legal Services, that is chaired by Helaine Barnett, to enhance legal services, who is right over there with many of our

members who are here today; Sheila Gaddis, Bruce Lawrence and Steve Banks and so many others.

The purpose of the task force that supports the hearings, and we then go out and look at the results. Figure out what the gap is in civil legal services, and then we put in a request to the legislature to meet that need. And last year we were able to get $40 million for civil legal services; $25 million in direct grants and to providers, and $15 million coming out of IOLA that has been very adversely affected by the economy crisis. This is -- the $40 million is the most state funding in the country, and yet only the tip of the iceberg in terms of need.

The judiciary and the profession have a special obligation to stand up for civil legal services for the poor in a very, very difficult economy. If we're not going to do that, no one else will. And it is our constitutional mission to promote and our effort and moral mission to meet equal justice for all and that's why you see up here the leadership of the judiciary. Myself, the Chief Administrative Judge, the Presiding Justice of the Fourth Department, Hank Scudder.

Gail Prudenti and the head of the State Bar, David Schraver. You are the leadership of the judiciary and the profession here because it is important that we demonstrate our commitment.

In addition to our efforts to get more money, more public funding for civil legal services, it is clear that there is not enough money in the world to meet the need.

And we also need volunteer pro bono efforts by the Bar, and as many of you know, we've just issued a new requirement that anyone who seeks admission to the bar in New York will have to demonstrate 50 hours of volunteer pro bono service, legal service before they will be admitted to the bar.

And the theory is that those aspiring lawyers, those law students have to demonstrate a commitment to a culture of service, service to others, which is such a fundamental part of being a lawyer.

Going back as long as there have been lawyers, service to others has been so much a part of what we're all about, and we want the next generation of lawyers to embrace that core value

that they understand that this is their responsibility now and throughout their careers as lawyers that they need to be performing pro bono service.

Equal justice is our reason for being in the judiciary and the profession, and if we don't have equal justice in these beautiful courtrooms and courthouses then we might as well close the courthouse doors. It doesn't mean anything.

If what happens inside this courthouse or any courthouse around the state is anything short, even by the smallest amount of promoting equal justice, the economy is hurt, the most vulnerable in our society, they're the ones who have suffered the most. And to some the answer is, oh, the economy is bad, and gee, we don't have, you know, resources available to help people.

Well, the point is that when the economy is at its worst, worst is when this need is so fundamental and so basic, you know, so it is now more than ever not that it is now, gee, you know, can't do it, unable to support civil legal services or equal justice. I mean equal justice is fundamental to our society, to our way of life

and everything that we're suppose to be all about.

Every civilized society going back to Biblical times is judged by how it treats its most vulnerable citizens and we are no different, and you know, in the Old Testament tells us that is our obligation to pursue justice, rich or poor, rich or poor, or high or low alike, that's what we have to do. Not that the rich can have one kind of justice and everybody else gets something else.

So that's what these hearings are about. That's really what, you know, what we're trying to accomplish is to look at what do we need to do to assure equal justice for all in our state, to ensure that the gap between the need and the resources is eliminated and that's what we are trying to do.

And we're going to take what happens at these hearings and we're going to look at it, try and figure out what it all means, and then come back to the legislature with another request this year, and on top of that, look at additional ways that we can increase pro bono activity within our state.

And we have at the state level Justice Fern

Fisher is here today who oversees this access to justice initiative we have throughout the state and we are trying to see where is the need, what's the need out here in Central New York, what's the need in Syracuse, and do the same thing all over the state.

So we're going to start and we're going to listen very carefully. The people who will testify it is -- we have your testimony in writing. You shouldn't hesitate, you don't need to read it. Tell us what is on your mind. What you're thinking and we won't hesitate to ask you some questions.

So let's start and we'll keep on a little bit of a tight framework so we will try to keep to the schedule, and if I stop talking maybe we can do that. So the first two witnesses are on legal services to veterans, and we have John G. Powers, the director of the Onondaga County Bar Association Veteran and Military Service Member Pro Bono clinic, and a partner in Hancock Estabrook; and the Honorable Patricia D. Marks., R-E-T, does that mean retired, Pat?

JUDGE MARKS: Yes.

Fourth Dept. Hearing 10/2/12

JUSTICE LIPPMAN: I don't believe that. She's the supervising Judge of Monroe County Court, and she is terrific, and she's the presiding Judge of the Veterans Treatment Court; the Interim Director of the Veterans Outreach Center and a current Board Member; and NDCI Faculty Training for Veterans Treatment Courts. So why don't you come up and we'll get started.

JUDGE MARKS: Mind if I go first?

MR. POWERS: Go for it.

JUDGE MARKS: John warned me that he tends to speak quite passionately and long so he was kind enough to let me go first.

JUSTICE LIPPMAN: Because you are not bashful and don't speak long. I don't believe a word of that. Go ahead.

JUDGE MARKS: I didn't say I wasn't. I just said I wanted first shot. Well, as you know, I'm Patricia Marks, retired Judge, and I want to commend the task force and yourself, Judge Lippman, for your passion for unmet legal needs.

And I think it's terrific that you have required service for others from our attorneys because it ties very much into my comments

regarding those who have provided service for others, those who have served in the military and return to the community and have trouble accessing legal services.

That's truly ironic when you think that many of the most recent returning veterans are involved in local initiative to restore the rule of law there and then they come home and can't and won't access legal services because of their military background and training or perhaps they've experienced something that has caused either posttraumatic stress disorder or traumatic brain injury, so I think this particular group with unmet civil legal needs, needs our particular passion and attention.

And I want to start by describing some of the unique collaboration in Monroe County, and I cite two in particular, but there are many and we're very fortunate in that regard.

I also want to talk about the area and the need. The Rochester area has a veteran population of approximately 72,000. The U.S. Army Reserve 98th training division use to provide a tremendous amount of legal services to our veterans and that

closed and has created a gap for legal services to these veterans that will no longer be available.

We have an organization that has been monitored with "1 Team 1 Fight" and it is an effort by local lawyers and local veteran representatives to make the Rochester area community an area that is friendly to returning vets and provides all manner of services and one place to go to learn about the range of services that is available, including legal services.

They've made a great start and pulled together all those organizations that are vital to some of these issues and have been instrumental in helping to identify the unmet civil legal needs for veterans.

Veteran's Outreach Center where I was an interim CEO for a time and now serve on the board is a local independent service agency. It's a one-stop service where veterans, regardless of discharge status, can receive an array of services and the center now collaborates --

JUSTICE LIPPMAN: Judge, can I stop you for a second and ask you a question?

JUDGE MARKS: Sure.

JUSTICE LIPPMAN: What's -- why is this so important that veterans get, you know, we have the Veterans courts, and we have a lot of pro bono work being done for vets, where does this fit into this mix of volunteer legal services or special court programs geared towards meeting the desperate needs of particular groups?

In other words, some people would say, and I've heard it said, well, you mean are we giving special treatment to veterans? Where do they fit in the mix of what we were saying the most vulnerable in society need our help, need our public programs, need volunteer assistance, where does that fit into this mix?

JUDGE MARKS: I think it fits into the mix because they are part of the poor who do not -- aren't able to access services. In the mix when they come right home, if we can meet that need, we can restore them to a good civilian life as opposed to some of the things we have seen that occurred with the Vietnam veterans.

JUSTICE LIPPMAN: Exactly the reason why I ask you is because a lot of people don't realize that a lot of veterans are homeless, have

virtually no resources, and just like, you know, the people who haven't been in the military who look around and say, where do I go to meet legal issues affecting the very necessities of life; the roof over one's head, the physical safety, the well-being of the families, their rights to entitlements, this really is four square in the middle of civil legal services for those most in need. I mean is that --

JUDGE MARKS: I think it is pretty clear that the Veteran Outreach Center runs a homeless shelter. Two weeks ago we housed a World War II veteran. Appeared to be a direct relationship to his service and homeless status. In his 80s. That is tragic with someone that served our country in that way.

JUSTICE LIPPMAN: It is particularly tragic. It's bad enough when you have people who are indigent or down on their luck or whatever it is, that's doubly bad.

JUDGE MARKS: Absolutely. And at any given time for this homeless shelter there are at least five to fifteen people on the waiting list. So the homelessness is -- proportionately affects

veterans. The national statistics and local are out 25 percent. Many returning vets -- of the current returning vets come home to financial issues, housing issues, foreclosures issues, many of which I outlined in my written testimony that are serious issues that are very important to restore them.

They have great leadership qualities, to restore them just as any other member of the community, but their needs are special. We need to make a special focus because of their military training --

JUSTICE LIPPMAN: You can't just --

JUDGE MARKS: -- in the service.

JUSTICE LIPPMAN: You can't just treat them the same way, even though it is the same need, it's kind of unique in terms of the context of what brings them to this.

JUDGE MARKS: Absolutely. We have seen that with veteran treatment courts, and even though veteran treatment courts talks about civil, criminal, legal needs, there are always a series of legal issues related to their recovery.

In my discussions with those participants,

those veterans, that are very serious and that affect their ability to recover and be restored fully.

JUSTICE LIPPMAN: And run the gamut of the same kinds of problems everyone else has, except they are coming at it from a different place we all honor, you know.

JUDGE MARKS: Yes. From their discharge status and whether that is appropriate to their right to benefits, to their right to housing, to their rights to get a job, to be trained, to have advocacy for them when they are denied certain benefits.

When they are denied certain educational equivalents. When they are denied jobs. One veteran had a great deal of experience. Ten years experience in personnel with the Army. When she got out, she tried to get a job, and they said, gee, too bad you didn't have some personnel experience or I would hire you.

So there is a need there for advocacy to get jobs where there is wrongful denials based upon what is really their military service.

JUSTICE LIPPMAN: Judge Marks, so much of

what you are doing now you are doing it because you think it's important, right? Not doing it because it is part of your -- you're no longer on the Bench?

JUDGE MARKS: Exactly.

JUSTICE LIPPMAN: You're doing this -- I get the point, what I want to make to the audience is this is an example of lawyers doing volunteer work on behalf of those who can't help themselves. This is what we are suppose to be doing and here is someone who spent -- Judge Marks, how many years on the Bench?

JUDGE MARKS: Twenty-five.

JUSTICE LIPPMAN: Looking so young, too?

JUDGE MARKS: Absolutely.

JUSTICE LIPPMAN: But, you know, see why this is so important, this is what we are trying to inculcate in the younger generation of lawyers. Someone says, throughout my career. Get them at the very outset and let them understand that this is what it means to be a lawyer. Like you, example number one so --

JUDGE MARKS: Thank you, Judge.

JUSTICE LIPPMAN: Thank you.

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JUDGE MARKS: I have five specific recommendations.

THE COURT: Yes, please give them to us.

JUDGE MARKS: If we can go to that. And one is to expand veterans courts throughout New York State and provide onsite legal services to address civil legal needs of all veterans in those courts.

Those veterans are experiencing -- are very much in need of civil legal advice related to their family issues. We didn't really touch on that before this. But many of them come home to a divorce, to a custody situation. We have individuals who come home with severe substance abuse problem that leads to their homelessness.

One of the current national spokespersons for veterans court was living in a car before he got associated with the Veteran Outreach Center and veterans court. He is living in a car. He was married. He wound up having a divorce. He needed bankruptcy advice so he had that whole panoply of --

JUSTICE LIPPMAN: It's a combination of they may get in trouble because of their personal

situation and wind up with a criminal offense, but this is all a panoply of issues around that really relate to civil legal services, Pat.

JUDGE MARKS: Yes. And two other areas I mention in the testimony one relates to behavior and contact studies that Dr. Kuhn has done with respect to their behaviors in the general population and behaviors by veterans that when explained in context they need extra advocacy for that, so you take, for example, someone that goes 120 miles per hour in their car, it might be that it's a citizen who is not a veteran, they may just be showing off their new car.

If the citizen is a veteran who experienced combat the explanation may be combat driving, it may relate to military training. It may be they are perceiving having posttraumatic stress disorder that can lead without good advocacy for them about their behavior and in that context the loss of license, loss of jobs, so even what may seem to be minor in the total scheme of things becomes major for a veteran. I also think we need to have specific CLE training programs. I know the state bar provides some.

But my proposal would be that the areas, include military culture, eligibility for veterans benefits, discharge status, testimony or training about suicidality.

Suicide rates among our active duty military and veterans is stunning, and I cited an article from the "New York Times". You may say, what's that got to do with it? There is no study that stays suicidality is related to the desperation some of these veterans face when they come home, but I think logic tells us that it does.

So understanding suicidality would be part of the that as well as PTSD and TBI. Perhaps it's a program that the training provided is free of charge in exchange for a specified number of volunteer hours, which the attorney could provide.

Lawyer centers, the Telesca Law Center, the program I think it's a wonderful source and would be an excellent source to start to develop veterans specific types of clinics, information, they are desperate for information.

Continued funding of legal services for veterans who meet financial criteria. Currently in Rochester we do have a program that is funded

by what is known as SSVF, I hate to use initials, special Services for Veterans and their Families. It's a VA grant that's not going to be around forever, we need to continue funding, and I propose something like a lawyer-of-the-day program where a volunteer lawyer is available on a regular basis, perhaps at a homeless shelter or other location where veterans may gather. So I want to thank you for this opportunity.

JUSTICE LIPPMAN: Thank you.

JUDGE MARKS: Certainly answer any questions. I did shorten my remarks, but they are in writing --

JUSTICE LIPPMAN: No.

JUDGE MARKS: -- and provide some of the greater detail.

JUSTICE LIPPMAN: I think what is interesting, you know, there are all these different notches in terms of the need for civil legal services like we were talking a little bit earlier about education and having people receive help and interfacing with the education bureaucracy. So many issues, and you can have legal service provider part of legal service

providers that specialize in that area, and certainly veteran just jumps out, an area that needs a little specialized knowledge.

JUDGE MARKS: Absolutely.

JUSTICE LIPPMAN: How -- what kind of services you're providing, and you really have to have an understanding not only the psychological aspects, but the unique legal problems that I think veterans face when they've been away from the country, you know, sometimes for a long period of time, and all kinds of issues with their family life and other legal problems that come out of it, so I think this is really good that the first two panels today will focus on veterans is an area where we haven't explored, you know, in this puzzle of how you close the justice gap. So, you know, I think you focused us, and now let's hear what John Powers has to say that will be passionate and long.

MR. POWERS: I'll try to live up to that, Judge. I thank the panel for asking me to speak. There are those in the room that know that I can't even introduce myself in five to seven minutes, so I hope not to go on too long. It's not my intent

to go over what's in my statement.

JUSTICE LIPPMAN: Tell us what is in your statement. The reason for -- tell us about what is on your mind.

MR. POWERS: I think I would like to focus on the question that you asked Patricia, Judge, which is why are veterans a worthy group to be focused on.

JUSTICE LIPPMAN: Let me interrupt you for a second. I forgot to introduce Mike Getnick, a member of the task force and former president of the State Bar, predecessor. Mike, good to see you. I'm sorry. Forgive me, John.

MR. POWERS: That's fine, Judge. I think that for those who aren't veterans or who aren't -- don't know a veteran or dealing with a veteran in need right now, it is sometimes hard for the public to understand why do we need to focus on veterans.

I mean it's easy to see when you have an indigent person why that's a worthy person for volunteer services, for pro bono services.

When you see veterans, though, the injury isn't always -- isn't always detectable to the

naked eye.

JUSTICE LIPPMAN: But they can be indigent also.

MR. POWERS: And they often are, they often are, Judge. In fact, there is a statistic that is being used right now that of -- among our homeless nationally, it's twice as likely that a homeless person is a veteran than not a veteran.

JUSTICE LIPPMAN: I've seen that kind of number.

MR. POWERS: What we have, Your Honor, it's easy to see when you see the horrible things that are happening to our veterans physically. The loss of limbs. The loss of life. The horrible physical injuries.

But we have a great epidemic right now of mental and emotional injuries. Some 40 percent of our returning veterans have some sort of mental health issues. Over 20 percent of our veterans are diagnosed with posttraumatic stress disorder or traumatic brain injury, and I can tell you from experience, Judge, that they look perfectly normal to look at them on the street, but you know immediately when you talk to them, when you speak

to them, when you speak to their family you know immediately that something is very, very wrong.

JUSTICE LIPPMAN: I gather, John, that the thrust of what you are saying is that it's not just a medical problem. In other words, we know that many veterans come back with deep-rooted psychological problems and physical problems, but it creates other issues that results in this need for legal services. Explain the connection.

MR. POWERS: Precisely so, Judge. I would also make a few other comments.

JUSTICE LIPPMAN: Sure.

MR. POWERS: There is no easy fix to this.

JUSTICE LIPPMAN: I think that's fair.

MR. POWERS: I've been talking to these specialists --

JUSTICE LIPPMAN: No one bullet.

MR. POWERS: -- as to does this ever resolve itself. These effects, this posttraumatic stress disorder, and they say it gets better over time, over a long period of time, and they're still, you know, working with Vietnam era vets on the same issues. It abates. It gets better. But it's not an easy cure and we're going to be

dealing with the effects of these injuries for many years.

And as I mentioned in my statement, Judge, what we've discovered is that the legal problems of these individuals with these emotional issues, with these mental health problems, they aren't necessarily specialized military related legal problems. They're the problems of every day life. They're the problems of someone who is depressed.

JUSTICE LIPPMAN: Yes.

MR. POWERS: They're the problems of someone who is uninterested in managing their own personal affairs. They're the problems of someone with substance abuse and alcohol abuse because they're self-medicating their injuries. They're the problems of foreclosure. They're the problems of divorce, child custody, separation. Landlord tenant. They're every day legal problems.

And that is a misconception that, well, we need lawyers to do VA disability appeals. There are already resources available to veterans to do VA disability appeals. There are no resources except for private --

JUSTICE LIPPMAN: Right.

MR. POWERS: Private efforts. There are no public resources to provide legal services to veterans. And it's a great irony, while they were in the service, they had all their legal needs met by the JAG court, the general court.

Once they get out, they get medical benefits through the VA, GI benefits, in some cases get job placement benefits. They don't get legal benefits. These therapists that are treating this -- these mental health issues are very frustrated because they can treat the medical injury, they can treat the emotional injury, but they can't help these soldiers, these veterans, with all the problems of their every day life intertwined with their mental illness.

JUSTICE LIPPMAN: Of course.

MR. POWERS: What I have noticed -- we have been doing this clinic now here in Onondaga County for over three years, and I've developed an ongoing relationship with many of the veterans and many of the parents because they keep having problems. That's because their disease, their injuries and illnesses haven't resolved themselves yet.

JUSTICE LIPPMAN: And they continue to lead normal lives without having legal services, those necessities of life, we are dealing with the legal problems.

MR. POWERS: I say over 90 percent of the people that come to the clinic have some sort of disability determination and some percentage by the VA. The vast majority of them are disabled, even though it doesn't appear to you by the naked eye. They are just as unable to advocate for themselves as the indigent or any of the other established groups that we automatically, as matter of right, know, yes, they need pro bono services.

JUSTICE LIPPMAN: I think it's a group, as I said before when Judge Marks was testifying, we have to focus on more because I think in a lot of the -- with the monies that we have been getting, these grants, I think we have to look at the different areas and veterans I think are unique -- a unique area that really has to be -- as you have tried to focus on in the work that you do.

MR. POWERS: So what we do at our clinic, Judge, to tie this back up --

JUSTICE LIPPMAN: Sure.

MR. POWERS: -- it's a walk-in clinic every month. Although, apparently, all the veterans agencies have now a direct dial to my office because I get calls all the time during the week. It's an advice referral clinic. We meet with anybody that wants to meet with us. We give them advice. We determine their eligibility for the existing pro bono services in the area.

JUSTICE LIPPMAN: So you hook them into providers?

MR. POWERS: Yes. If for whatever reason they're not eligible, I will tell you there are some individuals that are worthy candidates, but aren't eligible, we either represent them ourselves, I have a list of lawyers who have agreed -- in the community who have agreed to take on these cases on a pro bono or reduced-fee basis, or if they can afford a lawyer, I try to refer them to the right lawyer in town to handle whatever their issue is.

In terms of the needs, I need more lawyers. And I would say I need more lawyers for these other pro bono service agencies because they are

already taxed to the limit.

JUSTICE LIPPMAN: Not only are they taxed, some of our testimony, you know, shows that they -- the lawyers particularly Upstate, in the more rural areas, the amount that they earn and overwhelming cases, the amount that they earn almost puts them in the category of working poor or indigent or any -- whatever you want to call it because these providers have so little monies to pay lawyers.

You have really dedicated people who are willing to take this kind of work from this kind of volume while barely earning a living themselves, you know, living more than the people they are trying to help.

MR. POWERS: And I would just conclude, Judge, saying that it's tough. I understand that it is tough for lawyers to donate their time on pro bono. You have to earn a living. You have to practice. Many, many cases it just seems to be overwhelming, even to me and other lawyers who -- who volunteer and do this work.

I will tell you and any of the lawyers in the room that it is among the most worthwhile

professional experience that I have ever had.

JUSTICE LIPPMAN: John, let me ask you a question. The new 50-hour program we have for kids, can the kids be helpful with veterans, at least if they are under supervision, obviously not admitted lawyers yet, can they be helpful in addressing these kind of problems? You know, again, if they are under supervision of someone who is an admitted practicing attorney.

MR. POWERS: Absolutely. These veterans just want someone to help them. They gladly take, you know, any -- a law student, a new lawyer. They would be ecstatic. It is absolutely a very positive development.

JUSTICE LIPPMAN: Good. Any --

MR. POWERS: I thank you. With that, I thank you for hearing me.

JUSTICE LIPPMAN: No, John, thank you and Patty -- Judge Marks. Forgive me for calling you Patty. Any other questions, Dave?

MR. SCHRAVER: Just wanted to mention one thing that jumped out at me from Judge Marks' written testimony and that is funding that was provided by OCA enabled one of our legal services

providers in Rochester to be onsite at the Veteran Outreach Center, and partly because the veterans are reluctant to seek help so it is important to have that accessibility in a place where they are comfortable.

I don't know whether she should maybe explain that a little bit more, how that collaboration works. It's really very important, though.

JUDGE MARKS: This is under the umbrella of that SSVF grant. We collaborate with a number of agencies. The whole concept of the outreach center is understanding that veterans when they leave service, if you refer them to other places we're going to lose them.

So when they come in to the Veteran Outreach Center, they are assigned a case manager, and if they have legal service needs, there is a lawyer onsite three to five days during the week, and they immediately get an appointment and a preliminary interview with them.

That is a very effective means of delivering legal services because of a veteran's reluctance to seek help. They've been trained to not seek

help. And if you get them through one door, you may not get them through the next door, so it is important that onsite concept or sort of the model that John used, too, where the veteran knows they can comfortably call.

It has to be a regular, comfortable and routine that can attract the veteran comfortably and multiple referrals without some type of support can create some issues.

One of the things we do at Veteran Outreach Center is also assign a support mentor to a veteran-to-veteran contact. Helps them maintain contact about referrals to legal services, so there is a sort of a psychology around working with veterans that is important, too, and the collaboration we have had some legal-medical collaboration that has been very successful.

I think there is some services -- veteran services, legal collaboration that Veteran Outreach Center has been successful at and a model other areas could use.

MR. POWERS: I would just add for the same reason we use staff members at the clinic who are veterans themselves. One of the biggest obstacles

for veterans getting treatment is this ethos of never having to ask for help and having -- and there are massive trust issues, so the common experience between the lawyer and the veteran, and also being in a location that is comfortable for the veteran in part helps to overcome the trust barriers.

JUSTICE LIPPMAN: Presiding Justice Scudder, anything?

JUSTICE SCUDDER: No.

JUSTICE LIPPMAN: Judge Prudenti?

JUSTICE PRUDENTI: It is good to see Judges Marks. I'd like to thank Mr. Powers for your comments and access to justice. We look forward in working with you as we expand, you know, our involvement in this program, especially with the new requirement for pro bono for our legal students, so I assure you we will be in touch.

JUDGE MARKS: I look forward to it. Thank you.

JUSTICE LIPPMAN: Thank you so much. The -- let's say we will stay on this issue just a little bit longer. We have a veteran's panel with

Cheri Caiella and Phil Daily. Cheri is the mother of a client of the Pro Bono Legal Clinic for Veteran and Active Military Service Members. And Phil Daily is a Paralegal, LawNY and Veterans Outreach Center and an Iraq combat veteran. Great to have you both here.

MR. DAILY: Thank you, Your Honor.

JUSTICE LIPPMAN: Cheri, want to start?

MS. CAIELLA: Yes. My name is Cheri Caiella. I want to thank you all for having this panel. I want you to know that my husband and I are attitude was when our son went in the Marine Corp. that he enlisted and we were drafted. We had no idea the ramifications of that.

Our son served in combat in 2007 as part of President Bush's surge. And he was -- while he was still considered a rifleman in the Marine Corp. and whole 311, he served in a scout snipper platoon.

My understanding of that is they would go in a Humvee, just he and his team. There would be five or six of them. Complete darkness. Get implanted in the area that they needed to go get intelligence, and then the Humvee would leave

them, and they would have to go find their high and do their job. Conduct their mission.

And sometimes what we don't realize is they are trained very well. We have the best military in the world, but training doesn't always give you experience in handling IEDs, vehicle bombs and children being used in combat. And these have an impact on our soldiers and Marines.

Our son came home in September and we were thrilled. We had no idea what awaited us. We didn't know that he suffered from a mild traumatic brain injury and severe chronic PTSD and other mild issues.

To look at my son he looked the same. I can tell, I'm his mom, there is something different. However, the piece of my son being vulnerable, we didn't recognize that he was, in fact, vulnerable. He looked fine. Everything was intact.

How I met John Powers was my son had gotten a ticket or something -- mail came home from Syracuse City Court. And I figured he served in combat, he's old enough, he can take care of this, this is his responsibility.

But when the second letter came, in

discussing with my husband, who is a retired sheriff's deputy now, we knew we needed to intervene. I opened the letter, hesitantly, to discover that he failed to show up in court. And everyone in this room knows that that's not a good position to be in. Judges don't like being ignored and I can understand.

So we took him to see John who had a veteran clinic. And thankfully John intervened and helped. My son couldn't advocate for himself, though. My son could barely remember that he got that ticket. That was a huge problem.

And I don't want to belabor the point, but John Powers and my friend, Janice McDonald, who is a law professor up at SU, they need to be cloned, because this is a community where not all are vulnerable, but my encounter is a lot of them are and they need support. They need trustworthy support and help.

JUSTICE LIPPMAN: And the testimony before, it's not just medical problems they have. It's all these other things surrounding the legal --

MS. CAIELLA: Right. They take on a life

of their own. You need to understand, Your Honor, my son was also discharged from the Marine Corp. with other than a honorable discharge after his combat service, and I said this is not acceptable, my son said, you will never beat them, and I said that may be true, but I promise you that I will not hurt your fellow Marines.

There is discharge issues that these men and women cannot navigate. It's really challenging for me and I'm not a lawyer, I'm just a mom, but my husband was in the -- you know, served as a deputy sheriff, this is a whole new deal.

Now I will tell you that -- excuse me, my son did get VA rating of hundred percent, and for the purposes of the VA, his discharge was upgraded. But for the DOD, which John Powers helped prepare, they denied that, in spite of the hundred percent rating with the Veterans Administration and receipt of Social Security Disability.

And the impact of all of this on my son and our family and other families, it's not just my family, there is a lot. So I'm like the woman in the Bible, the Old Testament, who goes before the

Judge begging and just keeps going and keeps going until she gets what she wants.

If we do nothing, we've failed, but I don't sense that that's where this is heading, and I am grateful for all of your time and for your attention to this matter.

JUSTICE LIPPMAN: We're so happy that you're here. I think it demonstrates --

MS. CAIELLA: Thank you.

JUSTICE LIPPMAN: -- that there are so many different levels of this need for civil legal services.

MS. CAIELLA: Absolutely.

JUSTICE LIPPMAN: That, again, is the scarier time that, gee, this is, you know, someone out on the street with their hand out and, you know, their pockets, you know, nothing in their pocket and that's what we're dealing with, and those people do need help, but there is such a broad array of a need here, and you know it's some of the other hearings and we had it all over the state there are veterans and there are people with masters degrees and, you know, this isn't the stereotypical, gees, these are people that have no

responsibility and they are just, you know, asking for a handout. And, you know, we need to help all of our people in society, but there are so many different categories of people, and again, the veterans are such a unique group that one wouldn't expect to have these interconnecting problems that you so really vividly describe. So thank you for being here.

MS. CAIELLA: Thank you for your time.

JUSTICE LIPPMAN: Thank you. Mr. Daily.

MR. DAILY: My name is Phil Daily. I'm a paralegal with Legal Assistance of Western New York, known as LawNY in the Geneva office in Geneva, New York.

I'm also a First Iraq War veteran, and served as an infantryman with the 101st Airborne Division in that conflict. However, I'm not a combat veteran. I entered service shortly after the first Gulf War.

And I learned yesterday, Your Honor, that I would be here to provide testimony, and in my stead, I was on vacation last week, my colleagues prepared the written testimony and incorrectly mentioned that I served in the first Gulf War.

JUSTICE LIPPMAN: We honor you whether you were there a little after.

MR. DAILY: This young lady and her family she mentioned her son was a scout. I know the training, he went there, and I know what he endured, and despite being lucky enough to not have my number called at the time, my hat goes off to you and your family, so I appreciate your son's service, and I am beyond words humbled at your advocacy for civil legal services.

And as mentioned, I'm from Legal Assistance of Western New York Law, New York, and to me we are civil legal services between Erie County and Onondaga County.

JUSTICE LIPPMAN: Large area.

MR. DAILY: We serve 14 counties through 7 offices. What I would like to speak about quick, and I appreciate the opportunity to do so, is some of the legal services and avenues in which we have explored to assist veterans to access civil legal services.

Our office in early 2012 implemented a veterans hotline where anybody who is a veteran, no matter what their issue is, can call our office

and be identified, our receptionist does a wonderful job asking if they're a veteran or a veteran family, and they immediately get sent through to me no matter what the problem is, and then I work from there to link them up to resources, if it's a case in which we can't handle within our office, or we can -- the veteran, veteran family send them up to other offices, so I'm very proud of the veterans' hotline.

I love speaking to veterans. And the first thing I ask, what branch of service and what did you do for it. And Judge Marks and Mr. Powers, I think poignantly and correctly stated, veterans like to speak to other veterans. Share the common experience and they feel at home and they feel at ease and it is hard for veterans because of their training to seek help.

Once they know that they are working with a veteran I think and I find and I think most people find that it tends to make that a little bit easier.

As Judge Marks also noted, the Veteran Outreach Center of Rochester, which I cannot say enough about, she is already commented, but what I

will say is that it's ran by veterans and it is for vets and it's a place they feel at home in.

So in conjunction with the Veteran Outreach Center of Rochester, our office, LawNY has been able to provide and receive funding under this SSVF we heard about, Support Service to Vet Families. Funded from the big VA and it is, it is -- hopefully it will last, may not.

We're able to provide services throughout the Rochester office and my particular office in Geneva and the rural area under that funding.

JUSTICE LIPPMAN: Do you agree you need reason -- the legal services community that you need people who specifically understand the legal problems of veterans and is helpful to have people who at least to some degree are specialized in the legal problems of veterans?

MR. DAILY: I think that's true. I wouldn't say across the board that is true. I work with handfuls of wonderful advocates, attorneys and other people who are very.

JUSTICE LIPPMAN: Just want to help people?

MR. DAILY: Just want to help people, and

want to focus some of their great skills in helping veterans, and they don't have military experience, and they have come and said they feel let down. I've always assured them that's not the case.

Some part of me does say a veteran working with veteran appear to be one on one.

JUSTICE LIPPMAN: Helps you.

MR. DAILY: There is no way that someone who hasn't served, especially infantry as a scout, as a combat solider or a combat military specialty, there is no way that they can share in that experience that a veteran has.

I think it's the same for, you know, lawyers, no matter whether they went to Harvard or Tulane, picked a law school, still share that common experience. Without that someone who isn't a lawyer it may be hard for them to, you know, completely understand that whole experience, and the same is true, I believe, in some regards for military -- former military personnel and veterans.

So I think it is helpful and a lot of cases it is needed where veterans, especially combat

veterans or the combat MOSs and the particular training in life that they endured they need.

JUSTICE LIPPMAN: How many lawyers and how many paralegals are there in LawNY?

MR. DAILY: I'm going to say we have a personnel of about hundred folks between our seven offices. And don't quote me on that. I think it is right in the neighborhood.

JUSTICE LIPPMAN: And it covers that?

MR. DAILY: Fourteen counties between Erie and Onondaga County, and we are civil legal services. We handle the bread and butter stuff. The public benefits. Welfare law. Unemployment benefits. Housing is the -- you know.

JUSTICE LIPPMAN: This is the basics that applies to veterans and applies to every other union?

MR. DAILY: There has been mentioned here, Your Honor, veterans face the same civil legal issues as our general population, but they have that unique experience of serving in the military.

JUSTICE LIPPMAN: Yes.

MR. DAILY: And that is on top of that.

JUSTICE LIPPMAN: Really very insightful

for us to hear, you know, from both of you, from our two previous speakers. Any questions, either Justice.

JUSTICE SCUDDER: I'm curious in the rural areas how this would works. In other words, you take the phone call, then either services that you can put somebody towards in the rural areas? I mean I understand Monroe and Erie, and -- but maybe not Steuben. Here we go, Steuben. Let's go.

MR. DAILY: I can't smile enough with the question, Your Honor. I am in Geneva. Our -- the Geneva office services five rural counties, including Yates, which is one of the most rural in the state, and I pride myself and our office prides ourselves on finding -- if we can't handle the issue the veteran or person faced, where I pride myself on finding something for them.

If they are calling from a county outside our catchment area, I will not give them the number. I will call and get a point of contact and find out if they handle the case. So I pride myself on finding resources to help folks who contact our office.

As far as outreach now the -- as you mentioned, you understand Monroe County in the Veteran Outreach Center, again, cannot say enough for the folks there right downtown Rochester, vets know the place. Been around 30 years. One of the oldest and largest in the nation and formed by former Vietnam veterans and folks in the city know it. They know it.

Out in the country, in the rural area it's not the case. So what I've found and have been utilizing I go with -- where vets are, instead of one stop shop at the fifth. So I go door to door. I go to the VA where vets are, the service agencies, and I like going there any way.

When you go to a VA, it me -- reminds me of being back in the military. In some sense, although there is this lack of trust that a lot of veterans have with the VA, I don't share that. I understand that, but I don't share it, and I go to the VA. I meet with the social workers working with the veterans and they call me every day nonstop working with a vet with a particular issue they don't know what to do with.

And, again, I try to find them some

resource. If it's not within our priorities, we don't have a funding to do that. And real quick, I need to mention we appreciate so much the Office of Court Administration's funding that helped us to explore this avenue and move veterans legal services forward and our veterans projects forward. So again we find some resource for them no matter what it is.

I find a lot of times even if there isn't help or if they speak with someone that's something. They feel really good. Especially someone who shared some of their experiences.

JUSTICE LIPPMAN: Okay. Thank you.

MR. SCHRAVER: Thank you. Thank you.

JUSTICE LIPPMAN: Thank you so much. First part of this has been very instructive. We're going to go off the agenda a little bit. Instead of doing the third panel, they're a little delayed in getting here, they're still not here yet, I think. We're going to go to -- we have part of our fourth panel here. The collaborations and shared costs panel. Jeffrey Unaitis, Anthony Marshal, Christopher Wiles. Sally Fisher Curran. We have two of the four here already. Right?

MR. UNAITIS: Yes.

JUSTICE LIPPMAN: Let's start and move you out of order a little bit.

MS. CURRAN: Your Honor, we will send a note to the others to let them know we are starting early.

JUSTICE LIPPMAN: Whether they are here or not tell them. Jeffrey Unaitis is the Executive Director of the Onondaga County Bar Association. And Sally Fisher Curran is the Legal Director of the Volunteer Lawyer Project. So, Jeffrey, want to start.

MR. UNAITIS: Yes, Your Honor. Thank you for having me here today, and I'm very happy to speak on behalf of such a larger group that has been active within this county for many, many years.

George Lowe couldn't be here today, he is traveling outside the country, but I know he talked frequently with you about our efforts here within Onondaga County to do -- duplicate the success of Monroe County and its Telesca Center for Justice.

I would like to be creative with you and ask

you to close your eyes and imagine the Telesca Center being lifted up and carted down the freeway and dropped here in downtown Syracuse and you'd have some idea what we are hoping to accomplish.

JUSTICE LIPPMAN: It's a unique place, I agree.

MR. UNAITIS: I will give you an update. I was happy to be in Rochester just last Wednesday where I had a tour of the facility, opportunity to meet with Mary Lowenbooth, my counterpart at the Monroe Bar Association. Sheila Gaddis, generous with her time.

JUSTICE LIPPMAN: A lot of people and Telesca is a unique place.

MR. UNAITIS: We are jealous, I guess.

JUSTICE LIPPMAN: You should be.

MR. UNAITIS: Such a thing as preaching to the choir, I don't need to talk about the benefits it would be to the community here, the providers of civil legal services, but to the constituents and the clients we serve.

JUSTICE LIPPMAN: I mean as I understand Telesca is -- it's a group of providers that sort of share in the scale that goes from having kind

of a one-stop shopping at Telesca and you are wheeled out to whatever your need is. You know what I mean? How do you do that because it is so we're getting more money for providers. We're trying to spread that money around the state.

How do we use it most wisely in a county like Onondaga to have this kind of -- make the money go as far as it can which we understand that it is finite. If we double, triple, no matter how much money we have, it will be finite. How do we do that?

MR. UNAITIS: Let me first acknowledge the partners discussing this, and they are represented in the room here, Hiscock Legal Aid Society, Legal Services of Central New York, Legal Aid Society of Mid New York. The Federal District Bar and Syracuse University College of Law have also been at the table as we had these discussions. Certainly.

JUSTICE LIPPMAN: Need a physical place. That is the key here.

MR. UNAITIS: I believe that's crucial not only for the economies of scale you have, no matter what the group business. With technology

there are certainly savings we could be achieving. Because there is a limited pool I think we all gain.

I also think it is a benefit from sharing a best practices organizations are not collocated, that's the word I learned in Rochester last week, collocation, the ability to be under one roof certainly allows us to certainly take advantage of those economies of scale and efficiencies.

I think more to the point it allows our staffs to better coordinate, communicate among one another with one collocation to my mind is about collaboration, consistency of the service we are providing.

And a tour of the center I was impressed about the fact they have a shared representation area on the 8th floor. So if you are showing up for a meeting, you're directed to the 8th floor, but then you're directed to whoever the provider is.

May be come apparent at that time other programs or clinics or services that another provider may be able to give to you, you can take advantage of while you're on the property. Also

share a switchboard.

I can tell you at the Bar Association just listening in on our front desk we are frequently referring callers to the other organizations. The ability -- in my testimony I referred to it as triage, that maybe is a little too clinical. The ability to actually listen to the caller, understand what the range of issues are that they may be facing, makes the appropriate referral that may be lead to one of our other agencies.

So I think it is better from the client perspective, better opportunity to deliver what we are able to do with the funding we receive. When I was in Rochester, Mary was surprised to hear how far down the peg we are here in Onondaga County, with one exception, we've been able to coordinate expirations of our leases to the end of 2014. So little more than two years down the pike.

We have one agency, Hiscock Legal Aid on a different lease. We don't think that is an insurmountable challenge. Each of the organizations made a financial contribution to retain the services of an architectural firm which is completed a fairly extensive space and needs

analysis and an RFP two weeks ago has gone out to a dozen commercial developers within downtown Syracuse.

JUSTICE LIPPMAN: How are each of those organizations funded? What's the relationship of them to the bar -- the Bar association?

MR. UNAITIS: So the Bar association is a private bar through our membership. We do receive IOLA funding for the volunteer lawyer program. We've just been the beneficiary of the judiciary civil legal service funds which allowed us to hire Sally, and we're also the beneficiary of some local grants as well. I can't speak to the dollar to that organization, but we are all recipients.

JUSTICE LIPPMAN: It's all a mix of some kind of government funding, private contributions.

MR. UNAITIS: Legal Aid Society of Mid New York receives Legal Services Corp. funding.

JUSTICE LIPPMAN: LSC cut back. One of the reasons we are here today. Funding for the Federally legal services corporation has been reduced so heavily, as has IOLA money, the state judiciary and funnel $15 million into IOLA.

MR. UNAITIS: I think we are -- our recent

capabilities among the local Bar and other resources in terms of special events. One of the nice things that happened in the dialogue, the staffs begun to talk together. I know that the IT folk from the organizations put their heads together to decide what a new facility needs to look like.

Again, we have the benefit of Monroe County and the Telesca Center. They made themselves very available to us as we pursue this project. Certainly key to any going forward will be identifying necessary funds.

In the case of Monroe County, they were able to find a landlord more than willing to incorporate the improvements necessary in a very long-term rent, I think up to 15, 20 years now, and any landlord in any northeast urban area will be happy with a tenant committed to that term of a lease. So we are optimistic that those opportunities will exist within Syracuse as well.

JUSTICE LIPPMAN: And you believe that this kind of an approach that they have in Rochester is the best way to go in terms to making the efficient use of civil legal services for the

poor for people that can come and get some kind of help in some kind of coherent fashion?

MR. UNAITIS: Yes, Your Honor. I think from a client's perspective -- confusing now. I should preface my introduction, I'm not an attorney. I assumed this position less than a year ago. I was confused at the time about the different organizations, the programs that were provided to an outsider. They don't see a difference. We know we have different capabilities in terms of provision.

So as much as I like the phrase "one-stop shopping", I think that's what this opportunity would afford us. You know, many of our clients don't have access to their own transportation, so having one location, proximity to public transportation I think is critical as we go forward.

But I think it makes us not only more efficient, also more proactive. When I was in Rochester, I learned that attorneys from different organizations that are working in similar areas are now putting their heads together more frequently and to discuss the kind of emerging

issues that they are seeing.

So I think in terms of the legal professional community, we will be able to more effectively identify emerging needs and trends in our community, and be it the forefront rather than reacting when issues come up and that's again the community -- I think the legality of having our organization sharing the space.

JUSTICE LIPPMAN: I think it is great you are doing what you should be doing. An area that obviously has a lot of need in terms of legal services for the poor and this is a great way to approach it. I really believe that.

MR. UNAITIS: We are very excited about the opportunity, Your Honor.

JUSTICE LIPPMAN: We are, too. Uhm, Sally, you want to tell us about the volunteer legal project?

MS. CURRAN: Yes, Your Honor. Thank you. I am one portion of a three-part presentation that's meant to talk about the volunteer lawyers project, which is a portion of the Onondaga County Bar Association and the collaboration we now have with "Say Yes to Education", so if you will humor

me, I will do a brief introduction of the two different organizations and then talk about the collaborative work and the vision we have about going forward.

JUSTICE LIPPMAN: Okay. Have Mr. Marshall and Mr. Wiles later?

MS. CURRAN: Yes, exactly.

JUSTICE LIPPMAN: Go ahead.

MS. CURRAN: So let me start by saying that I'm the new legal Director of the Volunteer Lawyers Project, but also the "Say Yes to Education" and Syracuse Legal Task Force.

And this position -- it would not be possible if it hadn't been for the grant from the Office of Court Administration, so I really want to express my gratitude to the panel so -- Your Honor and to --

JUSTICE LIPPMAN: Judge Prudenti was on the panel. Thank her.

MS. CURRAN: And the whole access to justice program.

JUSTICE LIPPMAN: Thank you.

MS. CURRAN: Thank you. The -- it's also this position was made possible through partial

funding through "Say Yes to Education".

When the two organizations were looking at the opportunity to expand the legal services that they had and were looking for adding an attorney on staff, I know that the parties, I was not present at the time, of course, but the parties saw an amazing opportunity for collaboration and so that is what my job now is.

The volunteer lawyers project provides a tremendous amount of services, pro bono legal services here in Onondaga County. This panel already heard about the veterans program that we have.

JUSTICE LIPPMAN: Right.

MS. CURRAN: We also have walk-in clinics. I will be speaking about a refuge clinic, a clinic at a hospital and at a local health clinic as well. We provide uncontested divorce help. We -- on a yearly basis, we run an elder law fair to provide education and access to attorneys to the community.

We organize Law Day to many of the students involved, and we participate at Syracuse University every year with their pro bono week and

in many other ways. And "Say Yes to Education" I think is most famously known for the commitment that it has to provide any Syracuse City School district student who finishes 10, 11th, 12th grade guarantee -- we will -- guarantees it will have funding for college tuition and that's really just the tip of the iceberg, though.

"Say Yes to Education" provides holistic services to ensure that students stay in school and is really a collaboration of the most amazing kind between all parts of government, city, the county, the state, and it is working to make sure that students stay in school.

JUSTICE LIPPMAN: You know, it's interesting on education, people don't necessarily see the connection between legal services and keeping kids in school and keeping families together and how it contributes to the fabric of society. Make the connection between legal services and education, how do they interface?

MS. CURRAN: They are so intertwined in so many ways it is difficult to unravel it and explain it fully. The most obvious issue is the way we ask the legal task force who are

participating, we are helping ensure that students aren't being evicted from their homes. That there parents are able to stay on public assistance. That there is family law issues that they are being addressed and not exploding to a level that causes children to be removed from school or to lose out on the opportunities that they have.

But I think it also plays out in an investment in our future way, because when you look -- I was just at a "Say Yes" meeting last week, and the county was looking at the numbers of people that are receiving cash benefits and how few of them there are -- several thousand in Onondaga County that receive cash benefits, and only a handful of them had the opportunity to have -- to complete any higher education.

And when you look at those numbers you see how tied being able to complete your high school education and then going on to complete education on the higher level makes it so that they won't need to access -- hopefully won't need to access legal services in the future.

So making sure that families have the legal services that they need so the kids can finish

school and go on really is -- I mean it's so intertwined. It's critical.

JUSTICE LIPPMAN: Okay.

MS. CURRAN: "Say Yes" just to briefly say some of the other programs they do they provide extended day and extended-year programs. Mentoring. Social work. Family outreach. And so the legal task force really plays into this larger holistic approach. So now to my part of the presentation.

JUSTICE LIPPMAN: Go ahead.

MS. CURRAN: The volunteer lawyers project has been part of the "Say Yes to Education" since it came to Syracuse and began implementing Syracuse as the first citywide "Say Yes" location.

The volunteer lawyers project has been on the "Say Yes to Education" legal task force from the beginning and played a part in the development of these walk-in clinics that we have.

JUSTICE LIPPMAN: What's the makeup of the volunteer project? What's the -- how does it work? How many people involved?

MS. CURRAN: The volunteer lawyers project is part of the Onondaga County Bar Association.

We have --

JUSTICE LIPPMAN: So it draws from the whole body of the Bar association?

MS. CURRAN: Exactly, Your Honor. We have two staff, myself and Debra O'Shea, and we have hundreds of volunteers.

JUSTICE LIPPMAN: How do you connect the hundreds of volunteers to the needy?

MS. CURRAN: Well, Debra O'Shea has been doing a wonderful job for the last nine to ten years doing that. I'm a new arrival to it. But what we do is we -- traditionally we have found clinics that where there was need, and we have done outreach to major firms and also to individual practitioners, we do outreach through the Bar and identify people who are interested in doing their pro bono work through us, and we connect them to the different projects that most interest them.

JUSTICE LIPPMAN: Projects coming out of providers.

MS. CURRAN: Projects that we have developed in collaboration with community organizations usually. So our refuge clinic

recently developed in collaboration with Interfaith Works here in the city in response to --

JUSTICE LIPPMAN: So it's a collaboration between the Bar association and a particular --

MS. CURRAN: That's correct, Your Honor.

JUSTICE LIPPMAN: Entity in the community that connects.

MS. CURRAN: That's correct, Your Honor. Even our walk-in clinics we are connected to schools now with "Say Yes to Education", and also to community organizations we have a long-standing relationship with the western communities.

JUSTICE LIPPMAN: Let's make clear, though, the connection here that when we talk about monies for legal services, often we have pro bono attorneys who are willing to do work, but we need the administrative clearing house, whatever you want to call it, to connect that volunteer with a worthwhile project and some of the monies that go to fund legal services go to that kind of middle person.

MS. CURRAN: That's correct, Your Honor. And that's exactly what the volunteer lawyers

project is. We are an organization that works to make -- create opportunities and connect attorneys to where the need is. That's precisely what our role is.

JUSTICE LIPPMAN: Okay.

JUSTICE PRUDENTI: So I have a clear understanding, if someone was to call up with a need for an attorney, what would your response be, to refer them to an appropriate provider, is that what you do, or do you just deal with the volunteer attorneys themselves?

MS. CURRAN: Your Honor, it depends on what the need is. We have a variety of ways in which we address people's needs, and we're also working on developing new ways.

At this point, the largest way that we directly provide the assistance is through our walk-in legal clinics. So we'll often times refer people who have legal needs to go to one of the clinics in the community where they will have an opportunity to talk with a lawyer, and the lawyer will provide some legal assistance in the form of advice, if they feel comfortable with that area of law, and they will refer the client on to the

appropriate legal services providers.

We work very closely with Hiscock Legal Aid Society, Legal Services of Central New York, and Legal Aid Society of Mid New York. And if those legal services are not -- if the person's need cannot be met by those legal services, we do our best at this point to at least give the clients an idea of how they might be able to seek more help on their own.

We do -- the Onondaga County Bar Association does run a lawyer referral service for those who are able to pay for an attorney, and we are currently in the process of working on developing a pro bono legal representation panel. And this is where it folds in very nicely with the collaboration with "Say Yes to Education" because when the "Say Yes to Education" legal task force was created, it was recognized that the legal service providers wouldn't be able to meet all of the needs.

They do meet most of the needs. I want to be clear, we have wonderful legal services providers here in town. But there are a portion, about ten percent of the people who need further

legal representation that are not having those needs met elsewhere, and we have law firm partners from many of the legal -- the large legal firms in town who have agreed to take on those cases pro bono. And so that is a model that has been working very well.

JUSTICE LIPPMAN: The bottom line is I gather that there is lots of different models that you are using --

MS. CURRAN: That's correct.

JUSTICE LIPPMAN: -- to get the job done? There is no one way of doing this?

MS. CURRAN: That's correct, Your Honor. It's a dynamic process. We are constantly looking for new ways.

JUSTICE LIPPMAN: What we tried to explain, I think I said in my opening comment, is that funding for legal services is so important, obviously the providers first and foremost, and but regardless of how much funding we get, there is a center role for volunteer attorneys, you know, in some kind of combination working for a provider, working through the Bar association, community organization, whatever the different

exact model might be.

MS. CURRAN: That's correct, Your Honor. One of the first conversations I had when I started my job was with one of the attorneys, Tom Myers, who is here, I believe, he is still here, from one of the law firms, Bond, Schoenck and King. They're a major partner of ours, and one of the first things he said to me was we have the ability, we want to provide more legal services. Give us the opportunities.

And the reality is that it takes a lot of work to set up the opportunities and to administrate them and to make sure that we're identifying where the needs are, the unmet needs, and in hooking up the attorneys and linking them in with the clients, and it is something that we have been doing here, and we hope to expand, and this is why we are so grateful for the monies that made it to so we are able to bring on myself, as an attorney, and we are really so hopeful about how much we will be able to expand that.

JUSTICE LIPPMAN: Thank you.

JUSTICE PRUDENTI: Thank you.

MR. SCHRAVER: Thank you.

JUSTICE LIPPMAN: Thank you. Okay. Thank you. Are your other two members here yet of your panel?

MS. CURRAN: I don't see them, Your Honor.

JUSTICE LIPPMAN: Okay. Is the student with you, why don't you come up. We have the Dean from Syracuse currently. So now we have the pressure. We're mixing and matching a little bit here.

We're going to have -- this is number three on your agenda, Upstate Law Schools and Student Pro Bono Efforts we have dean Hannah Arterian, Syracuse University College of Law and Catherine Sinnwell Gerlach, pro bono fellow at Syracuse law school. Dean, you want to.

DEAN ARTERIAN: Thank you all very much. Also, I really appreciate the fact that you came to Onondaga County and to Central New York so that people could easily communicate with you about their dedication to the concerns with the issues that are before you.

As requested, I'm not going to read my testimony. I want to make a couple of points, and just really whatever questions you have.

JUSTICE LIPPMAN: Sure.

DEAN ARTERIAN: I think like most law schools, we have a big clinical program, and we also have a pro bono program, which I really will allow the expert on that to speak to, but I think one of the things that is important for everybody to remember is that anything for which students receive credit toward their JD degree has one primary purpose and that's an academic purpose.

These are academic programs that get credited and so the -- although I think when people think about law school clinics they are thinking very much about access to justice.

I think realistically we have to remember these are academic programs. They are often done in the medium and through access to justice to achieve access to justice, but they have to serve that academic purpose.

Therefore, realistically, certainly the clinical programs are, and we have many of them, and they are mostly on the civil side, they're very resource heavy and, you know, you have one faculty member and eight students if you are going to give credit, so if you think about that, you

think about the concerns that are expressed all the time like the cost of legal education, we have to be very, very sensitive to that.

Our law school -- I mean pretty much all of our clinics with two exceptions are really run on the law school's money. We have a volunteer, a low income taxpayer clinic that seeks Federal assistance, and we have a consumer securities arbitration and consumer clinic that at least began with money from a settlement agreement many years ago from the New York State Attorney General's office.

More deeply, I want to just make one point and then please your questions.

JUSTICE LIPPMAN: Sure.

DEAN ARTERIAN: Uhm, I think it's really important to recognize that one of the -- at least I think legal education, I'm sure given who you are, that one of the fundamental things about being a lawyer is being a civic leader. Being really involved in and you can't avoid it.

I think when people think about the duties of the lawyer, we tend to talk mostly about client, professional, ethics. The reality is that

people who get a law degree are suppose -- they will be faced with being civic leaders and part of that seems to me is very important to incorporate when we think about access to justice issues and responsibilities in law schools.

My own sense is that students will be -- will do things when they see that it's important intrinsically to do them, whatever requirements you place on them.

At this point, our clinics and externships within a calendar year will have 230 students. And that doesn't touch the pro bono program where I have numbers for this year, but I think it's better if she speaks to them.

So I think that law schools have a very long history in the State of New York of being very interested and concerned about access to justice issues, and they have invested very heavily in that. I don't know of law schools in the state who are not -- don't have live client clinics.

By that I mean, you know, we have a clinic, we have ten clinics, real human beings come in with really messy problems and present them, and then the students under the very close supervision

of faculty will represent them.

I also say that a lot of these things, some things happen that don't hit the radar screen. A faculty member will go out, realize there is a problem in the bankruptcy court with too many pro ses and says who wants to help. Nobody tells me. Believe me, I found out later got a big award from the State of New York for doing that.

That's true with a lot of projects. You know they just happen. They happen naturally, not because people are seeking credit for it. And I also say, although she will have data no doubt about the numbers of students logged on and get registered pro bono hours, we all know there are many students who can do those things and don't ever think about bringing it in to have it logged on.

And I agree with you, Judge Lippman, that I think it is very difficult to separate out pro bono from broader community service. If people don't get food on the table, you know, they will not be able to reach their hand out to get the legal services that they need. So I can go on and on, but I'm sure you rather I didn't.

JUSTICE LIPPMAN: We thank you for being here, and we view certainly law schools as being a critical, if not the critical player in access to justice issues.

And if, as you know, we have this conference in law schools that explore that very issue, and I think that what you are doing is exactly what we want you to do which is to run a lot of clinics which give students practical experience in helping others, both practical experience and using their legal talents to help others, and then to provide other pro bono opportunities beyond that because what we have tried to make on what we really are referring to here is the 50-hour requirement, we've tried to make it as expansive as possible so that students can get credit for being involved in clinics, and they can get credit for doing other pro bono activities, and they can get credit talking about the civic leaders doing public service.

The only thing they can't get credit for is, and we use the example of you take there has to be law-related work, because we want them to embrace a culture of service in terms of their legal

talents, so we use the example of you can help build houses for Habitat for Humanity and that's a great thing, but you're not going to get pro bono law-related credit for admission to the Bar.

On the other hand, if you did legal work for Habitat for Humanity, that would more than certainly count as pro bono credit under the new rule. So we see law schools as the critical player, and I guess the real issue that I ask you, Dean, in relation certainly to up here in the Syracuse area is in getting kids -- assuming students in -- at the law school want to be admitted to the New York Bar, and getting them credits beyond, and we're going to hear in a minute about some of the pro bono opportunities, do you think there are enough slots, so to speak, between your clinics and between the other pro bono opportunities that are made available to the law school, or will some of the students have to seek it elsewhere, go to the local Bar association or go directly to a provider, what do you think in terms of the availability of it?

DEAN ARTERIAN: I think for students who want to take the New York Bar about half of our

graduating class, just about half our graduating class takes the New York Bar, I don't think there will be an issue at all. I mean if clinic externships are available for that. I mean in any calendar year that's 230 opportunities. I mean 230 slots and 230 people who did it, which is more than half of our graduating class on any given year and that's not taking on all of the work that is done through the pro bono projects. So I don't see that.

I do think there are ways in which we can enhance, create some different -- I mean make interesting opportunities for students to do pro bono. For example, you know, reaching out to our alumni in law firms in major cities where the students may be in the summer. That might be an opportunity for them to do pro bono, you know, assisting there. There are other things to do. But I think you would be doing those not because of the 50 hours requirement because you just --

JUSTICE LIPPMAN: We hope so.

DEAN ARTERIAN: -- really -- an interesting thing to do. I note the Cardozo conference, to say I know it is very meaningful

that our community from our law school was able to participate as with it, as we are, all of the law schools in the State of New York, and it was a really great opportunity, and I hope there are repeated opportunities.

JUSTICE LIPPMAN: The law schools have been great. Let me ask you this, Dean, our hope is that some of them do it because of a requirement. Hopefully as you say, some of them do it because they want to help others, and they do embrace that culture of service.

It's our hope that when students are exposed to pro bono work, whether it be a clinic or whether it be in another pro bono opportunity, that they're not going to put down their pens and say okay, I've done 50 hours, and that's it I met my requirement.

Is it your experience that once a law student kind of gets hooked on the high of pro bono service and helping others that they do really, you know, want to continue on until completion?

DEAN ARTERIAN: She's probably at the -- able to -- is certainly one example of that. I

think that's -- let's be realistic, I think it would be very interesting and may in fact be to empirical data out there that talks about who did what in law school and what they do in practice.

Unless the practice, you know, get many, many more people in practice doing this, it will be hard for the law schools to really fill a gap. But I think that's true and it takes me to a point I just want to come back to because I don't want it to get lost and that is when students first start law school having them engage in community service is important, because that is kind of the first way in, and I think even students who think that's not for them, once they do it it just helps them in someway.

And like a lot of law schools, every one of our entering students has a group day where they all engage together in community service, and I think also, Judge, we want that because it --

JUSTICE LIPPMAN: Definitely.

DEAN ARTERIAN: If all somebody does -- I don't mean all, all. If someone does in practice, they do some pro bono work and that's great, you know, we don't want them to think I did that now I

take a leadership position in my community, that I don't serve on, you know, city councils or help that way.

JUSTICE LIPPMAN: I hope and I know you believe it that lawyers are the backbone of so much of what goes, you know, in our cities and our state. And the point is I think in -- this is kind of trying to grapple with, there is a justice gap in New York on pro bono work to help those who cannot help themselves, and we need lawyers to do that, and we need lawyers to fill that gap because no matter how much public funding we get, and we've gotten the -- New York fortunate enough to get more public funding than anyplace else in the country and that's great, but it is the tip of the iceberg in terms of the need.

So my hope is, our hope is that lawyers can help to fill the justice gap because what they get in at your law school, whether they do it because we're telling them you have to do 50 hours or because you make all these wonderful opportunities available we'll stay with them throughout their careers, so they can do that part of this service of the profession this service to others that

we're suppose to be doing or we should do. It's also our hope, and I suspect it's the same people who are going to do the pro bono service who are going to be the leaders in the community and doing the things that are not strictly law-related work, but serve our communities, and that's one reason that we try to in defining pro bono to put a wide definition that include, for instance, a service to government, that public service, and being a part of our community, so I think it is -- all fits together I think in a really nice way, but I do think that -- that law schools are the key to this equation. The providers, we have so many representatives here, have a lot of students certainly in certain parts of the state who go directly to the providers and that's great, and the Bar, and we have testimony from the Onondaga County Bar that they will go directly to the Bar, but you're so important.

I hope we have done it in a way that doesn't put, you know, all of the burden on you, but yet recognizes your critical way, and we try to do and we're going to shortly let Catherine do her thing, but what we have tried to do is recognize your

critical role and yet try to not say look, you have to do this no matter what the cost is to legal education because in the end your education and we get that and we appreciate all you are doing and we hear more what Syracuse is doing.

Catherine, tell us what a pro bono fellow does.

MS. SINNWELL GERLACH: I'm the pro bono fellow at the College of Law. The pro bono fellowship, I'm lucky to have this opportunity, it's a split position with the College of Law and Onondaga County Bar Association.

JUSTICE LIPPMAN: So you're a graduate when?

MS. SINNWELL GERLACH: Graduate in May of 2013.

JUSTICE LIPPMAN: Okay. So you're.

DEAN ARTERIAN: She's a student.

JUSTICE LIPPMAN: Still a student?

MS. SINNWELL GERLACH: Yes.

JUSTICE LIPPMAN: Yet you have this position with the law school and the Bar. Tell us about it. What do you do?

MS. SINNWELL GERLACH: First --

JUSTICE LIPPMAN: Aside from going to school.

MS. SINNWELL GERLACH: First, I'm a student, but second I get to work with the local Onondaga County Bar Association Volunteer Lawyer Project.

JUSTICE LIPPMAN: We talked a little bit.

MS. SINNWELL GERLACH: I get to work with her and Debra at the lawyer volunteer project ten hours a week. Those days are spent in landlord tenant court. Pro se divorce clinic. East Syracuse justice court eviction defense program, and talk to a lawyer clinics, also connecting students is the other half of my job.

JUSTICE LIPPMAN: Other people like you other fellows?

MS. SINNWELL GERLACH: I'm the only pro bono fellow at the College of Law. Part of my job is to engage students in the pro bono opportunities. That's what the other ten hours of my position is. I spend those ten hours with the law school working with pro bono advisor board which received he honor last year from the New York State Bar.

JUSTICE LIPPMAN: You do it and you get others to do it?

MS. SINNWELL GERLACH: I get others to do it. I coordinate a lot of activities with students. Making connections in the local community. State legal agencies. Prisoners legal services.

JUSTICE LIPPMAN: A lot of kids take advantage of that?

MS. SINNWELL GERLACH: Many students do take advantage of the opportunities. In fact, last year's graduating class 5 percent of the class participated in a pro bono program.

JUSTICE LIPPMAN: Beyond the clinical programs?

MS. SINNWELL GERLACH: Yes. We have a graduation honors program at the College of Law, you do over 30 hours of pro bono service, that's at the time it was legal and community service related hours, but 65 percent of students logged well over those 30 hours, and received a cord to wear at graduation. It has intrinsic value to them. Provided no credit. They're doing it for themselves.

They have the cord to wear at graduation. Over 65 percent, that's not including the people logging the hours. I do have students that I talk to who don't log hours because they feel they don't need the recognition.

JUSTICE LIPPMAN: I think it is very interesting, too, when we talked about it with the Dean that this idea of law-related pro bono work and this other whole area of community service we grappled with that in trying to see where do we draw the line on the 50 hours. We want you to do both. Go ahead.

MS. SINNWELL GERLACH: Well, I think the students that have embraced the 50-hour rule, especially with how expensive it has been and open for them to do many opportunities in public service.

JUSTICE LIPPMAN: We found sometimes kids are wildly enthusiastic.

MS. SINNWELL GERLACH: The 50-hour rule we really -- I guess I don't like to see it as a rule. More of a 50-hour kind of bonus they are applying to the Bar for, Bar admission with 50 hours. Most of our --

JUSTICE LIPPMAN: Send you around the state with the program.

MS. SINNWELL GERLACH: Most of our students have completed well over 50 hours by the time they graduate. Especially --

JUSTICE LIPPMAN: Tell me what you got out of it? What is the -- what do you feel when you are doing pro bono work? Does it inspire you? Do you think it's drudgery? What is it? What do you make of it?

MS. SINNWELL GERLACH: Well, I went to my -- first, you get to law school you think I will be an attorney, this is going to be -- you have this picture in your mind, you know, I thought maybe it through moot court I would get that opportunity and that gives you a little rush.

Then I realized when I went to my first pro bono divorce clinic and sit down with someone and fill out the pro bono application that's why I came to law school.

JUSTICE LIPPMAN: Client contact is a high?

MS. SINNWELL GERLACH: It is a high, I agree. When you mention that once you instill

that habit, I do believe that pro bono is a habit we can begin in law school. That once you instill that habit, it is -- there is no stopping the students, and it is almost like I can't come up with enough opportunities.

JUSTICE LIPPMAN: That's exactly what we want it to be, a habit, or a stronger word of attraction, something that stays with you and then meaningful and that once you start, you can't imagine being a lawyer without that component of what you do, whether you devote your whole life to it, you know, in some kind of a big legal service provider or whether you're an attorney out making lots of money, but hopefully wanting to still keep your hand in pro bono.

MS. SINNWELL GERLACH: Connecting students with those opportunities with the VOP and other opportunities around the state. They get to work hands on with an attorney who shows them that they still have the habit of pro bono, and I noticed students that get to work one on one with the attorneys.

They not only develop the pro bono practice and the importance of it, they also have developed

a mentor relationship often times and can work with an attorney and goes ways beyond just the pro bono work that they are doing, so it really does benefit all as much as the pro bono service benefits a community that needs it the most, law students do get just as much out of it, and I feel like I've been given more than I gave.

JUSTICE LIPPMAN: It's a terrific point. One of the things we tried to emphasize is that not only helping people and that is so important, you are helping yourself, you know, to be a lawyer. What it means to be a lawyer getting practice skills. You are great, we will keep you doing pro bono forever. Presiding Justice Scudder, want to ask the Dean or Catherine?

JUSTICE SCUDDER: No.

JUSTICE LIPPMAN: Judge Prudenti?

JUSTICE PRUDENTI: No.

MR. SCHRAVER: It illustrates the important role that law schools have in all of this.

JUSTICE LIPPMAN: Absolutely. So, Dean, always great to see you.

DEAN ARTERIAN: Great to see you.

JUSTICE LIPPMAN: Catherine, great to see you.

MS. SINNWELL GERLACH: Thank you.

JUSTICE LIPPMAN: Thank you so much. Appreciate it. Now I will ask another Dean to come forward from our upstate law school, Dean Stewart Schwab, the Allan R. Tessler Dean and Professor of Law at Cornell Law School, and Sara Heim come up with him, law student at Cornell Law School.

Okay. Dean Schwab, nice to have you here. Any thoughts that you have? I know you are putting your best foot forward over there to your left. We will start with what you have to say.

MR. SCHWAB: Thank you for starting with what I have to say because I do think that Sara will be the highlight of this panel, but thank you for the opportunity. I'm pleased to be here. With me is a third-year Cornell law student, Sara Heim, very active in our pro bono efforts.

Well, the overall mission of Cornell Law School is to provide a world-class center for the study of law, which promotes cutting-edge legal scholarship and trains "lawyers in the best

sense," as we Cornell tagline advertise.

And our goal is then to produce graduates who are profession ready. As they say, a phrase that I learned nationally at a conference with you, Judge Lippman, I think it is really appropriate, it's not that our students will be able to do all aspects of law upon graduation, and there's still a lot of learning to do, but they will be professional ready.

And we hope to instill in all of our students a sense of service as part of really defining the characteristic of being a member of the legal profession.

That being said, I do want to sort of highlight in this day of legitimate concern about the cost of legal education, law schools indeed have to be careful about undue mission creep, and we cannot do all things for all people. Our graduates will do that, but not the law school themselves.

And so getting to the important issue today, outreach and access to justice, that is an important part of the Law School's overall mission.

And at Cornell we already do have, you know, a lot of activities. It's -- indeed, every self-respecting law school is geared toward pro bono service.

They certainly include a variety of clinics at the state and national and international level we have clinics, including LGBT Clinics, Labor Law Clinic, Securities Law Clinic, Death Penalty Clinics, International Human Rights Clinic, among others.

For us a very important part is the summer internships, particularly after the first summer we fund them internally with what we call Public Interest Fellowship grants, as well as externships during the academic year, during part of the time or in full time where students are embedded for a semester in a pro bono organization.

The faculty do a lot of pro bono work sort of on their own or you know not a requirement of the job, it's sort of a hope, expectation of the job, and we'll use students very often to assist.

These can range from helping local residents in a land-use case, to amicus briefs in the Court of Appeals or the U.S. Supreme Court, to assisting

emerging countries like Southern Sudan in writing a constitution. So they can take the gamut.

Maybe I will say a couple of words about our most recent -- our Dreamer Pro Bono project. This is -- comes with a recent announcement this summer of the somewhat controversial maybe in the discussion we talked about this, this pro bono stuff when it comes to law schools can be -- can have a bit of controversy to it.

But this project is an executive order, President Obama did that, allows undocumented aliens if they can prove they have been in the United States since before age sixteen to get lawful status and hopefully a work permit.

These residents, and we estimate there are quite a few in Upstate New York, are very scared of any part of the legal system, and we do think that putting the Cornell Law School name out there will assist.

This is, you know, above board thing. We just had this past weekend sort of our first kind of workshop on that. It was -- and that's just an example of the effort that a number of our students are very excited in doing.

We do recognize this when we have our pro bono certificate program for students who log 25 hours of pro bono service. It's true to date we have included, lump together legal and nonlegal work.

JUSTICE LIPPMAN: That interested me talking about that. Very -- one of the issues that we have to deal with and we took a lot of time to look at was whether the general community service has to be law related.

MR. SCHWAB: Right. Right. So let me turn with just a few specific remarks about the 50-hour pro bono requirement that is certainly on everybody's mind.

Certainly grateful to the committee that worked hard to make a workable set of rules over the summer recently promulgated, and the May 22 access to justice meeting was helpful, kick off to that whole summer long conversation or at least that's how I viewed it.

We did have three representatives attend from Cornell Law School who have been very active in this area and continue to be. Professor John Blume, who directs our clinical, skills and

advocacy program and director of our death penalty project; Assistant Clinical Professor Susan Hazeldean, Director of our LGBT Clinic; and Karen Comstock, the Assistant Dean for Public Service.

All three were there in all of the sessions and did -- found it useful just in the discussion of what programs worked, how can we do this, how can we integrate this with the normal academic load of our students, and very importantly how best to work with the actual providers, the legal service providers.

JUSTICE LIPPMAN: Very helpful to us, too.

MR. SCHWAB: And many others. I believe Cornell Law School will have adequate options for our students to meet the requirements, and indeed although we're working right now most students have already done it.

I can't tell you today the percentages. How many sort of in a normal course say this past year have done this because we're not to date separated out legal work from other work. We are working on that. I'm working to sort of get that number.

Again, to reemphasize, I think both summers will be very important. Very often the first

summer students will work in -- for qualifying organizations, either work for a Judge or work for a government agency or work for a not-for-profit, using, again, what we call our public interest fellowships to support themselves that first summer.

And so I think this new requirement will sort of validate, I mean already we have over half the first-year class does get a PIF grant, this will happen.

I do think it is important in the second summer for a lot of our students. They go to the large law firms, certainly not all, but I would say probably a majority do.

JUSTICE LIPPMAN: Yup.

MR. SCHWAB: And I think to have them -- I predict there will be a little extra request as one of my summer projects for a week undoubtedly a 50-hour week, can I work on a pro bono project.

JUSTICE LIPPMAN: We hope so. That really is one of our great hopes.

MR. SCHWAB: It will be critical going back to the main theme that I don't want all of the work or all of the hours to count to be hours

that sort of the Law School provides, because I think that combined with the supervision can be expensive.

Let me address sort of the question you asked to Dean Arterian, which is on everybody's mind, particularly about Upstate, because I do think there are some challenges, although it can be exaggerated, I suppose now to the location of Upstate.

Unlike downstate, the city, we don't have a ose concentration of large agencies or Bar associations that can offer the volunteer students opportunities for our students.

So finding qualified supervisors will be an issue. Most are too busy with their workloads to take on volunteers. That can indeed swamp them. Now, we can do some matching with the New York City. I want to put it -- I don't think it's that the, you know, the City has greater opportunities.

Of course, this is a funny aspect of greater opportunities. There are plenty of poor people in up the Upstate area. In fact, I'd wage, without getting into a political commentary, there are sort of many, probably not per acre, but per

something else.

JUSTICE LIPPMAN: I think the problems are every bit as deep.

MR. SCHWAB: The funding is perhaps a bigger problem. Just to take one example of something we've been doing the last couple of years.

The local Legal Services in Ithaca received Federal funding from AMERICO to fund an attorney in their office who was providing volunteer opportunities for our students, essentially go to them between the local divorce attorneys and the students and so that they're running a divorce clinic.

That was terrific. Number of our students did it, but unfortunately the funding ended. The doors to the clinic is closed. I think this type of example could go on and on and on. This is particularly a severe problem here in Upstate that the dollars are being stretched extremely, extremely thin.

So in short, we have lots of willing students. Lots of poor clients here in Upstate. They are kind of spread out and many of them are

invisible, even more invisible than they are downstate. And the lack of funds just overall I think is a severe issue.

I think to view this positively, for lack of funds, lots of poor clients can be viewed as a positive. I think this focus will give the opportunities for the law schools working and pointing out the challenges that the local service providers have, and the fact, I think, if we dump students that sort of have the -- have the obligation of the 50 hours, have had the willingness to do this more generally, but I think it can have a swamping effect, and I hope that that message is heard not so much by you, you don't need to hear it, but others, including some of the funding providers here.

This is a -- remains a major issue on the access to justice. But thank you for the opportunity to have this conversation.

JUSTICE LIPPMAN: Great. Thank you. And as at Syracuse, I think Cornell, as virtually all our law schools, I think is a culture of commitment to access to justice. Law schools, and certainly we believe that the best infrastructure

for students getting this 50 hours and putting aside this 50 hours, giving the kind -- getting the kind of commitment that we would like them to have to a culture of service clearly comes in the law schools.

We commend all of you really, what you have been doing, and as I indicated, we want to create a situation with law schools that are clearly the -- at the head of the -- this effort in terms of being the ones responsible for providing this next generation of lawyers with not only the scholastic skills, but also the ethical and cultural parts of being a lawyer, and we hope that the program that we created is broad enough in terms of the kinds of service that qualify, whether it be the clinics or the externships or the internships or directly with the providers or wherever they will go or the Bar associations that we can have this great synergy.

I think that conference that you talked about that was -- really emphasized all of this to us together, whether the courts, the profession and the academy kind of meet together and recognizing it's our responsibility in a

partnership to make sure that the next generation of lawyers understands what their obligations are in terms of serving others and being leaders of the community.

To great degree also there is very basic filling this justice gap in New York, so I want to thank you, Stewart and Hannah, before you and really all of our fifteen law schools in the state for being so helpful and helping us, as you indicated, to put together a program that I hope is responsive to the feedback that we receive from the different law schools and the other parts of our community.

So, again, I want to thank you as I did to Hannah for all of your hard work and in terms of this whole idea. There is so much. You raised a very good point so much need Upstate, but it's harder to -- without using the word "access" that need because it is more hidden, more spread out, so much of it goes on. It's not even -- doesn't come to the surface, and you have providers Upstate who are covering huge geographic areas and as we talked about, maybe before you came in, you know the -- you need such dedicated people to do

that work because the pay they get and a lot of the Upstate providers ranks the lawyer as the part of the working poor, you know, and it's -- I don't know what the answer is.

I know certainly our Upstate law schools play a significant role in that, the Bar association, the hard providers, but we really need your help in -- in figuring that out because the city is more -- as much as Steve Banks will tell you, the Legal Aid Society in New York City they turn away eight of nine people who come to them seeking legal assistance because the need is too great, the resources even in the larger legal service provider in the country, you know, is so limited, but in some ways it is more in front of you.

You know, we see it, we understand this, this desperate need and the great volume, but Upstate is hard, and I won't ask you what the answer is because if we all had the answer, we would go and do what we have to do. But further thoughts on that?

MR. SCHWAB: Well --

JUSTICE LIPPMAN: It's such a difficult

problem.

MR. SCHWAB: It is. I think highlighting and to be recognizing it is itself important. I mean it -- because I think you said it's just more hidden, but it's equally real. I think just a little example to go back to this recent one of the Dreamer project with the immigrants.

A lot of those will be downstate and in the City and sort of they can be neglected, but there are lots of undocumented folks here Upstate, some of them migrant workers, some of them the same backgrounds, but they are just more hidden, just kind of there.

So I think a challenge of communication is even bigger Upstate in reaching out, you know, and, of course, as downstate working with the Bar association, the legal aid societies, etcetera, is the same formula.

I don't want to overstate differences either between downstate and upstate law schools or legal education or legal needs, but they are there. Yes, if I had the answers in a can to outline that would be nice, Judge.

JUSTICE LIPPMAN: You raise such on

interesting issue. One thing then we will have the real heart of Cornell Law School so to speak. You raise this issue and we grapple with, too, talk about a little controversial some of the things might be doing. You know, legal services cooperation.

In Washington one of the big issues over there is Congress has limited the kinds of things that they can give money for such as class actions or whatever, and we are grappling with this issue. We didn't want to draw those lines as to why there is what is acceptable for kids. I don't mean -- madam, in the best sense, law students, to be doing on a pro bono basis what is acceptable by whose standards in terms of helping people who need assistance, and we basically as you probably saw from reading our piece, basically left it up to the students and their supervisor to determine what makes sense. You know, civil rights action, a class action whatever, we're not going -- the only thing we drew the line which we thought and sort of borders on this issue that you and Hannah are great about community service, and whatever, partisan political activity said okay we -- that's

going to get us into trouble. And we can't get credit for that, even though it is kind of a lawyer legal related, but that is an interesting issue, and I don't think you can make the valuations.

I'm curious what your view -- say certain things are good and certain things, gee, you shouldn't be doing them.

MR. SCHWAB: I think even stated that way sort of shows we have to try very hard not to do that. It's a challenge with some of our programs that Cornell Law School is standing behind and experience for students and the quality the recognizing that they are students in this case but not wanting to endorse or one way or the other the political aspects of the position, and I think if we as sort of leaders, the Bar, where this usually comes up is in sort of a reactive situation. Somebody didn't like a position taken by one of the clinics. I can imagine it coming.

You know, it has arisen sort of environmental ways. Can come up in anything. I think my view is that we are form of providing the educational experience and indeed to -- just two

sides to an issue. Of course, there are more than two sides, the students will flip to the other side and the other side is perfectly fine in some of this, and I think in the larger context it's inculcating the culture of service can sort of -- exactly what you're doing now, legal related.

I think that's probably appropriate, but you know, other than that, I think the Court of Appeals or the Bar examiners or the law schools should not -- should really be from not taking a position, but take the position that all of it will lead to greater good.

JUSTICE LIPPMAN: I agree. Tough call.

MR. SCHWAB: I mean I may need your help in years ahead.

JUSTICE LIPPMAN: Just towards an aside then, we will -- absolutely, let's hear Sara talk.

We had an interesting issue -- interesting issue came up, too, governmental service that some people said, well, okay it's okay that you are putting under this banner of pro bono, come, but certain kinds of government service is not good if you're going to work for the corporation council and they are doing -- helping a poor person,

that's fine, but what about when they do what government entities have to do and, you know, they're saying, gee, we're going to evict you.

These are hard lines to draw, and again, I believe, as you said, it's about a culture of service, and very hard to make these kind of distinctions, and it is good to be inservice to others, we're not going to judge you exactly on that service.

Any way, now most importantly, tell us about what you do -- been doing, Sara, at Cornell, and I assume you have been doing some pro bono work?

MS. HEIM: Yes, I have.

JUSTICE LIPPMAN: Tell us what it is and what it means to you what you've been doing.

MS. HEIM: Sure. Hello, I thank you for having me here today. My name is Sara Heim and I'm a third-year student now at Cornell Law School.

I'm just going to talk a little bit about some of the specific projects I've been involved in over the past two and a quarter years at Cornell.

JUSTICE LIPPMAN: You've done more than 50

hours?

MS. HEIM: Easily. So this semester I'm participating in the U.S. Attorney's clinic here in Syracuse. So we spend about 15 hours a work working with Assistant U.S. Attorneys on different legal matters that Assistant U.S. Attorneys are currently working on, specifically working on civil litigation, complaints filed against the government. Also Appellate criminal litigation right now. We have approximately ten students who participate in that clinic every semester.

During my first year at law school, also my second year of law school, I participated in a couple of direct service opportunities that were offered through the public interest law union of which I was a community service chair.

One of those was a program called Starving Children, which is a nonprofit organization that packages food and sends these packages to very low income parts of the world where people are really in need of just very basic nutrition, especially for children.

JUSTICE LIPPMAN: Got as much satisfaction from that as doing legal work. You got as much

satisfaction from that as if you were doing strict legal work?

MS. HEIM: Yes, I definitely did.

JUSTICE LIPPMAN: Lots of ways to help people is my point.

MS. HEIM: Yes. And prior to starting law school, I did work at -- as an AMERICO staff in Vermont doing hunger and food access work. I enjoyed being -- going back and do more of that work as a law student.

Also, last year, a group of 18 law students went to Owego to participate in flood cleanup efforts there. Worked alongside members of the community cleaning out debris and rubble from a church that was destroyed by the floods.

Something else I'm participating now this new Dreamer Program Project. They did the first clinic for community members to come to last weekend, and I -- they actually had too many volunteers sign up, which is never a bad thing, and so I didn't actually go to the clinic itself, I helped to prepare a list of educational programs that these eligible people would then be able to sign up for once they cleared through the

government regulations. So that's just a little bit of the work that I have done at Cornell.

JUSTICE LIPPMAN: Tell us about when you do the legal work, I mean what is it all about? Why is this better than just going and starting contracts and taking the exam?

MS. HEIM: I mean as we discussed already today, you know having access to good quality legal representation is an issue for a lot of people in New York State, also across the country, so I think that I'm very privileged to be getting a great legal education at a wonderful law school.

And so I think that, you know, part of being a member of society is also realizing and giving back to those who haven't been as fortunate as I have. So I also just really enjoy working with people. And so it's been a great opportunity for me to be able to give back and to know that, you know, I'm not just studying this law school bubble of theory of contract law.

JUSTICE LIPPMAN: What happens when you get out?

MS. HEIM: When I get out of law school?

JUSTICE LIPPMAN: Yes. What are you going

to do?

MS. HEIM: I will likely be working at a big firm for awhile. I worked at a large law firm in New York City this past summer. I have to do pro bono work with them as well. I worked on a death penalty appeal case, and I'm hoping to continue to actually work on the same case when I join the law firm next October.

JUSTICE LIPPMAN: But I'm not putting words in your mouth. You tell me, when you go on to -- let's say go to the big firm, this is something that is meaningful to you in terms of your own personal satisfaction to continue doing pro bono, you know, let's say it's someone in a big firm.

MS. HEIM: Yes, definitely. I think more so for large law firms, which I think in the same vein as what I said going to law schools, kind of puts you in a very privileged position in big law firms, also, you know, to have all these wonderful resources.

They have amazingly intelligent attorneys that work for them. I think that part of their responsibility to their surrounding community is

also to give back and offer legal services to those that can't afford to pay God knows how many dollars an hour for their representation. So I think that's --

JUSTICE LIPPMAN: You know that was kind of the theory behind the 50 hours, it's a privilege to practice law, and you are going to practice law in our state. Part of being a lawyer is understanding that you give back. You serve others. That's what we are all about. The profession which is, we think, a noble one that goes back so many years. And you're terrific. We appreciate that you're going to go out and pro bono throughout your career. And, Judge Prudenti, questions?

JUSTICE PRUDENTI: I want to follow-up on the Chief Judge's question, Sara, please -- can I call you Sara? If I can wave my magic wand professionally, where do you see yourself in ten years?

MS. HEIM: It's a loaded question. I mean to be honest I came to law school because I was very passionate about public service. I saw it as a way to effect change on a much bigger level than

working with the smaller community nonprofits, which I worked with previously between my undergraduate and law school.

So I guess if I could wave the magic wand and have the career of my dreams doing something where I did get to work more with community members, and one area that I really was interested in doing pro bono work and also is working with domestic violence victims, and you know offering them legal services that they really desperately need in their situation.

So I think, you know, long term plans I'm -- we'll see what happens. But I will in all likelihood probably go into more of a public service pack further down the line.

JUSTICE LIPPMAN: Hard to find that balance, but starting out in the big places is great. You know, you learn a lot. Presiding Justice Scudder?

JUSTICE SCUDDER: Only one thing. I never heard the term poor per acre, but I'm going to think about that. I'm not sure which way is best, but that's all.

JUSTICE LIPPMAN: Dave?

MR. SCHRAVER: As I was listening to you almost if I understood it correctly one of the challenges here is to match needs with the lawyers, particularly maybe the Upstate area where these are less visible and more spread out.

Are the Upstate law schools working to try to develop some models for that? I know each one is a little different situation. Working with the local Bar associations. As I was listening, I was trying to think what if any is the role of the state Bar trying to help with those kinds of issues.

But it seems to me those are some of the significant challenges here as we try to implement the new pro bono requirement for admission to the Bar.

MR. SCHWAB: Yes. To be frank, I think -- I think we can have more -- should have more discussions along these lines, so maybe this is the prod that will do that, along with others.

But, for example, recent -- actually not so recent. A graduate who does legal aid work in Geneva, New York, now that's not so far from either here or Ithaca, but it is not a trivial --

you know, it's about an hour drive more less. Yes, he like some students to come up there, but then is stretched very, very thin himself in the cuts, you know, to what -- and barely has the time.

While he would like the labor, put them to meaningful use consistent with the limited amount of time that they can realistically give.

I'm sort of thinking, especially if it is one thing, if they go on full semester externship. But if it is just for a week or two, I think that's a big challenge, you know, particularly in these offices and organizations that are just so thinly staffed and have such budget issues.

But working ahead, we have to creative about this. I think is a really important challenge for us to try to approach.

JUSTICE LIPPMAN: I think that's the point we made, we're all in this together, particularly you know this -- the academy, the Bar, and the judiciary, and I think it is -- there are no easy answers. Have to understand. But thank you both. And, Sara, good luck. Dean, thank you. I would ask before we get to Judge Doran, Anthony Marshall

and Christopher Wiles to come up.

Afternoon. Uhm, we heard a little bit about "Say Yes to Education" before from Sally. But, Anthony, why don't you start and tell us a little bit about it, and you're the chair of the "Say Yes to Education" legal support program task force and a partner at Harris Beach; and Christopher Wiles is an Assistant Attorney General with the Syracuse Regional Office. So Anthony Marshall, start.

MR. MARSHALL: Sure will. Good afternoon. Uhm, I'm going to read from some notes so I don't miss any of my high points.

JUSTICE LIPPMAN: You can read notes.

MR. MARSHALL: I am here to talk about the "Say Yes to Education" project here in Syracuse, which is a school district wide program, and the first effort by the "Say Yes" national foundation is to allow its program on a school district wide basis.

All of its other chapters are either a class size or a school size so we're at a school district wide program so we're all kind of learning as we go.

It's a national urban education reform

initiative. It was essentially designed to remove the socioeconomic obstacles that most often prevent inner city kids from graduating high school and attending college.

The program recognizes that many students do not go to college, and may not even consider college a possibility, not solely because of academic reasons, but mostly because of crippling social and emotional, legal, health and wellness and financial difficulties that they and their families experience.

"Say Yes" brings educational professionals, research capacity, social workers, counsellors, healthcare providers, lawyers, and basically the entire Syracuse community of other professional volunteers to inner city schools to address the impediments faced by inner-city students and their families.

The Legal Support Services component to the "whole child and family" approach of "Say Yes" is really critical to the success of the overall "Say Yes" program.

My personal work has been engaged in organizing the "Say Yes" legal support program,

which impart involved establishing pro bono legal clinics for students and their families that attend a school in the Syracuse school district.

JUSTICE LIPPMAN: What kind of issues do they come to you with?

MR. MARSHALL: It's mostly I would say family law issues is the number one issue.

JUSTICE LIPPMAN: Could it be a more critical issue in terms of keeping kids in school and keeping families straight, together or --

MR. MARSHALL: Custodial issues. Guardianship issues. Just marital issues. Housing is probably our second most need. A lot of landlord tenant there is also some homeownership-type issues. Condition of home issues. Things like that. And I'd say the third is just generally consumer rights and finance-type issues.

JUSTICE LIPPMAN: All of which go in the end to keeping the kids in school.

MR. MARSHALL: Absolutely. I mean the essential role of our program is to mitigate the issues that otherwise impact a child's focus on academic success and not bringing those kinds of

issues to school.

I mean if a child comes home from school on Tuesday and the furniture is on the sidewalk, I think that's going to have an impact on the child.

JUSTICE LIPPMAN: Right.

MR. MARSHALL: So my involvement began -- excuse me -- in early 2008 with my commitment -- with my firm's full support -- to take on the charge of designing, implementing and basically achieving the legal support aspect of the "Say Yes" program. We do this through legal clinics and through other legal-base programs.

During the summer of 2008, we developed the scope, the means of delivery, the criteria for delivery of legal services. Those services were defined as essentially based on a clinic approach staffed by lawyers and paraprofessionals from participating law firms and service providers at -- right at the Syracuse city schools themselves.

We had clinics based at schools. The purpose for that was to try to develop a sense of community between the lawyers attending class and providing service with the school community

itself.

JUSTICE LIPPMAN: What kind of volume do you have?

MR. MARSHALL: Well, we work on that consistently. I think last year we served 74 clients at four clinic school wide. This got rolled out in four quadrants. The "Say Yes" program got rolled out in four quadrants. We have four high schools in the city, so we rolled out beginning in the 2008-09 school year through last year.

We're now finally fully enrolled, and we had four school based clinics last year, and it is once a week and so we -- I'm not sure if Sally already had testimony, but the new joint VLP "Say Yes" program that Sally is currently the newly installed director for is we're going to essentially merge those two models because we're really essentially serving the same community through both programs, so that collaboration we think is going to, you know, raise the Bar.

JUSTICE LIPPMAN: This is all about collaboration.

MR. MARSHALL: It's all about

collaboration. You know, the "Say Yes" program was a stand alone. One of the things I found, Judge, in putting in my work in '08, in putting the legal support program together is while I have some pro bono background, I didn't really understand, you know, each service provider's model, their source of revenue, and how they function.

And what I realized was while there is lots of legal support being provided in this community, they were all being done independent of each other.

JUSTICE LIPPMAN: I think that's the point. Have a flavor a little bit from your two colleagues before, and I see from your testimony this is also interrelated. People have -- but as I said to Sally earlier, the connection between education and legal services is not always self-evident to people, and they don't realize that there are so many legal issues that relate to kids being able to -- families being able to interact with the education bureaucracy.

MR. MARSHALL: The challenges these kids face are enormous. And, you know, just on a

personal note, I grew up in a family full of support. There is a number of professionally educated persons in the family, people that have achieved, and it's because we had all the support at home. We're trying to provide that same level of support to kids who otherwise just don't have advantage of that.

JUSTICE LIPPMAN: It sounds like a great program.

MR. MARSHALL: So that's what we are trying to accomplish so --

JUSTICE LIPPMAN: I think you're accomplishing a lot.

MR. MARSHALL: -- we'll try to -- we know we can do more. We are -- as we morph, this is our fifth full year, we are now collaborating with the volunteer law project which is a great undertaking. Great press yesterday in our newspaper about that, if you happen to see it.

And we're also starting to coordinate and create synergies with the community-based organizations who are otherwise not providing legal service for the community, which it's essentially, again, the same community, they're

providing other social services for that. We can piggyback and, you know, whether it is immigration areas or other needs that are out there. So I'm willing to take any questions.

JUSTICE LIPPMAN: Great. Why don't we hear from Mr. Wiles and see if there is anything the panel has further questions.

MR. WILES: I'm Chris Wiles. I'm Chairman of the County Bar Association Pro Bono Practice Committee which probably if not the most active, one of the most active committees at the Bar.

Onondaga County has about 31 or 32 percent of its population below the poverty level, and within the City of Syracuse, 43 percent of the population is black, 21 percent is Hispanic and 35 percent is white.

We have a large number of college students, and we also have a large number of foreign-born population. So our clinics that we have been able to establish over the course of time, and we have spent a lot of years in the community working at VOP, most of our activities are partnership related. In other words, we try and fill gaps that legal services cannot fill.

JUSTICE LIPPMAN: How much is the message of communication between your practice committee and the Bar and the particular organization, the providers themselves, the "Say Yes to Education", is it -- how do you do it? Is it through -- partially through the volunteer program?

MR. WILES: We have a number of task forces. Our coordinator, Deb O'Shea, meets regularly with Hiscock Legal Aid, Neighborhood Legal Services, all of these agencies work together to say -- to provide services where the need is most felt or where we have to go.

I think we are on the cusp now because the partnership "Say Yes" and the hiring of Sally Curran, who was our first attorney coordinator, gives us the oversight and the mix that we need to begin to recruit and serve the public.

JUSTICE LIPPMAN: What about this Telesca type approach we talked about before.

MR. WILES: Well, we're also working in that area.

JUSTICE LIPPMAN: Is that the final step to pull this together?

MR. WILES: Yes. I think that is rather

long term at this point, but certainly is a final step to put it altogether. And we have -- we meet, as you may be aware, through Judge Lowe. We meet regularly on that project to try and bring all of the agencies together, including the University, the law school, everybody working together so that you only go to one spot when you need legal services.

JUSTICE LIPPMAN: And the practice committee particularly focuses on this?

MR. WILES: Practice committee really focuses on programming. The "one roof project" is a subcommittee which incorporates all of the legal service providers and the law school together working to find a building -- a suitable building.

We probably met over the course of the last two years on that project. The VOP programs have been going about 15 or 20 years. One of the things we do unique to the community, we partner with hospital and medical clinics.

One of our partnerships is on the north side with a Franciscan community that also has a medical clinic next door. The other clinic that we do is at the Crouse/Upstate that's during the

day which partners with referrals from social service providers and the hospital of patients that have legal problems.

And our new one will be downtown with the church downtown that also has a medical component. We try and take the resources that we have in the community and use those as partners to penetrate even more.

JUSTICE LIPPMAN: What's the -- have to sum up what is the overall role of the Bar Association?

MS. YAGAN: Excuse me, Your Honor. I very much apologize. My name is Desaray Yagan, and I have an eviction hearing at three o'clock. I have a statement, I have prepared a statement that I would like to read. It is three pages. I promise you --

JUSTICE LIPPMAN: You can forgive me, but you can submit written testimony. Happy to have it. But we have scheduled witnesses and the hearing will be ending at two o'clock. Love to have your written testimony.

MS. YAGAN: Thank you very much, Judge. I appreciate that.

JUSTICE LIPPMAN: I appreciate that. So why would you sum up -- are you the facilitator between the communicator?

MR. WILES: The role of the Bar Association is to incorporate the private Bar in providing legal services, pro bono legal services. That's the real purpose of our committee. That is what we talk about every day. That is what we do.

JUSTICE LIPPMAN: Great.

JUSTICE PRUDENTI: One question, Sally. Are you the person that coordinates all the meetings and all the phone calls, all the teleconferencing that gets all of these groups together?

MS. CURRAN: That's my new role. I have been on the job only a month at this point. One of my new roles up to now. There has been a handful of people that -- that have fallen on Deb O'Shea, the pro bono coordinator, she does a marvelous job with it.

I want to say one more thing which is that the -- I hope that the -- we take away from this partnership is that the collaboration is really making it so that we're able to reach a lot more

community members and provide better service by combining our services.

JUSTICE LIPPMAN: Couldn't be more clear, community is pulling together.

MS. CURRAN: Really the one other community support that we haven't mentioned is that the courts have played a big role in helping us identify needs and have been welcoming to our pro bono attorneys.

We have pro bono attorneys every morning in City Court and those Judges welcome us, and we have had the opportunity recently to meet with the surrogate Judge, Judge Raphael. Some of the family court judges, Judge Hanuszczak. They have been playing a critical role, as well as the Fifth Judicial District.

JUSTICE LIPPMAN: Thank Judge Tormey for his --

MS. CURRAN: Judge Tormey, yes.

JUSTICE LIPPMAN: I mean it seriously. This is a community, including the courts, that have pulled together. It is obvious and thank you for your testimony.

MS. CURRAN: Thank you.

JUSTICE LIPPMAN: Thank you. And our final witness for today is none other than the Administrative Judge, Judge Tormey's partner in arms, here is the Administrative Judge for the Seventh Judicial District, Craig Doran, who is -- in the vernacular -- our cleanup hitter.

JUSTICE SCUDDER: Chief Judge, can I request he be sworn first, please.

JUSTICE LIPPMAN: You can request, yes.

JUDGE DORAN: Thank you very much, Judge Chief Lippman. It's great to be here. I do appreciate being last up, because I wouldn't want to hold anybody else up. I have an hour of prepared remarks. I hope that is all right.

JUSTICE LIPPMAN: We are disappointed.

JUDGE DORAN: My thanks to you, Chief Judge Lippman, and to Chief Administrative Judge Prudenti, and to our Presiding Justice Scudder. This is a great time to be working in this court system. And this is a unique opportunity for me to have the chance to address my three bosses, so to speak, and thank you for creating a culture of creativity and a culture of collaboration.

This does seem to be a great time of a

convergence of a lot of needs and a lot of opportunities, which for a guy like me, who gets up in the morning thinking about collaboration, this is really a terrific opportunity.

I'm here today to let you all know about an exiting new project that we have just received approval for in the Seventh Judicial District and that is the location of an Access to Justice Help Center at the Hall of Justice in Monroe County.

We've heard a lot of discussion about the Telesca Center, and there are people in this room right now who deserve a whole lot of credit for the establishment of that model, really nationwide for the coalition of the services.

What we are so thrilled to be able to do now is to take that collaboration to the next step and have the court system join in the initiation of this Help Center, which will be located on the fifth floor of the Hall of Justice, and what this will allow us to do is leverage the resources of the Telesca Center and the partners there, which are the very enthusiastic folks that work in the court system so that we can provide these very important services to folks who come through our

doors.

JUSTICE LIPPMAN: Kind of a reference thing, Judge Doran. In other words, you're interfacing with Telesca, with people coming to the court. How does it work exactly?

JUDGE DORAN: That will be part of it. It will be much more than that. We actually plan to utilize court staff and partnership with staff from the volunteer legal services project.

JUSTICE LIPPMAN: Be like a help desk?

JUDGE DORAN: Absolutely.

JUSTICE LIPPMAN: Office center.

JUDGE DORAN: Absolutely. We will do some linkage to outside resources through either teleconferencing or videoconferencing. Also a very important component of this will be the physical location of folks on site who will be able to assist.

JUSTICE LIPPMAN: Some of the help will be provided onsite, some will be referral?

JUDGE DORAN: Absolutely. We've been able to make office space available, and I have to give credit to Sheila Gaddis, who I hope is still here, it's Sheila that came to us at the suggestion of

Judge Fisher for the Help Center in the Hall of Justice, that was only about three months ago, so this has moved very quickly, and it is really a great example of a collaboration.

We're able to use existing space. We have to provide this service to folk that come through our doors. You heard all kinds of testimony about the need, and I don't think anything further needs to be said there.

JUSTICE LIPPMAN: You will have your people and the some of the folks from Telesca in an office or desk or whatever it is?

JUDGE DORAN: Absolutely.

JUSTICE LIPPMAN: People just come in, just come, we need help, is that the idea? They can come and say, this is my problem, what do I do?

JUDGE DORAN: Absolutely. If people present themselves at our counters, and the counter staff on one of the other floors in one of the other courts realizes a litigant might need some additional assistance, gets sent to the fifth floor, and during regular court hours we are able to talk with a person there and perhaps be

referred to somebody off site, if there is a need.

And there has been a lot of talk about the definition of the folks we are serving here. You said it best earlier, Chief Judge Lippman, there is no stereotype here. These are not folks we can have an image of in our minds. These are folks that if you stand at the magnetometer at any courthouse, they are not necessarily just poor people, as it has been said.

These are folks that need the assistance of our courts to make sure that there is an equal opportunity for everyone coming through our doors to seek justice, and I might also add, this gives us an opportunity and the court system to make better use of our own resources.

You well know the Judges that I'm speaking to here of the wealth of devotion, dedication and enthusiasm we have among our own staff. And in many instances they get no better satisfaction than being able to go a little bit extra along the way of helping somebody that comes through our doors or assistance and this will give them that vehicle to create the infrastructure for the collaboration and the partnership, really

utilizing in many instances what is already there, putting it under the roof of our courthouse to give even greater access to those folk that need it.

JUSTICE LIPPMAN: I think it's a great idea. I think that we have this central role to play, in addition to all the wonderful providers and the pro bono service we get from a good part of the Bar, but putting us kind of in the middle of this is exactly what we should be doing.

I'm really so pleased that Sheila and together with you as the Administrative Judge, I commend you. And what -- is it going to be up and running or is it already?

JUDGE DORAN: Up and running -- expect to have it up and running through the final quarter of this year, and we have to work out some of the bugs and details. We expect by the end of the year it will be fully up and running, and we are going to start out just a couple of case types so we don't take on too much too soon, but I expect, I hope that very soon after that we'll be expanding the services that we offer.

JUSTICE LIPPMAN: I think it can be a

model, you know, for around the state. I think it's a great idea. I think it makes a lot of sense. There are variations on the theme in someplaces around the state, but not enough of it. So it's -- really couldn't be happier about it, Judge.

JUSTICE SCUDDER: I'm curious. This was done -- at least partially done in Erie County for quite sometime.

JUDGE DORAN: Right.

JUSTICE SCUDDER: I'm not sure it has the cooperation with the outside as much. I think it was done just within let's say have somebody near the Family Court area that could help, that kind of thing. You're talking about something bigger than that?

JUDGE DORAN: I think so. If I can brag for a little bit here without getting in too much trouble. I think you already have some of the testimony in this regard. In our neck of the woods, we're a little bit further ahead of others, largely thanks to our private partners and Bar Association, and otherwise who have really taken us a long way down this road. We need to meet

them now. A lot of the work has been done.

JUSTICE LIPPMAN: You're exactly right. We do have, you know, clerks dedicated to this for help desk. I think it is the collaboration of the kinds of people in Telesca, the providers and the different services.

JUDGE DORAN: The other benefit -- one of the many benefits of this that I see is that we get a lot of litigants that come through the door. I'm also a multi-bench Judge, I see this every day in cases I preside over who unnecessarily file petitions, file the wrong kinds of petitions.

If they had a little bit of assistance that would allow them to have more control in their own destiny to better utilize the court system, to seek the justice that they really need to seek rather than sometimes a misdirected effort. So I think actually --

JUSTICE LIPPMAN: A lot of energy and not necessarily getting anywhere.

JUDGE DORAN: Absolutely. It happens every day in every one of our courthouses.

JUSTICE PRUDENTI: I'd like to ask Judge Doran, we do see limited models, and Judge Scudder

was exactly right, other places, you know, Suffolk and Nassau counties helped us in the library things. Like that would your idea would be?

If you could share some of your experiences with your other Administrative Judges in other districts, they have a resource coordinator like Sheila on staff that in the courthouse would -- that would help expand the ability to get -- gather resources needed for this.

JUDGE DORAN: Absolutely. Without question. That's absolutely an essential component of this. Judge Lippman used the phrase earlier about infrastructure. This dovetails nicely with the rural issues we have, and in our neck of the woods, Judge Scudder, we have a limited legal community. If we can help in the court system, create this infrastructure, bringing these partners together, we really don't need to have a new infrastructure or new bureaucracy. We can do this with limited resources by just bringing together the partners and perhaps providing them with the infrastructure where they can work together.

Doesn't take more than an office in one of

the smaller courthouses. In a larger courthouse you have a bit larger facility. Really, this has great potential to solve a lot of the issues in some of our smaller counties as well.

JUSTICE LIPPMAN: Absolutely. Take maybe some of the -- what you can do actually in the courthouse is take some of the pressure off the providers a little bit.

JUDGE DORAN: Absolutely.

JUSTICE PRUDENTI: Judge, one final question, did Judge Tormey give you this idea, Judge Doran?

JUDGE DORAN: Actually, I brought some charts and graphs with me. I left them in Judge Tormey's office. I don't know where they went. They mysteriously disappeared.

JUSTICE LIPPMAN: Dave, do you have anything?

MR. SCHRAVER: I think the only thing I would add is that one of the major themes today seems to be -- has been collaboration. To me that is and from the time Judge Doran assumed his current position he made it clear to the Bar associations, and I think to the legal service

providers in our community, that he was a willing and eager partner, and I think that collaboration is so important, and I thank you for that.

JUDGE DORAN: Thank you for being a great partner in those collaborations.

MR. SCHRAVER: The other thing that has impressed me about the testimony we have heard today is that these people have all kinds of needs, but one piece of that is the legal need. The need for civil legal services, and in order to deal effectively with the needs they have, if that piece is missing, that undermines their ability to be successful.

JUSTICE LIPPMAN: I think that's the segue to really summing up here. We have heard some very interesting testimony. I think the testimony of veterans needs, how that fits into this general category of civil legal services.

The law students and the role that the academy plays in access to justice. The collaborations that Dave refers to. I do want to include without any -- I don't mean this in any way other than sincerely that Judge Tormey and Judge Doran and the courts have played a critical

role in pulling together these collaborations.

The bottom line is we have a state where our task force report tells us that we're meeting maybe 20 percent of the need for civil legal services in this state, and that's, you know, says it all.

Again, you're talking about a date where we have been able and thank our partners in government, the legislature and executive, we've been able to obtain more public funding for legal services than any other state in the country, and yet we are meeting only a small percentage of the need.

So what we see today helps us in terms of figuring the -- quantifying what this justice gap that we're all trying to eliminate is. We cannot approach this problem until we have a better idea of what the need is and what the different models that people are using to try and deal with.

So the hearing is really very helpful. What we are going to do is take the information we gained in the first three hearings and what we are going to hear in Nassau County on Thursday, have a task force take a good look at all of that. They

will make some recommendations to me, and then we're going to make our recommendations to the legislature.

And, again, I think it's two parts of a puzzle. We will certainly again recommend significant funding to help those most in need with their legal problems, and it's my hope and belief that the legislature and its government will continue to be our partners in increasing funding, but also very importantly it was emphasized in a good part of this hearing was the pro bono efforts of the Bar are critical.

And as I indicated earlier, there isn't enough money in the world to meet the need, and we need lawyers to understand that we have as part of our noble profession a culture of service and that's who we are, that's what being a lawyer is all about, no matter what you do as part of the legal profession.

And I think if we can prioritize this issue in terms of getting more funding for the providers and have lawyers meet this standard that again as long as time and memorial lawyers have been serving others.

I think together we can really make significant gains, and I do believe that New York has set a template in this whole -- on this whole issue of closing the justice gap that's being replicated in many states around the country.

I'm very proud of what we have done, but there is so much more to do, and again the need is really so great so I want to thank everybody who has been here, provided the testimony, or who sat through the entire hearing, it's really very helpful to us.

And I remind -- not that any of you need a reminder, that it is our unique mission in the judiciary and the profession to force equal justice and that's what we are trying to do and that's what this hearing was all about today. So thank you all. Greatly appreciate you being here.

(Proceedings adjourned.)

APPENDIX 9:

Transcript of the Second Department Hearing Held on October 4, 2012

STATE OF NEW YORK

SECOND DEPARTMENT HEARING

THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

October 4, 2012

Nassau County Supreme Court

100 Supreme Court Drive

Mineola, New York 11501

B E F O R E :

HONORABLE JONATHAN LIPPMAN

Chief Justice of the State of New York

HONORABLE A. GAIL PRUDENTI

Chief Administrative Judge

KENNETH G. STANDARD, ESQ.

Past President, New York State Bar Association

JUDGE LIPPMAN: Good morning. It's a pleasure to see all of you. This is the third year of our hearings on civil legal services. I want to make clear at the outset that there is nothing more important to me as the Chief Judge than civil legal services for the poor and those most in need in our state.

The template that we've developed in New York is a combination of more public funding for civil legal services, that this year we are so pleased that we have $40 million in funding for civil legal services; by far, the most public funding in the country. We're very happy about that, yet it's just the tip of the iceberg in terms of the need for civil legal services in our state.

These hearings are held every year through the hard work of the task force to enhance civil legal services, headed by Elaine Barnett -- Elaine, you want to stand up -- who's the former head of the Legal Services Corporation, and we're so pleased that she's here with a number of the members of the commission: Steve Banks, Barbara Finklestein, who's here somewhere, who did such great work at pulling this together; Fern Fisher, the state-wide Deputy Administrative Judge for Access to Justice; Emily Franchina, from here in Nassau County; Denise Kronstadt I think is here. And -- there's Denise. I know you're here.

So the task force put together these hearings every year. They have been necessitated by the loss of funding in Washington from the Legal Services Corporation, by the reduction in IOLA funding in New York State, which went from 36 million to $6 million in one year due to the financial crisis in our state and country.

For the judiciary and the profession, we understand that it is our responsibility, our mission, to stand up for civil legal services for the poor, and that this is really our very reason for being, equal justice for all. This is what we're all about. And this is what these hearings are all about.

In addition to public funding, which, as I said, we're so pleased to have $40 million this year from Governor Cuomo and the legislature, we also believe that the crisis that we have in legal services requires volunteer service on the part of the bar.

And, as many of you know, we've instituted a new 50-hour pro bono requirement for law students to serve before they could be admitted to the bar. And the whole purpose of this is to let aspiring lawyers understand that being a lawyer is all about, at least here in New York, is all about a culture of service. And serving others has been so much a part of our profession

from time immemorial, and it is very important that law students at the very inception understand that this is what we are all about in this profession.

The bar has stepped up to the plate in terms of giving over two million hours of pro bono service, and it's our hope that we are able to imbue in a new generation of lawyers that same culture of service. And, again, this is all about core values of our profession, and certainly pro bono service is a part of that.

Again, equal justice is the focus of this hearing. The economy has hurt the most vulnerable in our society. Certainly they're the ones most impacted by the poor economy. And equal justice for all, high and low, rich and poor alike, is what our society is all about and certainly what our court system is all about. Every civilized society is judged by how it treats its most vulnerable citizens, and we certainly will be judged accordingly.

We are delighted -- let me just introduce the panel.

Chief Administrative Judge A. Gail Prudenti from Suffolk County, Second Department. She never gets any applause, so it's good. So we're so pleased that she's here.

And Ken Standard, the former president of the

State Bar Association, is here. Equal justice.

I do want to recognize Appellate Division Justice Peter Skelos, who's here. Thank you, Peter, for being here, from Nassau County. Judge Tom Adams is here sitting in the back. And I want to welcome you all to the hearing.

And we are particularly pleased and honored to have as our lead witness today the District Attorney of Nassau County. She has dedicated her life to this concept of equal justice for all. It is particularly appropriate that she be the lead witness, in that her role as the District Attorney here in Nassau County is so fundamental to this idea that everybody is entitled to their day in court, so to speak, and everyone is entitled to equal justice, and it doesn't matter what their station in life is, this concept of the rule of law, a society based on a system of justice that doesn't favor one side or another, and that it is so appropriate that our terrific District Attorney here in Nassau County be the lead witness.

And we welcome you, District Attorney Rice. We're so pleased that you're here.

D.A. RICE: Thank you very much, Judge.

I want to thank you Chief Judge Lippman, Judge Prudenti, former state bar president Ken Standard, for

your invitation to be here today and for your admirable concern for and dedication to our state courts' steadfast commitment to access, fairness and superior legal representation for all New Yorkers.

Some people out there may not understand how someone like me, a criminal prosecutor, fits into a proceeding like this, a hearing on civil court access and representation. Thankfully, under the guidance and with the vision of this esteemed panel, those of us in this room and those working on this issue across the state do understand why this issue matters to law enforcers and to progressive criminal justice policymakers like myself.

DAs like me are truly fortunate to have judicial and state bar leadership who understand the interplay and the connections between local and state public policy, our civil courts, our criminal courts and our various jurisdictional law enforcement and criminal justice theories. As our court leadership and like-minded advocates know, New York needs comprehensive, multi-disciplinary public policy responses to complex individual and family cases that in many instances will not only dictate the future of a life but also the safety of that person's community and family.

Our courts, both civil and criminal, often fall at the nexus of our government's public policy

breakdowns. They often serve as the last stop in a long, vulnerable, tortured road for someone who needs our help. They are frequently the setting for our community's last stop for helping litigants achieve remedy, the last stop for protecting members of our community from wrongdoing and from injustice.

Our courts in many ways also represent the pillars of our nation's greatest commitments, to fairness, to equality and to justice. They can also represent a microcosm of our state's unparalleled appreciation for reformation and transformation, for second chances, for dispositions that honor the wealth of the human contribution and the value of each person to our communities, no matter their condition, their past or their wealth.

Courts are the guardian of our nation's promise to value people more than it values politics, power or process. At the heart of that commitment is access, equal access, access without regard for wealth or social standing, court access and access to professional counsel, access and counsel that uphold the spirit of what we have promised to each other and what we say to the world, and access and counsel that acknowledge both the role the courts play in the lives of our people and also the unfortunate moments in their lives in which the

courts are of most importance.

Access to civil courts and legal counsel for indigent New Yorkers don't only uphold our commitment to fairness and justice, they also make more real our search for broader, more sustainable public policy solutions to some of New York's most vexing challenges. When this access is denied we have broken our promise to each other. We have failed to live up to the standard of our nation and of our social contract.

And let us be clear; when that access is denied or when professional assistance is made unavailable, we have made our communities weaker, more dangerous places. Because courts don't only serve as the last line of defense, they are also frequently the first line of security against victimization. They are also the first line of prevention against exploitation. They are frequently the first opportunity for remedy of what could eventually turn into a disaster. Courts are, therefore, not only the adjudication of public policy and societal failures, but also many times the gateway to them.

And that's why I'm here today, to support your attempts to shut down that gateway and reaffirm and support unfettered civil court access and legal representation as a way to turn lives around and strengthen New York communities. I am here to support a

theory and a belief that access to civil courts and legal counsel can often close that gateway to future personal or public safety crises for many New Yorkers.

Improved civil court access can make these courtrooms the first and the last stop for families in distress, rather than the first stop in what is all too often a long continuum of personal and community suffering. Access and quality representation for all of those in front of the court is at the heart of a preventative front-end public safety strategy.

As a DA, without such a strategy and without such civil court access and representation I can tell you that our communities will be more dangerous and will be eschewing a sustainable model with a long-term vision for a theory that will continue to repeat public policy failures at great financial and human cost to New Yorkers.

The most obvious scenarios in which civil court access and success can help dissolve future public and private crises centers around family settings. Whether they are matrimonial or Family Court proceedings or whether they are in integrated parts or child custody cases, these fluid, dynamic cases are frequently the first interactions with situations that can deeply disturb families and eventually pose grave safety risks

to the litigants involved.

We see the results of these failures in our domestic violence courts and in the victim care rooms of our child advocates and child abuse prosecutors. Failing these families and these children in civil court by not guaranteeing their access or their professional representation sews the seeds of future criminality, future criminality that will not only victimize those involved in these things but that will very often cascade down a violent spectrum, possible even to future generations.

Another typically civil court issue with a public safety impact is in housing. Foreclosed and abandoned homes erode the cohesion and physical state of safe neighborhoods and provide easy targets for those seeking illegal shelter or from those looking to steal from or vandalize these properties.

Access and professional representation in our civil courts can mitigate the impact of our nation's foreclosure crisis. This is a crisis -- make no mistake -- that has, unfortunately, hit our community here on Long Island especially hard. By guaranteeing access and representation to litigants in foreclosure situations, we can better help law-abiding families stay in their homes and we can keep neighborhoods cohesive,

inhabited and vibrant. These qualities are frequently the cornerstones of neighborhoods that are also safe neighborhoods.

The connections between family and housing crises and the eventual crises in the public safety and criminal justice community are unmistakable. Guaranteeing court access and representation at the earlier stages and the eventual outcomes of these legal matters are equally related. And that is why I'm here today, to make sure that our state understands these relationships, to make sure that we understand the opportunity we have in front of us and also the price we will pay for inaction.

The public safety price we will pay for eroding access and representations in these courts is steep and the moral price of such erosion is unaffordable. It is my sincere hope that other DAs will join me in supporting civil court access and guarantees of representation. It's smart on crime, and it's this type of forward-thinking progressivism and comprehensive understanding of modern criminal justice theory that I believe will mark the future of the 21st century prosecutor's job.

Here in Nassau County I have tried to breath some of that preventative community-oriented progressive style into our local criminal justice system. Whether

it's our involvement in reentry for ex-offenders, our drug market diversion initiative -- which has since been adopted by DOJ -- our creation of a one-stop social service access point for the community, our mentorship programs, our development of a peer counseling network for those with justice system interactions, or whether it's our work with the court system in setting up a youth court or a veterans court, I want those allies and advocates of criminal justice reform, including improved civil court access and representation, to know that they have a partner in our county.

I am proud to support and defend civil court access because it fits in with our commitment to prevention, our need to address the root causes of crime and our focus on the type of long-term crime reduction strategies that, quite simply, work and that help us dismantle the revolving door system of decades past.

I want to thank you for your time here today, to this distinguished panel, and I want to thank you for coming to Nassau and hearing from us on the ground about how we can best keep our neighborhoods and our families safe. Thank you very much.

JUDGE LIPPMAN: Thank you, District Attorney Rice.

You really, I think, eloquently have described

the connection between your role as the District Attorney and everything else in this community. Do you think you can be a District Attorney today without having this kind of wholistic approach, that tries to put the different pieces together that ultimately may result in the defendant who winds up in your courtroom? But in understanding how that all comes about, is that what being a District Attorney is today?

D.A. RICE: I can tell you that I don't know how you can be a District Attorney with any other philosophy in mind. You know, every single one of my colleagues, all 62 of us DAs throughout this state, are facing decreased resources and increased issues. And I think when you have a time like we are going through now, the worst thing that you can do is squander the opportunity that we have to all get on the same team, on the same page and work together so that -- I'm a big believer in front-loading, putting the money up front, because every dollar that you spend now is going to save immeasurable dollars down the road, whether it's the adolescent diversion part -- that, Judge Lippman, I give you enormous credit for starting, and I thank you for hearing my literal begging to allow us to have it here in Nassau County. It's using progressive policies, partnering with agencies that already exist, that have

the services that we need to get these early intervention programs off the ground so that we stop this cycle of recidivism, because that is the way that we keep crime down and we keep communities safe.

And I literally cannot think -- I don't understand the argument against or for precluding people representation when it comes to civil matters that I've discussed just here, just a handful of them, that have such a role in eroding families, eroding communities, eroding public safety. So I think it makes sense, and I think that a lot of my colleagues probably feel the same way. I'm proud to be the first one to come out and state this publicly.

I'm a firm believer in civil access to -- because I think it makes sense. I think it makes my job easier. I think it -- the cost, the human cost -- forget about the financial cost, we don't know what the financial cost will be. But at its core we have a moral obligation, starting with kids at a very young age. So I believe it's the only way to be a 21st century prosecutor.

JUDGE LIPPMAN: Do you think particularly that this economy plays into all of this, that when you talk about civil access and people falling off a cliff, and God knows what happens, and some of them wind up in front

of our courts, and the District Attorney prosecuting, do you think the economy has had an impact on all of this?

In other words, is it more dangerous today not to provide civil legal representation to deal with so many of these problems than maybe in more plush times?

D.A. RICE: What the enormously difficult economic situation that we face right now has done is increased the need to offer civil access to people. Because people are without jobs, they're facing losing their homes. There are so many issues that -- you know, look, I get it. When times are plush, you say, oh, everything is fine. But I truly believe that we are all going to be defined not just as professionals in public service but as human beings.

When we go to meet our eventual maker we're going to be judged not by how we treat each other during the good times, because that's easy. It's how we treat each other during difficult times. Unfortunately, economic crisis very often estops that whole conversation about coming up with creative solutions to problems, because it's all a money issue. I think we have to kind of reframe it and put it in terms of the human toll that it's taking and focus more on the fact that issues like public safety, that no one would really make the connection to if you're talking about civil access in a

vacuum -- people don't think that way.

So I think it's important for people in my position to come out and remind people about the nexus between the crises that families are facing all across this state and the issue of public safety that everyone cares about.

JUDGE LIPPMAN: And we've tried to make clear to our partners in government that now is the time when you need the funding for legal services, not the -- gee, times are tough we'd love to help you, but -- this is the time, because the impact is so much greater during these times.

One other question I have for you particularly. It's an issue that you spoke about in your comments but I think is so relevant to your particular role. And that's family issues, in particular domestic violence. And it's been our experience, and at least in the testimony that we've had in going around the state, that domestic violence issues don't exist in a vacuum, and domestic violence victims have just a panoply of civil legal crises in their lives that have to be addressed at the same time that there may be a criminal aspect in a domestic -- can you talk a little bit about that and what you see on that issue?

D.A. RICE: I can speak from personal -- I

think everyone can speak from personal experience. Each one of us, I'm sure, knows a family that has gone through a divorce, that implicates potential domestic violence issues, child abuse issues, custody issues. These are really, really complicated issues. And I can just, from my role as prosecutor in trying to get women the help that they need to address domestic violence issues, very often those issues are compounded by all of the other court appearances that they have to make and the lack of representation that they have. I think they all -- it all goes hand in hand.

And a loss in this whole thing is the victim's -- not only the victim's -- status of the person in the domestic violence situation, but the children that are the primary victims, in my opinion, of all of these issues.

I think that especially when it comes to domestic violence issues, because they are often coupled with all of the other civil legal proceedings that are going on, I can't think of an area where there is more of a desperate need for civil access to representation than in that area. You're dealing with so many family issues, individual issues, financial issues, physical safety issues.

And I get the whole, you know, concern with

money, money, money. But if we're not willing to invest now and show by our investment the value that we place on people and families -- you can have laws on the books and say this is what we care about. But in practice, in everyday dealing, if you are ignoring and not hearing the cries of families and individuals that are in need, then really what is it all worth?

So the investment that -- you used that word, Judge Lippman, and I think it's a very important, if you focus on that, how everyone gets it, if you're making an investment now pays off in the future. That's where people make investments. You don't invest in the stock market and expect a return right now, you expect a return 20 years from now.

So it's bringing that whole issue home. But, yes, we see that issue very often, every day in our cases.

JUDGE LIPPMAN: From a practical perspective, how do you deal with that? What do you do with someone who comes to you on obviously a, you know, what could be a very, very serious criminal matter? Is there an infrastructure in Nassau County to get these people the vital legal service? What do your people do, who do they go to?

D.A. RICE: We created a place called The Safe

Place here in Nassau County. The whole concept behind that -- it was really incredibly groundbreaking -- was to address issues -- there's a first-time coalition between the organization that advocates on behalf of the domestic violence victims and child abuse victims. It's one-stop shopping; law enforcement, medical doctors, psychologists. Totally service-oriented.

But right now the only thing that we can do for someone who says, "I have a court date in civil court" is, "Go to the bar association and see if you can get representation there." Obviously we cannot get involved for the -- obviously the ethical restrictions that we have in representing people in those matters. But that is really what we're left with.

And it's difficult, because very often they meet with an inability, they call up or they say, "No one's going to help me there." You know, because they're dealing with a lot of other psychological issues. And getting them -- our primary focus is to keep them involved in the case that we're trying to prosecute.

JUDGE LIPPMAN: But you can't do your job unless you get that kind of assistance.

D.A. RICE: They need the representation, and we just are not able to give it to them. We can help them, we can try to give them access to, you know, other

service providers that may be able to help them. But the only thing we can do right now is point them in the direction of the bar association.

JUDGE LIPPMAN: Judge Prudenti?

JUDGE PRUDENTI: Just one quick question, District Attorney Rice. I'd like to take this opportunity to commend you on these problem-solving courts. And I know recently you were very supportive of the veterans court that has been started here in Nassau County. And I was wondering if your assistants have reported back about how they feel that court is running, as well as the need for representation of veterans in that court.

D.A. RICE: Well, I'm happy to report that I think the part is going very well. I don't think that anyone doubts that there are specific issues. The whole goal behind it was to get people in services that they need.

Everyone knows how difficult it is for veterans coming back or veterans who have served stateside in terms of getting the services that they need. So I think it is going well. But, obviously, people who find themselves in that situation, a lot of veterans who are coming home are dealing with a lot of psychological issues as well as physical issues. They then often morph

into drug dependency, alcohol dependency, and that leads to the breakdown of the family and civil access necessitated in that respect, as well.

JUDGE PRUDENTI: Have the assistants told you that these individuals are represented or are not represented?

D.A. RICE: Well, most of them are represented in criminal court, but again, a lot of them do have corresponding civil cases and they don't -- criminal defendants are specific practitioners. They don't often cross over into the world of marital issues or custody issues; things like that. So I think it's -- anyone who comes into the criminal justice system has the potential to need some kind of civil access and legal representation. My hands are tied. There's not much that we can do.

We try to -- this is why I think the specialty parts are so incredibly important, because it is -- as I talked about getting to the root causes of problems and crime, this is what we're talking about, addressing the specific day-to-day needs that people have in their individual lives and their family lives.

We're not talking about recreating the wheel, social services that our tax dollars pay for. What we don't pay for is civil access and legal representation.

And I think it's incredibly shortsighted not to, since we offer all of these other services. Yet in the one area where they actually need a professional to represent them -- because most of you people are not lawyers and don't know their way around the court system -- we are falling woefully short.

JUDGE LIPPMAN: We heard testimony Tuesday in Syracuse about a lot of specialty legal service providers starved for funds but have sprung up just to serve the needs of veterans, because they have so many more problems coming out of -- not only medical ones that come out of their service, but so many related civil matters that particularly need representation.

D.A. RICE: You know, look, the veterans part, I think, is -- it's important that it be a success, because I think if you talk about how we want to define ourselves as a community, as a state, as a nation, if we can't protect those who risk their life on behalf of our democracy and us so that we can live our lives every day with the freedoms and the benefits that we do, shame on us.

JUDGE LIPPMAN: I'm with you.

Ken Standard, do you have any questions?

MR. STANDARD: Yes, I do have one.

Thank you for coming here today and for having

such an encompassing view of your role and not viewing yourself as someone out there simply to prosecute people and do justice in that way, but looking at the bigger picture.

One of the long-term concerns that I've had has been with the collateral consequences of people becoming involved with the criminal justice system. And with your view I'm wondering if there is something that the District Attorneys Association -- and I understand you're going to be leading that association relatively soon -- could do with the defense bar, to be sure that criminal defendants, for example, are advised -- and I know we have limited civil legal services available -- but are advised of the consequences of a conviction, of a plea, and what that means for them in the future, and their reentry into the system and what that means about recidivism.

D.A. RICE: My office, the assistants that serve the great people of this county of ours here, know that it is incumbent upon them that any time there is an ancillary implication as a result of a conviction that they are to make sure that that is stated completely on the record in open court with the judge present. Because I just don't think that you can take -- you can assume that they are being given all of the information in ways

that convictions can possibly affect them. I don't know if you're also talking about in terms of record expunction?

MR. STANDARD: Records, loss of voting rights, employment opportunities lost.

D.A. RICE: Well, the one-shop stopping that I have set up in the Village of Hempstead is all about that. It is to help people who are trying to re-enter their communities and those who have never come into contact with the criminal justice system and want to prevent themselves from doing that. It's marrying them up with all the Social Services they have.

But I also came out in support very vocally of the concept of expunging defendants' records after a certain period of inaction in the criminal justice system, just for that reason, to allow them to go and get hired, get a job. I wrote extensively -- I was asked by a local lawyer here who was on the committee, the State Bar Association committee talking about the sealing of certain convictions, because I -- a misdemeanor conviction can prevent someone from getting a family-supporting job.

But, of course, under certain circumstances, if someone can stay out of trouble and they understand that there is this possibility for them to stay out of trouble

and have their record expunged, I think it's important that they know that up front and have that explained to them. Short of my assistants doing that, it really is up to -- I think we could probably do a better job working together with the defense bar to -- when you're working out a plea, as most cases are disposed of through pleas, where you make it very clear about what the ramifications are of a plea.

But I'm a big believer in giving people a second chance. I think that if people make a mistake and they've shown that they want to turn their life around, it's incumbent upon the community to do what we can to put them on the right track. Not for the rest of their life, I'm talking about giving them that hand to help them get up and back on track.

I think there are a lot of conversations going on about that right now, and I'm looking forward to being the head of the DA's Association next year. I'm serving as a deputy to Cy Vance right now and working on a lot of issues, some of which relate to what you're talking about. And hopefully the DA's Association will be able to come out and be a progressive voice in that area.

MR. STANDARD: Thank you. We're hopeful.

D.A. RICE: With me there will be, and with Cy.

JUDGE LIPPMAN: Absolutely. I have no doubt.

I want to thank you, District Attorney Rice, for coming and talking to us and for being our lead witness, and for all the creative things you're doing here in the veterans court, adolescent diversion court, sex-trafficking part which will be opening soon. It's a pleasure to work with you. Thank you so much for being here.

D.A. RICE: Thank you.

JUDGE LIPPMAN: I know that Judge Phoenix is here today somewhere. There she is. Norman St. George was here, Judge St. George. And the former president of the Nassau Bar, Doug Good, is here somewhere. Okay. And Judge Kase just walked in. Okay.

Our next witness, I'm so pleased, is Steve Bellone, the Suffolk County Executive. And I'd ask you to come into the witness box, County Executive.

COUNTY EXECUTIVE BELLONE: I'm not accustomed to this, judge.

JUDGE LIPPMAN: And I'm so pleased. I know the county executive for many years, and he is a creative and resourceful leader. And in his former roles I think we put a very effective community court out in Suffolk, and clearly an outstanding county executive who's dedicated to equal justice for all the residents of his county, and particularly, I think, so important in our state and in

all of the county, and particularly, I think, in Suffolk County and the economic crisis. He confronts every day the problems of people who need civil legal services, whether it be the roof over someone's head that's threatened, or their livelihood, or the physical safety or their right to entitlements. It's an everyday fact of life for the County Executive in a large, important county like Suffolk County.

So I'm so pleased that you're here. We're so pleased that you're here, and delighted to hear from you today.

COUNTY EXECUTIVE BELLONE: Thank you very much, Chief Judge Lippman, and it is an honor to be before you in this setting. As you had mentioned, we've had the opportunity to work together, and you truly are an innovator.

JUDGE LIPPMAN: Thank you.

COUNTY EXECUTIVE BELLONE: And your selection as Chief Judge, when it happened, I can tell you you couldn't have had a happier person than me knowing that you were leading our court system in New York. We are in very good hands as a result of that.

And Judge Prudenti, as well, it's great to see you, of course.

JUDGE LIPPMAN: You like to see fellow Suffolk

County --

COUNTY EXECUTIVE BELLONE: Yes, even though we're in Nassau County.

Mr. Standard, a pleasure to be here with you.

Thank you for the invitation to join you this morning to talk about this very important subject.

Meaningful access to justice, which includes being represented by qualified and effective counsel, the ability to understand court proceedings, and the opportunity to have claims heard is of paramount importance to everyone for a number of reasons. Access to legal representation can be the difference between losing a home or keeping it, succumbing to an illness or obtaining a cure, remaining in an abusive marriage or finding refuge, or remaining hungry or securing food.

In most civil cases a person is not entitled to an attorney notwithstanding that civil actions can result in the loss of custody of a child, loss of a home, loss of some benefit that puts food on the table. Essentially we are talking about the essentials of life.

Many low- income individuals are not even aware that they have legal rights in our county or that an attorney can help them. Lawyers are critical to advise clients of their rights that they may not know they have and to help them navigate through our judicial system.

Lawyers can also help clients solve problems before they turn into court cases, saving time and money. Every day legal services are provided to individuals who can afford them, and low income people deserve those, as well.

Having unmet legal needs can impose substantial financial burdens on local, state and the federal government, and society as a whole. For example, the low-income person who's abused and unable to get a divorce and continues to live with the abuser may need emergency medical care at an emergency room that he or she cannot afford, with the taxpayers ultimately absorbing the cost of the medical expenses associated with that care.

Moreover, the county and/or state may have to pay for emergency shelter for a low-income person who was wrongfully evicted from his or her home as a result of having no legal representation and being unaware of his or her legal rights.

Providing legal services to the low-income community not only benefits those individuals but also benefits the courts and society as a whole, I believe. Said services help to do the following: Lower the incidence of domestic violence, as you were discussing; assist survivors of domestic violence to obtain protective orders; regain custody of children and obtain

child support; decrease the amount of pro se litigation in the courts, which is time-consuming for the adversary's attorney and, of course, as you know, the judge on those cases; help pro bono cases flow through the court system faster; save taxpayer money by lessening the reliance of low-income individuals on government assistance as a result of wrongful evictions, improper foreclosures, domestic violence and the like; lessen the financial strain on health care of the criminal justice system and the social welfare system; and lessen the strain on employers who experience decreased productivity and increased absenteeism due to employees' inadequate access to the courts.

With the 2008 collapse of the stock market and the economic crisis, the decline in Suffolk County has been severe, affecting all residents, both wealthy and poor. However, the poor, having been hit the hardest, are left with, among other things, being evicted from their homes, having their homes foreclosed upon, having to go on public assistance and/or being forced to discontinue health insurance.

In my former role as Supervisor of the Town of Babylon, in communities like Wyandanch I witnessed the aftereffects of the economic decline and the devastating impact that it had on that community. Suffolk County has

been one of the hardest hit counties in the state in the foreclosure crisis. According to the Federal Reserve Bank, as of March 2011, 12-1/2 percent of Suffolk County homes were seriously delinquent or in foreclosure already.

The situation is worse in poorer communities in Suffolk County, where the rate of homes with a mortgage that was seriously delinquent or in foreclosure was 20 percent. The impact upon these neighborhoods is severe, and overall property values suffer as a result. The Neighborhood Economic Development Advocacy Project analyzed the Department of Financial Services data on 90-day pre-foreclosure notices in 2011, and in its 2012 report found that 52,378 notices had been issued. Suffolk County had by far the highest number of notices issued in the downstate area, including all of New York City, Nassau and Westchester County, 15 percent of the statewide total.

The foreclosure crisis hits the low income population of Long Island in two ways. Those who purchased homes with unconventional mortgages or predatory mortgages during the mortgage are losing their homes in record numbers, at the same time non-delinquent tenants are being evicted from their homes because of foreclosures on their landlords.

According to the New York State Unified Court System's 2010 annual report, Suffolk County District Court handled over 10,000 evictions in 2010, the highest of any county or city outside of New York City. This statistic does not even include the case loads in the justice courts which exist in the five eastern-most towns in Suffolk County.

My County Attorney, Dennis Cohen, who is here, who served as a District Court Judge in Suffolk County and handled landlord-tenant matters, has informed me that tenants who were represented were much more likely to settle their cases, allowing them to remain in their homes for at least some period of time or to prevail at trial.

In addition, as a result of the economic downturn, county government is experiencing significant financial issues that are unprecedented. And I'm sure that is something that you've heard around the state. Sales tax revenues and mortgage tax revenues are down as people are not spending money or purchasing real estate as they would in normal economic times, while government health care expenses and pension costs continue to rise at enormous rates. In light of this fiscal dilemma, it is more difficult for the county to provide needed funding to support legal services programs.

But notwithstanding the economic challenges that we face, the County of Suffolk is and has been committed to providing the necessary funding to assure access to our legal system. And I'm keenly aware that the cost to run county government is lowered, and, therefore, the cost to the county's taxpayers is lowered by providing attorneys to those in need.

The following services are provided by the County of Suffolk in order to provide low income persons access to lawyers and our judicial system:

A pro bono foreclosure settlement conference project, where we commit $45,000 to the Suffolk County pro bono foundation to provide assistance.

Elder law assistance, where we have a contract with Touro Law School to provide legal services for the elderly.

Child support services programs where the county has budgeted over $45,000 for 2012 for paralegal services under the guidance of a panel of volunteer attorneys for all residents on matters of child support, enforcement of court orders for child support.

Other criminal and legal services that we provide, the county contracted with the Suffolk County Legal Aid Society in 2011 and 2012 for services for the needy, at a cost in excess of $11 million each year.

In addition, since 2011 the county has contracted with Legal Aid to provide legal services for the poor through its defender advocacy program. The total county commitment there is over $360,000.

And, additionally, the county on average commits approximately $4 million each year towards the 18-B program for the retention of prior attorneys on those cases where Legal Aid has a conflict.

In an environment in which Suffolk County is facing and has faced this year a deficit in the hundreds of millions of dollars, unprecedented in the county's history, where virtually everything in county government has been cut, we are taking great pains to make sure that funding for Legal Aid and the associated funding like that has not been cut because of the importance. And we recognize the importance of that funding.

The county has a contract with Nassau-Suffolk Legal Services covering the period from 2012 to 2014 to provide legal services for Social Security housing, accessing medical care, Medicaid, food stamps, TANF, the mental health advocacy and family court representation where 18-B services and Legal Aid are not available. And nearly $200,000 was budgeted for fiscal year 2012.

Judge Lippman, I want to commend you for requiring prospective lawyers to perform at least 50

hours of Legal Aid -- of law-related pro-bono services before being admitted to the New York State Bar. I believe this requirement could go a long way in providing low-income individuals with representation that they need.

In conjunction with this requirement, I wonder whether we can convince local law schools here on Long Island, and perhaps across the state, to create clinical programs which would represent low-income persons in civil matters and require all students to participate, while, of course, receiving credits for their work.

I'm a lawyer but I do not practice, as my county attorney reminds me when I offer legal opinions on some things in the county. I would have welcomed the requirement in law school that I participate in a clinic that would have provided me with real legal experience while at the same time helping those less fortunate navigate the legal system.

I want to thank you again for giving me the opportunity to participate in this hearing and to express my views and support on this very important issue. Thank you, Judge.

JUDGE LIPPMAN: Thank you so much. And I'm so pleased that your testimony, which so recognizes -- what we've gotten from some people is, you know, times are

bad, we can't afford civil legal services. And the point is that access to justice is not a luxury that's only in good times.

COUNTY EXECUTIVE BELLONE: Right.

JUDGE LIPPMAN: And I think you recognized it and made that connection. But maybe we can talk about it a little more, about the bottom line.

I think, you know, we had testimony in Albany from Steve Aquario, the Association of Counties, and he was making the same point that you're making. Maybe you could spell it out a little bit for our audience, that this is not just about that you feel an ethical obligation and a moral commitment to doing this funding, which I know you do --

COUNTY EXECUTIVE BELLONE: Right.

JUDGE LIPPMAN: -- and which we all feel, but that this idea that we try to get across, that for every dollar invested, you know, if we turn so much to our economy, that this -- putting everything else aside, a bottom line issue, that we estimate every dollar, that's a return for lots of reasons, because if you don't help people to deal with their life-threatening problems you have more homelessness, incarceration.

COUNTY EXECUTIVE BELLONE: That's right.

JUDGE LIPPMAN: You're not getting entitlement

dollars from Washington that come into our state. But, literally, you believe that the economic health of the county is better by having an infusion of public funding, or whatever else is needed, or volunteerism, into representing those people who have these life-threatening legal problems?

COUNTY EXECUTIVE BELLONE: Judge, I think that's absolutely right. And I think it's probably a combination of those two things that is necessary to deal with the staggering problem that we face.

I think, first and foremost, it is the right thing to do, it is a moral issue, and I think that is important to state, and I do believe that it is important. But we have to justify to the entire county what we do and how we do it and how we spend every single taxpayer dollar.

JUDGE LIPPMAN: Exactly.

COUNTY EXECUTIVE BELLONE: And what I have said, repeatedly, and what you were just speaking about, is that this makes financial sense for the county, that making this kind of investment at a local level or at the state level is critically important, because the impacts that have happened as a result of the economic downturn, the worst recession that we've had since the great depression, are felt in all the ways that you listed.

But oftentimes they're hidden costs because they're diffused throughout our system. And oftentimes the agency that is responsible for a certain function, the costs are resulting from another source or another agency.

JUDGE LIPPMAN: Right.

COUNTY EXECUTIVE BELLONE: So, for instance, you know, the lack of legal representation may cause people to end up in emergency rooms. Well, that may not necessarily be an issue for the county, per se, in its bottom line this year. But that is a significant cost for all of us in Suffolk County and all of us across this state.

So I've always felt that we need to look at these problems in a comprehensive manner. You know, we have, obviously, different branches of government and many different levels of government. But I truly believe it is critical that we are working together and planning together, because each of the things that we do is different branches and different agencies impact each other. That's why I've been talking with our county attorney and working with Suffolk County court system to move more closely together, integrate some of our problems and work together.

The people that we are talking about, low

income individuals that have been impacted here, are the same people that we see all the time in our social services programs, that we see in many cases that are in the criminal justice system, that we deal with on parole.

So I think it is so important that we look at these things wholistically and comprehensively, and when we do that understand that we are doing something important and significant for taxpayers, because when we provide those services like that we are reducing costs, without question.

JUDGE LIPPMAN: And I think, aside from -- I think it's such an important issue to understand that this is not the time to say we can't spend on civil, this is exactly the time to spend it.

I think your point about collaboration, and certainly between the branches of government, is so true. And we talk about equal justice, while in some ways that term, obviously -- justice talks about our court system. You're in the business of equal justice, too.

COUNTY EXECUTIVE BELLONE: Certainly.

JUDGE LIPPMAN: And obviously what you're trying to do as the executive in charge of your county.

COUNTY EXECUTIVE BELLONE: That's right.

JUDGE LIPPMAN: So I think we're all in this together, which is the point which you so rightly make.

COUNTY EXECUTIVE BELLONE: I take that oath to the constitution as well, and I take that very seriously. You know, at the end of the day we want to do what's right for the county and what's the right thing to do.

And, you know, the District Attorney was here before and she's put forward some really innovative programs that we've used. I think she gets it and understands that we have to look at things in a comprehensive way and stop, you know, sort of working in vacuums.

JUDGE LIPPMAN: Exactly.

COUNTY EXECUTIVE BELLONE: See that the things we do with the county don't impact the court system and vice-versa, and the things that happen in the state are not impacting at the local level. We have to think -- particularly in times when funding is limited and there isn't a lot of money, that we need to take that opportunity to figure out how we can do things better and more efficiently. I think the collaboration is important.

I'm looking forward to, as we've in the last nine months, my first nine months as county executive, been dealing with really on a crisis level, being able to get in and work with the court system more closely on these programs.

JUDGE LIPPMAN: Oh, we look forward to that, too.

Talk about collaboration, one other question. I see the dean of Touro Law School, Patty Salkin, is here. And we're hoping that -- they're one of the two in the state that require pro bono work. But we really are hoping with the new 50-hour requirement sort of highlights everyone's sensitivity to this issue to have collaborations between the local law schools, particularly out here, where you have Touro and you have Hofstra down here in Nassau County, to provide the kind of assistance that may be, if there are limited public dollars and we're all trying to get as much as we can get. But I think that's an area that's so ripe in this economy, and, again, emphasis on pro bono. And I know with you as the County Executive and Dean Salkin, who I know so well for many years, this will be a great alliance, I think, in terms of helping the county.

COUNTY EXECUTIVE BELLONE: I agree. And Touro Law School has been at the forefront of this, and we've enjoyed a great partnership with them. And I think, as you said, with this new commitment of 50 hours that there's going to be opportunities for even deeper collaboration that I think will be beneficial for everybody.

JUDGE LIPPMAN: I know it and I hope so.

Judge Prudenti?

JUDGE PRUDENTI: Well, I concur, and I have to just say, County Executive Bellone, I want to thank you for your commitment to maintaining the legal services as existing and expanding upon them. I couldn't be more delighted with your choice of county attorney, because he'll will always be Judge Cohen to me.

COUNTY EXECUTIVE BELLONE: You know, I have to work with him. Thank you, Judge.

JUDGE PRUDENTI: I understand. But I have to tell you, as we're preparing our budget to go forward for the next year, and in that budget, as you know, the Chief Judge is so committed to our civil legal services, that we are going to be requesting some additional moneys for civil legal services. And I would just ask you and your county attorney, if you have any questions, we need your support, we ask for your support, but if you have any questions with regard to that budget, please don't hesitate to contact me. And I would love to share any information that we have about what we've done in the past with that legal service money and what we plan to do in the future.

COUNTY EXECUTIVE BELLONE: Thank you, Judge. And I would say the same thing; anything that we can

provide in terms of assistance or support or answering questions, we're prepared and ready to do so.

JUDGE PRUDENTI: I appreciate that.

JUDGE LIPPMAN: Mr. Standard, do you have anything?

MR. STANDARD: I have one question for you, Mr. Bellone.

I want to congratulate you on what you've been doing. But what's your secret? How have you gotten the voters in Suffolk County to support what you've been doing in light of the economic situation that we're in?

COUNTY EXECUTIVE BELLONE: Stay tuned, they haven't had an opportunity to vote again. We will see.

But I've always felt that you cannot just, as a leader, say this is the right thing to do, therefore we're doing it, that you have to take the time to explain to people why it makes sense, and why not only is it the right thing to do but that it makes sense for our community and our society. And I think when you take the time to do that -- and we did this in Babylon, where we've made huge investments in Wyandanch, the most economically distressed community on Long Island, and we had widespread support for those investments from the communities throughout Babylon. The reason was we took the time to explain why this is not just about investing

in Wyandanch, which is the right thing to do and important in and of itself, but that it affects you and your family and your property values.

MR. STANDARD: Out in East Hampton?

COUNTY EXECUTIVE BELLONE: I didn't quite make the argument that far when I was in Babylon. But that's exactly right. I always made the case that what happens on the east end and the investments out there, even though Babylon, we're a fully developed town, investing in open space even though we don't get those dollars, it makes sense. I really believe that we do best when we think of our systems as integrated systems and not separated.

JUDGE LIPPMAN: I want to thank you, County Executive Bellone, for coming and for all you're doing in this critical area, in these really very difficult economic times for all of us, and for -- again, for lack of a better word -- for your wholistic view on this issue and on collaborative issues for all of us working together, and we really appreciate it, and it's such a delight that you're here today.

COUNTY EXECUTIVE BELLONE: Thank you, Judge. It's an honor, and thank you for your leadership.

JUDGE LIPPMAN: Thank you.

COUNTY EXECUTIVE BELLONE: Thank you.

JUDGE LIPPMAN: Appreciate it.

I note that Anne Erickson, who thinks she's leaving the room, who's on the task force -- I want to make sure and introduce her. Now, Anne, you can do what you have to do.

Our next witnesses will be an immigration and language access panel, and we have: Martha Maffei, Executive Director of the Services For the Advancement of Women, SEPA Mujer, Inc.; Rose Leandre, Executive Director, Haitian American Cultural and Social Organization, HASCO; Alizabeth Newman, Director of Immigrant Initiatives and Clinical Professor of Law at CUNY Law School.

Great to have you all here. Why don't we start with Martha Maffei. Am I pronouncing it right, Martha?

MS. MAFFEI: Yes.

JUDGE LIPPMAN: You're on, Martha.

And don't feel, with any of the witnesses, don't feel that you have to read your prepared statement. We've read it already. You can just tell us, you know, what you're here to say and we'll ask you a few questions, and however you'd like to proceed.

Martha.

MS. MAFFEI: Thank you very much for having me here today to address the concerns from my community.

I am Martha Maffei. I am Executive Director at Services for Advancement of Women, a Latina immigrants rights organization. We are located at the advocacy center of Touro Law in Central Islip.

In addition to the community education and empowerment to Latina women, we also offer legal assistance for survivors of domestic violence through immigration relief, like self-petition under the Violence Against Women Act and U-Visas. I will say that 99 percent of my clients, they have limited English proficiency, and 40 percent of them have a minimum education and have problems even in their own language.

Every day I hear the complaints, frustrations and confusion of my clients after they go to Family Court. As we all know, understanding the court system is hard for anyone, but it's worse for someone who is suffering domestic violence, because many times they are still intimidated by the abusers and threatened with deportation. The lack of sufficient number of attorneys, advocates, and interpreters means the women cannot express themselves, don't understand the process, and often give up because of continued threats from the abuser. These pressures combined often mean that those who most need assistance are not getting served.

The lack of communication for those with

limited English proficiency make an already difficult task harder. When victims go to court they are seeking protection, and safety is the forefront of their minds. They are worried if they can key keep the children with them and how they will be able to raise them. They are not thinking about how to explain the situation in a foreign language because their emotional state does not allow it. When they are unavailable to communicate what happened in the home leading to the need of protection, many cannot use the process. If these woman had an attorney in court with them, this kind of situation would not happen.

JUDGE LIPPMAN: How many attorneys do you work in the office?

MS. MAFFEI: How many what?

JUDGE LIPPMAN: How many attorneys do you have?

MS. MAFFEI: We have -- we work with pro bono attorneys.

JUDGE LIPPMAN: In all, how many volunteers?

MS.MAFFEI: We have five pro bono attorneys, immigration attorneys.

JUDGE LIPPMAN: And they all have their own private practice and they're doing it on their own?

MS. MAFFEI: One of them were -- some of them are private practice. The chief of my -- Alizabeth

Newman, she is director of CUNY law school. And we also work with pro bono students from the Touro Law that they are willing to help our organization.

JUDGE LIPPMAN: So you really depend on pro bono work?

MS. MAFFEI: That's true.

JUDGE LIPPMAN: Go ahead.

MS. MAFFEI: Even if a woman can speak some English, her communication is not likely to be fluent and much will get lost. She will not have limited her information to the parts of her story that she does have the vocabulary for, which means that the judge will hear a very distorted, partial and often toned-down version of the facts.

Judges can also be frustrated by the lack of communication and may think a woman is uncooperative. I remember a case in which a woman was seeking for an order of protection. Her children had been taken away because of the domestic violence inflicted on her by her husband. The judge asked where the children were, and the mother answered day care. The judge got very angry. And the advocate said, I think she means foster care. The mother was trying to participate but was unable to come out with the right word because of the language barrier.

Women with limited English proficiency cannot

fully protect their rights in court with the assistance of an attorney, interpreter and bilingual advocate. And certainly when the abuser is also present and is proficient in English, he's usually advantaged in the process. His story may often seem more plausible, not necessarily because it's true, but because he can express himself more clearly and has a stronger grasp on the process.

In addition to the difficulty of expressing herself without an attorney or a bilingual advocate, the lack of a lingual information often impedes an applicant's ability to use the Court process. Many times orders of protection fail because the clients had no -- doesn't know how to fill out an application, and there is nobody available to explain it to them. Women do not have a basic understanding of the Court procedures and don't know what constitutes a family offense, much less how to meet the legal elements of claim. There is little information given to women on what to expect in the process.

I remember a time where a woman filled out a request for an order of protection in Spanish and it was only noted when the judge got it in his hands. This women was waiting for a whole day in that court, and finally when she saw the judge he told her, you have to

go back to the clerk's office. Many women who are seeking help at the court without counsel have to go back two or three days and nobody helps them.

Only after failing to get relief, women come to SEPA Mujer, where they are fully described their situation in their native language. Sometimes our staff is able to accompany women back to court or provide referrals to an attorney at Nassau-Suffolk Legal Services. However, these referrals are not enough because Nassau-Suffolk Legal Services doesn't have enough staff, and unfortunately there are not enough attorneys to fully explain the court process to them. This extra service must be provide by our already overextended nonprofit because it is basic information not being provided by the Court in Spanish.

To file for custody in the Family Court, clients are advised by court personnel to bring someone to speak English. Otherwise they are often unable to file for custody due to the shortage of bilingual assistance. This is a huge problem because most of our clients don't have anyone that is fluent in English who they can trust and who can leave work or family responsibilities to help her.

My clients often reported that when they approach personnel in court to ask for information, the

staff member simply chants at them, English, English, English, adding a hostile tone to the already difficult language barrier. Again, with an attorney or a bilingual advocate, this kind of difficult situation would not take place.

Lastly, many women with limited English proficiency are immigrants who are still being harassed by their abusers. Several women have simply given up on petitions for child support in order to stop abuse or harassment. It is common that when the courts serve an abusive father with papers to pay child support, he finds ways to harass the mother in retaliation. While technically it is not requested from her, the abuser knows that she has initiated the process. The difficulty that women with significant language barriers face when using the court system without representation of an attorney and with the continuing threats of the abuse or harassment prevent many women from using the legal system.

In addition, my clients said that some attorneys who were not working through Nassau-Suffolk Legal Service, private attorneys, they are advising to stop requesting custody of their children or to not pursue an order of protection because of lack of immigration status. When we work with our local civil

legal service office this does not happen, so we need to make sure that our vulnerable clients receive counseling from lawyers who are trained to bridge the gap between Immigration Law and the New York State family law.

From SEPA Mujer's perspective, the best way to do this is, one, greater support for civil legal services, and, two, more training for attorneys. When there are not enough attorneys, competent interpreters and advocates for women suffering from domestic violence, the costs are high. Women suffer because they cannot protect their children, their homes or their safety. Courts suffer because they cannot make accurate findings and because the community loses faith in the justice system.

I still have faith in the justice system. This is why I'm here today. I know that the provision of adequate services to immigrant women suffering from domestic violence is critical, and I applaud Chief Judge Lippman for opening this dialog and giving us the opportunity to speak for my community that I represent. I know you will pay attention to these issues that I bring here today. I would be willing to help you, and I look forward to working with you. And thank you very much for this opportunity.

JUDGE LIPPMAN: Thank you for being here.

Appreciate it.

So really the problem is the language problem mixed with, obviously, a lack of knowledge of the legal process. So it's -- we have to attack both of those problems together.

MS. MAFFEI: Yes, and the big gap that exists between Immigration Law and New York State Family Law, that has created fear to women to apply for --

JUDGE LIPPMAN: We have heard that in other cases.

MS. MAFFEI: It's very hard when I hear a woman that calls me back to let me know that she was advised, don't apply for an order of protection. They already have had many, many difficulties in their life, lost their apartment, don't have transportation, don't have the language. Some much of them, much of them, they are living in shelters. They don't know where to go and they don't have protection.

JUDGE LIPPMAN: So it's kind of -- in addition to the legal and the language barriers, there's also -- they need nurturing, they need emotional support.

MS. MAFFEI: Yes.

JUDGE LIPPMAN: They're hesitant to -- they need bilingual advocates.

MR. STANDARD: Attorneys, interpreters. They

noticed to get equal justice.

JUDGE LIPPMAN: But in your particular organization, you're very dependent on volunteerism as opposed to help from a provider directly, where those moneys -- and, you know, we're trying to do both, to increase the public funding so that the providers can specialize in different areas like the one you're talking about, and yet at the same time emphasize the importance of pro bono work and volunteerism. And that's what we're trying to do with the law students. And you have some of them, probably a perfect example of where it can work --

MS. MAFFEI: That's right.

JUDGE LIPPMAN: -- with supervision, assisting people with these kind of very difficult life crises that they have.

MS. MAFFEI: That's right.

JUDGE LIPPMAN: Okay. Thank you.

MS. MAFFEI: Thank you very much.

JUDGE LIPPMAN: Thank you.

Okay, now, Rose Leandre from the Haitian American Council.

MS. LEANDRE: Good morning. Thank you for the invitation to be able to speak to you all today regarding this important issue.

As you said, my name is Rose Leandre, and I'm

the Executive Director for the Haitian American Cultural and Social Organization, d/b/a HACSO Community Center. HACSO was founded back in 1974 to serve the needs of the immigrant community in Rockland County. Our mission has expanded to serve immigrant and low income families that are underserved in the county.

Our mission is to partner with existing services, including civil legal services, to increase access to immigrants with language and cultural barriers and families that are underserved.

JUDGE LIPPMAN: So you work with providers?

MS. LEANDRE: Yes.

JUDGE LIPPMAN: Providers help your organization?

MS. LEANDRE: Yes. We do referrals, we refer -- we're a multiservice organization. We're mostly a social service organization. So families come to us with diverse needs.

JUDGE LIPPMAN: But that's so important, and we want people to understand that. People will come to an organization like yours, people will come to the church.

MS. LEANDRE: Yes.

JUDGE LIPPMAN: But they're dealing with problems that you're not --

MS. LEANDRE: Exactly.

JUDGE LIPPMAN: -- totally fit to work with them on, because you need that legal assistance.

MS. LEANDRE: Yes.

JUDGE LIPPMAN: That's what we're trying to find. In so many different aspects of life people have problems, they don't know where to turn, but they turn to sympathetic entities, whether it be an organization like yours, the church, whoever they might come to. And there needs to be off-ramps to go to a provider where you can send them to be helped on that.

MS. LEANDRE: Yes. And I'm very excited to be here today because of that specifically, really just to make the connection of the importance of having bilingual, bicultural civil legal services for underserved communities.

JUDGE LIPPMAN: So not any provider can help you if there's that language issue; right?

MS. LEANDRE: It's very difficult.

JUDGE LIPPMAN: Or you need to have an interpreter.

MS. LEANDRE: An interpreter, which kind of opens up the door for a lot of other complications sometimes.

JUDGE LIPPMAN: But if you have a lawyer who speaks the language, it's really a tremendous asset.

MS. LEANDRE: You know, in my testimony I have a couple of examples of organizations that we've partnered with as a result of support, and hopefully continued support, for their legal services, to be either able to hire or maintain existing bilingual providers that we have on staff, that we're losing because of budget cuts.

JUDGE LIPPMAN: So it's not so simple to just say, okay, we're going to give money to a provider, or we're going to get a volunteer. It has to --

MS. LEANDRE: Or an interpreter. Exactly.

JUDGE LIPPMAN: It has to fit into your needs.

MS. LEANDRE: Exactly.

JUDGE LIPPMAN: I think that's the point. There's so much need but in so many different forms.

MS. LEANDRE: Yes.

JUDGE LIPPMAN: And we have to be able to target the services, whether it's coming from a provider or coming from a pro bono basis, that meets the particular need at issue.

MS. LEANDRE: Yes. Yes.

You know, I couldn't -- I wouldn't be leaving here too happy if I didn't provide some specific statistics in terms of the changes in the population that we're seeing.

JUDGE LIPPMAN: Please do. Sure.

MS. LEANDRE: Rockland County is considered to be one of the smallest counties in New York State. However, it is the 13th largest -- has the 13th largest population in the world ---in New York State outside of the boroughs of New York City. And 11.4 percent of Rockland County's residents, which is about 33,000 people, live below the poverty level. And it's up 9.5 percent from -- in 1999, 9.5 percent. It's up from that.

According to the 2010 American Community Survey, 23 percent of Rockland's population was foreign born, with more than 31 percent of its people entering the United States in the year 2000 and later.

In addition to that, according to the 2008-2010 ACS survey, in the village where our organization actually operates, 48 percent of the population of that village is made up of immigrants, people with language and cultural needs.

Between 2000 and 2010, in the Latino population only there was an increase of 145 percent in that village. The county of Rockland's linguistically isolated households grew 99 percent from 1990 to 2009. That just shows the drastic changes in the population that we're dealing with and the need for having linguistically and culturally appropriate legal services.

99 percent of our clientele, they need -- even though we're a social service organization, they come to our office with a multitude of civil legal services needs, to include eviction, mortgage modification, Social Security disability issues, unemployment issues, divorce, domestic violence, landlord-tenant, and immigration services.

JUDGE LIPPMAN: I think the list of problems that you raise demonstrates that this is not only about lawyers to go into court with people, many of the problems never go to court.

MS. LEANDRE: Exactly.

JUDGE LIPPMAN: Their entitlements, or they're dealing with a bureaucracy, or whatever it might be. So it's not this vision that the only thing that's involved here is getting a lawyer to accompany you to court, it's really just one part of this.

MS.LEANDRE: You know, we talk about investment into prevention, and having local civil organizations, and I'll bring a perfect example.

In Rockland County we have the Legal Aid Society of Rockland County. We work a lot with them. 90 percent of our referrals are made to that organization. And they actually had a Creole-speaking -- and make sure that they hired a Creole speaking attorney. They have Spanish-speaking attorneys to help with the process,

understanding the dynamics of the community. And most of the issues result in having attorneys understanding the issue and getting these referrals in advance and being able to call the landlord and try to stop an eviction before a family of four is out on the street with five children. And now trying to, with the cost of living in Rockland County, trying to rehouse them, when it's just a matter of I just had a job, I had an emergency, I need a couple of months to make up my rent arrears. And it has proven to work a lot.

I mean, I have examples in terms of mortgage modification. I have an example of a woman, we're talking about, again, going back to, you know, dealing with immigrants. She was married here. Somehow her husband was able to get a divorce outside of the country, that she was not aware of. Her mortgage -- the mortgage is under the husband's name but the deed of the house is under both their names. And being able to get a modification -- because now she's living in the house with her children, and the husband is not paying the mortgage, and she's having a hard time getting a mortgage modification.

I don't want to compare the importance of having Legal Aid to a private attorney, I don't want to go into this, but being able to come into our office

cannot resolve her issue. But being able to say, here, call this organization, they will sit with you and figure it out. And they had to work with divorce, Family Court, in addition to her coming just for a modification.

So, again, having that entity -- and we do get a lot of support. We work a lot with the Empire Justice System. They do legal clinics for us. We have a lot to do with TPS, so they do a lot of legal -- we get a lot of pro bono service, but having an entity that we're able to refer people to certainly makes a big difference.

JUDGE LIPPMAN: Okay.

MS. LEANDRE: Other issues, I mean, I don't want to give a bunch of examples, but it's very, very, very important. We have clients that are preyed upon. They're charged exorbitant fees when they try to access legal services, and they're taking away money from food and shelter to pay, because they're not -- you know, they're not aware that they may be eligible for free civil legal services.

So having entities involved in the community, making outreach, educating people so people can access and not have to take food and shelter money away from the children to pay for civil legal services, it is -- it becomes beyond civil legal services, it becomes an economic issue, where spending exorbitant money or

waiting until the problem becomes worse impacts their economics also.

JUDGE LIPPMAN: No question.

MS. LEANDRE: Also basic survival, life skills are impacted for -- by not having civil legal services.

JUDGE LIPPMAN: Okay. Thank so much.

And, you know, I think it graphically illustrates the testimony of the problems, and they're multifaceted and not so easy to resolve, and we've got to target where the need is.

I now ask, Professor Newman, to hear your thoughts.

PROFESSOR NEWMAN: I hope you didn't get tired of hearing the thanks from the presenters, but I'm honored to be here today and a part of this fantastic effort that you've been leading for the past several years to address this really important issue. So thank you.

JUDGE LIPPMAN: Thank you.

PROFESSOR NEWMAN: So, again, you know, my testimony will focus on one of the most vulnerable groups to go without representation, those with limited English proficiency, an immigrant.

While I understand that immigration and civil services are not a part of this being federal, the

intersection area that was mentioned becomes really, really important, and I'd like to highlight that for you.

So first a couple of statistics, as well. In New York State the percent of the population with limited English proficiency is now about 15 percent. Nearly a third of families in New York State speak a language other than English in their homes. And about more than 8 percent of New York State households are considered linguistically isolated, meaning that no adult in the household is proficient in English. And that's at least double what the national rate is for New York State.

JUDGE LIPPMAN: Is there a co-- do those statistics coalesce with poverty statistics? Are a great part of that population of very limited means, or we don't really have the correlation?

PROFESSOR NEWMAN: I don't know. I'd have to look into it. But I would assume that there is a correlation.

JUDGE LIPPMAN: To at least some significant degree.

PROFESSOR NEWMAN: I think also our immigrant population is also growing. Statewide we're at about 21 percent. Nassau and Suffolk counties, I think, are about 20 percent and 15 percent. I think New York City statistics, were I think this was a combination of

immigrant and their offspring, are up to 55 percent of New York City's population. So it's --

JUDGE LIPPMAN: It's a very diverse state, and becoming more so.

PROFESSOR NEWMAN: Yes. And particularly for immigrants, there's a large -- there's many types of cases in which the immigration status itself becomes part of the civil proceedings. I think it's very important that counsel -- that they have counsel to be able to contextualize that for the Court and make sure that the opposing party isn't, you know, exploiting that in a way that doesn't really make sense.

So I wanted to give two examples of one time when it went really badly and another time where it went much better. So in one case, a custody dispute, and the father was bringing a petition for custody, stating that the fact that his wife was in removal proceedings, the new deportation proceedings, that meant that she was about to be deported, and so he wanted custody. And the Family Court Judge was alarmed at the situation and said that she would wait for the Immigration Court to finish its proceedings before she made a determination, because it was important for her to know.

Meanwhile, back in the Immigration Court, the Immigration Judge wanted to hold off on the results

because he was weighing different factors of hardship, including the hardship to the U.S. citizen child, and all of the factors when that judge was making a determination on whether or not to give the mother legal permanent resident status. So the two courts were waiting for each other.

Fortunately, she was represented and was able to convince the Family Court Judge that, A, as scary as removal proceedings sound, first, they could take years and nothing is imminent, and, second, it's actually an opportunity to present relief. It doesn't mean that you're about to be dragged out.

So the Family Court Judge was willing to make a decision based on the facts of the family presented before her, knowing that she could give the right to either party to come back to the court if there was a drastic change in circumstances. So that turned out very well. The judge made a decision in the Family Court giving the mother custody, and the Immigration Judge also gave her status.

Where it can be stickiest, I think, is in situations of domestic abuse. And this is something that Martha Maffei had referenced. So in general immigration law, if an immigrant marries a U.S. citizen or a permanent resident, it's the spouse with status that has

almost total control of the petitioning process, so they can decide whether to petition, if they're ever going to petition, or to stop that petition midstream.

And so if you superimpose a situation of domestic abuse, you have a recipe for disaster. And, unfortunately, it's very common for abusers in that situation to use -- to leverage the immigration status, to say, if you tell anybody about the abuse I'll have you deported. If you don't drop that civil suit for child support you're going to lose your work authorization and you'll never see your kids again. It's very effective. Doesn't leave any visible marks. And often times the judge isn't going to be aware that that's going on behind the scenes.

So without counsel, you have a terrible situation where the courts are actually becoming an instrument of abuse unknowingly.

JUDGE LIPPMAN: What does the law school do, in terms of your particular area of initiatives, to deal with these kind of situations? Where do you go? Do you get from your own resources within the law school, do you reach out to the bar? How do you help people in these situations?

PROFESSOR NEWMAN: So first CUNY law school has a particular mission towards public interest that

attracts students who are like-minded. So we have a very active student body. I teach in the clinical program, and one thing that we do is, in addition to teaching the traditional litigation skills, all of our students take on community projects. And so this definitely is one area that -- the area of gender violence and immigration has been an area that I've been working in for many, many years.

JUDGE LIPPMAN: Who oversees the kids?

PROFESSOR NEWMAN: I would.

JUDGE LIPPMAN: You would oversee on these types of issues?

PROFESSOR NEWMAN: Yes. And we also create partnerships with many small organizations. Usually we've found not so much legal services necessarily, although we do support legal services groups, but we like to work with ethnic-based groups that have the trust of the community and then capacitate them with the legal parts that they don't necessarily have. So the combination of doing community education, working with the staff of the organizations to make sure that they can recognize the different beliefs, and doing the legal services.

JUDGE LIPPMAN: This is exactly -- the kind of programs that I think are second nature to you at CUNY

are exactly what we'd like to have all the law schools doing. So we're not talking about, when we put in this 50 hour requirement that the people do 50 hours and they meet their requirement, but more a recognition of how important pro bono work is to this next generation of lawyers so it's built into their DNA.

PROFESSOR NEWMAN: Yes.

And I think, too, like previous panelists had said, not just the pro bono work, but if we're really going to reach into these very, very vulnerable populations, to work through the organizations that already know the community and can fill in the cultural pieces.

JUDGE LIPPMAN: Cultural and, obviously, the language pieces.

PROFESSOR NEWMAN: Yes, obviously.

JUDGE LIPPMAN: That is so critical to this.

PROFESSOR NEWMAN: Yes.

I don't know if I -- I should go through this, since it's in my testimony. Just other examples of when abusers who are citizens can use the element of status very effectively.

You know, in one case, in addition, the abuser had him and his wife arrested for a shoplifting charge, and then he told her that it was all resolved and she

didn't need to go back to court. Unknowingly, there was an outstanding warrant. So he learned that. When she finally left him he used this when she was presenting a case for an order of protection in Family Court pro se. He was resourced, hired an attorney to go in, adjourn the proceedings while he called ICE, the immigration enforcement branch. And they're thinking, oh, we have a fugitive here, I have an outstanding warrant. They showed up in Family Court and arrested her and whisked her off to a detention center out of state, leaving an elderly mother and three children. We were able to come in and get her out.

But there's so many times when the abusers can try to use the court system against their spouses, and it makes such a difference for the courts to be aware, to know what to ask and to have counsel to --

JUDGE LIPPMAN: And that also borders on the issue that Mr. Standard asked before, on the criminal things with the collateral consequences issue. Same milieu, that immigration problems are used as a weapon --

PROFESSOR NEWMAN: Yes.

JUDGE LIPPMAN: -- in one fashion or another.

PROFESSOR NEWMAN: Right.

JUDGE LIPPMAN: It gets very complicated and we need legal services to help.

PROFESSOR NEWMAN: Right. My point exactly.

So in juxtaposing that in another case that -- I love the decision from a Bronx Family Court Judge who, after the U.S. citizen's spouse, insisting on bringing up the wife's status throughout, started to inquire, and why is she undocumented, let's look at this. In fact, he was the cause of that, that he stopped the proceeding -- stopped sponsorship. So she actually was savvy about it and cited that fact of him interrupting the relationship between the mother and child as a negative factor in the custody dispute. So when it works well, it works well.

JUDGE LIPPMAN: What part of the SUNY -- CUNY curriculum is a clinical program? I know you have an awful lot because --

PROFESSOR NEWMAN: We do. And we have a requirement, every student who graduates with -- has to do a clinical program. So we have students for at least one semester, and in my clinics it's two semesters, 8 credits each. So it's a significant time to work with the family, be with them, to be able to hone their skills, show different ways --

JUDGE LIPPMAN: You say most of the kids at CUNY do either series of clinics or internships, externships?

PROFESSOR NEWMAN: Yes. It's a requirement for

graduation.

JUDGE LIPPMAN: The clinical?

PROFESSOR NEWMAN: Yes.

JUDGE LIPPMAN: Good.

PROFESSOR NEWMAN: If I might say one more thing.

JUDGE LIPPMAN: Sure, go ahead.

PROFESSOR NEWMAN: So in experimenting over much time with how to meet the needs in the different communities, one thing I'd like to open up is the possibility of New York State revising the ethical code to expand the possibility of more services. And I'll explain what I mean.

So where there's a group of people that have similar claims -- say 12 new people walk in with housing problems to Legal Aid. Either they've got to wait for the already burdened attorneys to get to that part of the waiting list or train pro bono counsel to volunteer.

JUDGE LIPPMAN: Right.

PROFESSOR NEWMAN: But the possibility of working with them in group -- and it's something that I've been working with and having to be very careful, of course, with regard to confidentiality and of the other obligations of an attorney.

Now, in some places New York State's ethical

code has already been revised as far as conflict checks for pro bono counsel, where it doesn't make sense, as far as giving some assistance and letting the person go pro se. There are different places where we've been tweaking. I would encourage us to look a little more about that.

For example, those 12 people, if we could work with them in a group to at least do some of the education that an attorney would do individually, if we can work with them on what type of evidence they're going to need and why, what elements that meets, and help them do data collection --

JUDGE LIPPMAN: It gets very interesting. Do you have anything in writing?

PROFESSOR NEWMAN: I do. There's an article that I wrote last year. It works particularly with domestic violence survivors, where in addition to efficiency it also gives some of that support to help them not give up in the process, it's too hard.

JUDGE LIPPMAN: Send it to me and send it to Elaine Barnett, head of the task force, and we can take a look at that.

Judge Prudenti?

JUDGE PRUDENTI: No.

JUDGE LIPPMAN: Mr. Standard?

MR. STANDARD: No.

JUDGE LIPPMAN: Great battle. Thank you so much. Appreciate it.

The next panel is dedicated to collaboration. We're not going to go to the collaboration panel next, we're going to go to the judges' panel. So can we have Judge Diamond, Judge Hinrichs, Judge Phoenix and Judge Fairgrieve, come on up. And then we'll go to the collaboration panel.

As unaccustomed as you are to being in the witness box, we'll see if we can make this work. Mr. Standard is particularly anxious to see you all in the witness box. So watch out for cross-examination.

I think what some people don't always understand is the impact of the lack of legal services on judges in the courtroom and how it affects the whole process of our justice system. And so we have four judges today who are going to give us an idea of how this all fits together. And we're going to start, unless you have any prescribed order, we'll start with Arthur Diamond.

Judge, a pleasure to see you. Judge Diamond is a Justice of the Nassau County Supreme Court and a member of the New York State Judicial Advisory Counsel.

Judge Diamond.

JUDGE DIAMOND: Yes. Good morning. Thank you for inviting me.

As you said, I'm in my 9th year on the bench, and I just -- I don't want to be rude, but I have a jury deliberating so I'm going to excuse myself after I finish, if that's okay.

JUDGE LIPPMAN: You are absolutely excused. Tell us -- you don't have to read the testimony. Tell us what your thoughts are.

JUDGE DIAMOND: I read the testimonies of some previous people, and the one area that I would like to spend my few minutes on is the area of guardianships, and indigent people who are the subject of Article 81 proceedings.

JUDGE LIPPMAN: Right.

JUDGE DIAMOND: I won't use shorthand, but I'm going to assume that both of you understand the mechanics of the Article 81 proceedings.

JUDGE LIPPMAN: Definitely.

JUDGE DIAMOND: Okay. So we have real difficulties in three scenarios.

The first scenario is where the alleged incapacitated person from the outset, when the petition is brought, we have no money to appoint a court evaluator. Now, we do have a public guardian program,

and I'll talk about that in a minute. So our initial option is to appoint Mental Hygiene Legal Service as evaluator to report to us. If we do that, there is no money to appoint counsel if the alleged incapacitated person requests counsel. So a person with Alzheimer's in a hospital or a nursing home who requests counsel in a period of lucidity when they're served with the petition, then can't get counsel because we have no money to appoint and we need Mental Hygiene Legal Services to serve as evaluator. If we appoint them as counsel then we have no money to appoint an evaluator. Without an evaluator we don't have access to medical records, we don't have access to doctors, we don't have access to neighbors or assets. It's a terrible, deprived -- terrible deprecation of a right for these people who are often not of sound mind or body. So that's the first instance where we may not have an evaluator.

The second instance is where we find somebody to be a personal guardian, to make personal decisions, but we can't get the person a property manager because our public guardian program will not be co-guardian with someone. So now we have no assets, so I can't appoint a special guardian to go out and get the person even qualified on Medicaid. So the person's in a nursing home or a hospital, can't get benefits that they may be

entitled to, can't get on Medicaid, and I have no money to appoint a guardian for them. Again, it's a very, very difficult issue.

The third example, and one that is, unfortunately, becoming increasingly difficult, is where we have a poor person who has no one. So we have no money, they're in a nursing home or a hospital, long-term, no prospect of coming out. Public guardian will not take them because they're not in our community. They will not take someone who's in a facility. So if you have no money to appoint an evaluator, personal or property guardian, and the person is totally alone in the world, sometimes can't communicate to anybody because they're either --

JUDGE LIPPMAN: Sure.

JUDGE DIAMOND: And so now the facility wants us to appoint a property guardian to get them on Medicaid or other benefits. We have no money to appoint someone.

I have recently at a -- really, I'll say, out of sheer frustration begun to appoint facilities to be property guardians and bring the application. Now, they don't want to do that because technically that may be a violation of the statute, because they're a creditor and we're not supposed to appoint creditors as guardians.

JUDGE LIPPMAN: Right.

JUDGE DIAMOND: But my answer to that, and I say this -- I'm sorry to say it, but I say to them, listen, I have no alternative and you're getting all the money. So there's no conflict in terms of that. So they're unhappy, but I've begun doing it.

The final thing is that we passed -- the legislature passed the Family Medical Decisions Act two years ago. What's recently happened where we don't have personal guardians is that the facilities -- our public guardian takes the position that if the person is in a facility long-term they don't need a personal guardian because under the Family Decisions Act the facility can make medical decisions for them. Okay?

I reject this. I wrote a decision that appeared in the September 7th Law Journal, where I said that this is a terrible situation, where you have a facility making medical or other decisions for an incapacitated person because we don't have money to appoint a guardian. A facility that mistreats somebody is not going to bring a lawsuit against themselves on behalf of an incapacitated person if they're serving as guardian. That's really unlikely. And if it comes time where they want to move the person, the family decisions, that gives them no authority to do that. We need a guardian to do that.

So because of the lack of funds, you know, we see all of these kind of attempts to, I will say, end-run the legal issue.

Now, I obviously agree with the tremendous need for law services for everybody that really needs them and qualifies. Every judge, from Housing Court to debtor creditor to matrimonial -- which I did for five years -- raised excellent points about the need. But these people, this population that I'm talking about, unbelievably -- listen, a person can go to landlord-tenant court and speak. These people can't speak, often. We need somebody to speak for them. You know. We need money to be able to appoint lawyers as evaluators and guardians and as counsel.

Every case carries with it the potential to need three or more attorneys. And, you know, it's not just legal, you know, if you think about the situation these people are in. I think it's as much of a moral issue as it is a legal issue.

So maybe it's the time of the year -- you know, our new year just finished. I went to the Red Mass the other night. And I just want to leave you with this quote, if I could. This was both Martin Luther King and Abraham Lincoln. He paraphrased a minister who lived in the 1800s. This is the quote that Martin Luther King

used.

"I do not pretend to understand the moral universe. The arc is a long one, my eye reaches but little ways. I cannot calculate the curve and complete the figure by the experience of sight, but I can divine it by conscience. And from what I can see it bends towards justice."

I really believe -- and I'm not trying to be melodramatic, but I believe that in our legal universe we have to just not be legal, we have to be moral. We have to bend this universe to do justice for these people. Otherwise we're really doing ourselves as judges, the system and these people a great disservice.

Thank you very much.

JUDGE LIPPMAN: Thank you, Judge. I think you highlight, again, the breadth of this problem, and it is an area where these people are so just out there with no one to turn to, and there's so much need and it's so great, and in particular areas it's almost a crime.

JUDGE DIAMOND: Well, they turn to us and we have no resources. So thank you very much.

JUDGE LIPPMAN: Thank you, judge. You can go back to work now. Thank you. Okay.

Our next judicial speaker or witness will be the Hon. Randall Hinrichs, who is the District

Administration Judge from Suffolk County.

Randy, great to have you.

JUDGE HINRICHS: Thank you very much, Judge Lippman, Judge Prudenti, Mr. Standard. Thank you very much for having me speak here today. It's a privilege to be here.

JUDGE LIPPMAN: Honor to have you.

JUDGE HINRICHS: Thank you very much.

I would just echo, the guardianship parts in Suffolk County -- just to follow-up on what Judge Diamond said -- have voiced the same frustration. I know we're in the middle of setting up a CLE program in early November through the guardianship program to try and get increased pro bono attorneys for the exact situation that the judge was mentioning, so I would just echo those sentiments. And I thought the best place to start would be, just briefly, sometimes there's a tendency to think that the need for unmet civil legal services, it's a city problem or it's a problem in rural areas in upstate New York.

Just very briefly, some brief statistics about Suffolk County. It's a county of 1-1/2 million people. We have close to 200,000 people on Medicaid. Roughly one sixth of the population, around 250,000 people in the county, are within the -- what's considered double the

poverty line, you know, $45,000. And that's for a family of four. $45,000 for a family of four on Long Island is not going to go very far. It's double the poverty line, but just within the cost of living. So there are some significant unmet needs.

JUDGE LIPPMAN: And we use that example, judge, that the 200 percent, the poverty level, a family of four earning that kind of money, if you have significant legal problem in your life you're not going to be able to resolve it without some kind of legal service.

JUDGE HINRICHS: Absolutely.

JUDGE LIPPMAN: That's an obvious thing. You need to put food on the table. And if it's a foreclosure issue, it can be a real problem.

JUDGE HINRICHS: What I'm trying to get at, when you talk about a county this large, you talk about a quarter of a million people in that category, so there's a significant need here. And also just sometimes when you look at a Family Court and you look at the number of filings in Family Court, while it's not -- it's indicative of people that have a need for civil legal services.

And the filings, for instance, in Suffolk County, they're the fourth highest in the state. They're higher than Queens, for instance. They're a lot closer

to the Bronx than they are to Nassau County, for instance. So just to give you an idea, there is, by way of background, a significant unmet need here.

I don't want to repeat things from my written statement or to repeat what others might say about the pro bono and legal services structure in the county. But just very briefly, you have Nassau-Suffolk Law Services, you have Touro, both their public advocacy center and their clinical programs, and you have the pro bono foundation at the bar.

JUDGE LIPPMAN: Do they work closely with you in -- I mean, you have -- is there a regular collaboration?

JUDGE HINRICHS: Absolutely. And that's what I was going to say, actually, is that they work, first of all, well with the courts. And, very importantly, when it comes to funding issues they work incredibly well with each other to avoid any duplication of services, or legal services. They have quarterly meetings between the principles that I just said; you know, Touro, the different groups at Touro, Nassau-Suffolk Law Services. They meet quarterly with the pro bono foundation just to see what is the most pressing need and to avoid any duplication of effort. They work incredibly well, you know, with the courts. I've met with all the people in

my office. They all participated in a Law Day event.

JUDGE LIPPMAN: But on the ground, Judge, the need is far greater than what you have to work with, even though I understand the efforts are Herculean.

JUDGE HINRICHS: Absolutely. And I think maybe the best is if I touch on some of the areas where there's the biggest unmet need, if that would be appropriate.

I'm not going to bore you with statistics about foreclosure numbers from Suffolk County.

JUDGE LIPPMAN: No.

JUDGE HINRICHS: They're through the roof. There's been great efforts through the Bar Association to have attorneys, pro bono attorneys, at the foreclosure settlement conference at the initial stage, the CPLR 3408 conference. They have pro bono attorneys covering those conferences trying to work out a resolution. It's really just a fraction, though, of the legal need in the area of roughly close to 14,000 foreclosure cases pending in Suffolk County. Under 2,000 are in the conference part. Also, filings are up this year compared to last year.

JUDGE LIPPMAN: I know.

JUDGE HINRICHS: And when you get -- when they leave the conference part they go to an individual, through the IAS system, to a Supreme Court judge.

Each of these cases has individual nuances.

The case doesn't end when it leaves the foreclosure conference part, but, unfortunately, the legal representation does. And the homeowners in that situation, when they're before -- when it's getting closer to the end of the case, there is, despite all the great effort, there is no representation. And very often in that setting, if there was representation, it may be able to work out a resolution other than a judgment of foreclosure. It increases the likelihood of what would be better for everyone.

So that's a -- you know, the foreclosure area --

JUDGE LIPPMAN: In so many parts of our state, not only Suffolk.

JUDGE HINRICHS: So that's one particular area.

Also, when you talk about the critical needs that individuals have, when you talk about in the area of -- also in the housing area, you know, the last two full years there were over ten thousand eviction proceedings in our district courts. And Nassau-Suffolk Law Services has a couple of attorneys that go from district court to district court to cover these proceedings. Again, they do an incredibly great job doing that representation. They could use a lot more than what they have.

In answer to your question that you posed at

the beginning, effects on the court system, the resolution of the matter is so much easier, better, actually, for all concerned, whether it's the landlord or the tenant. The potential resolution is so much better if there's an attorney involved. So there is in that also housing, also a significant unmet need.

Another separate area that I would address deals with the domestic violence area. I mentioned how busy our Family Court is. Just to keep it simple, if you've got -- on average you have like a hundred family offense petitions, BO dockets being filed every week. That's what's coming into the system on a weekly basis. Law services has an attorney that can pick up the tiniest fraction of these cases.

For all those cases, over 5,000 of these cases a year that come in, there is just -- because they have no other resources, there's one attorney to pick and choose among all those cases to try and identify the most vulnerable victims, the individual that might need help with -- obviously there's a lot of related proceedings very often when somebody is in Family Court. So one attorney for that volume of cases is just, you know -- it speaks for itself, I think, that clearly there's a need there.

Also in the matrimonial area, through the pro

bono project, there is a significant effort to make -- get pro bono representation for people. And one unfortunate -- obviously no one's fault, but unfortunate fallout from the $170 million cut that we sustained was that the -- and individuals that work with the bar association in Nassau-Suffolk Law Services as a pro bono coordinator and recruiter were eliminated. And that position, for instance, gives the benefit -- it's like a multiplier effect, to get an exponential amount of services from one person coordinating efforts, you know, among other pro bono attorneys. So there's a significant effort to try and get representation in this area.

I know one of the things that was mentioned about the hearing was about the new funding that came in this year. We're moving forward. I've spoken with Judge Fisher, with Tom Maligno from Touro Law School. We're hoping to get up and running, in the not-too-distant future, a clinical program through Touro to deal with uncontested matrimonials. Because even in that area, we hear uncontested, it's not that simple to have the paperwork done.

JUDGE LIPPMAN: It's a collaboration between all the providers, the law school, the volunteer efforts.

JUDGE HINRICHS: Absolutely.

JUDGE LIPPMAN: And they all dovetail together.

I know as Administrative Judge you get to see this kind of synergy between --

JUDGE HINRICHS: They work incredibly well together. They make incredibly good use of the allocations that they're given. They do an absolutely super, super job.

JUDGE LIPPMAN: Thank you, and I think I'm going to ask Dean Salkin to come up now. We'll mix and match a little.

I know she has a tight schedule today but I think she'll fit in right here, will be perfect in terms of --

JUDGE FAIRGRIEVE: I have a courtroom of people waiting for me in the criminal part.

JUDGE LIPPMAN: Well, come up. We're going to go -- Judge Phoenix, you can stay a little while?

JUDGE PHOENIX: I can stay.

JUDGE LIPPMAN: All right. We're going to take Judge Fairgrieve quickly and so that he can get to his work and then we're going to take Dean Salkin so she can get where she has to go but let's start with the judge because we don't want to leave anyone in the courtroom.

JUDGE FAIRGRIEVE: Scott Fairgrieve, District Court, basically, landlord tenant four months. I'm in Part 9, Part 9 or 9L because I'm a County Court

judge so, basically, I do proceedings of the landlord-tenant and I've been there for about five or six years.

Legal services is absolutely essential for protection of the people. We average about between 60 to 80 cases a day.

JUDGE LIPPMAN: What percentage are unrepresented?

JUDGE FAIRGRIEVE: You know, it's a gut -- it's a -- I'd say 50 percent. Well, more than that. I would say more than 50 percent of the people are unrepresented and --

JUDGE LIPPMAN: That's pretty good compared to New York City on the representation. They have 90-some odd percent in evictions.

JUDGE FAIRGRIEVE: You know, I never really counted but the bottom line is we do have complex legal issues involving landlord-tenants, Section A, whether families are going to get evicted because of allegations by the landlord of criminal activity.

You also have, you know, the Collier's syndrome cases. You have seniors who have mental illness. You have a whole gamut of people and legal services provides absolutely essential protection, frontline protection for these people so that the rights are protected.

JUDGE LIPPMAN: It would be hard to run the part --

JUDGE FAIRGRIEVE: You couldn't. To be blunt about it, most cases are settled out by stip but when people are unrepresented, a lot of times they just don't understand the legal ramifications, that if they violate a stip and you have -- one of my jobs, you know, is to make sure that people are not being taken advantage of.

JUDGE LIPPMAN: What we've heard a lot from judges is that the lack of representation compromises our role as neutral arbiters --

JUDGE FAIRGRIEVE: That's correct.

JUDGE LIPPMAN: -- because it's so hard. You feel, you know, you have to protect the person and that's not what you're supposed to be doing and it's kind of -- it creates a tension.

JUDGE FAIRGRIEVE: Yes, so you need legal services there. I mean, they are only there four days a week. On Fridays we have a lot of people come in who need the services on Fridays and we have to adjourn all the cases because -- to another day when legal services are going to be there.

The problem is landlords are being also impacted by this too. You know, landlords are owed money. They have mortgages to pay and a quick resolution

of cases is good for both sides.

What I was going to say --

JUDGE LIPPMAN: Landlords don't want to be in a situation when there is an unrepresented tenant. They want them to have legal representation.

JUDGE FAIRGRIEVE: That's right, and also actually for the attorneys representing the landlord, to make their life a lot easier to be able to deal with an attorney who can negotiate a deal.

As I said, very few days cases ever go to trial. Maybe one percent goes to trial. Everything is stipped out. We absolutely need legal services to provide the necessary representation for everybody there.

JUDGE LIPPMAN: Thank you, Judge. I appreciate it. Thanks for the tight schedule coming in.

JUDGE FAIRGRIEVE: Thank you.

JUDGE LIPPMAN: Thank you.

Now to the good graces of Judge Phoenix, we're going to take Dean Salkin and take her a little bit out of order and Patti, so good to see you here.

DEAN SALKIN: Good to see you.

JUDGE LIPPMAN: We look forward to working with you on this issue and I know Touro is also doing a lot in the whole area of pro bono work by students and also just active in the community, in general, in terms of

providing representation.

DEAN SALKIN: I want to thank Judge Phoenix for yielding some time to me, so thank you very much and saying hello to my friends on the panel.

Judge Lippman, we've worked together, as you've noted, for a long time in the past and I look forward to working with you to do some great things in my new space as Dean of Touro Law Center.

JUDGE LIPPMAN: I can't wait.

DEAN SALKIN: And Judge Prudenti, we've recently become acquainted and I look forward to your continued engagement with the law center and our relationship with the state bar is just going to go stronger than ever.

MR. STANDARD: I welcome you to downstate.

JUDGE LIPPMAN: She thinks this is New York City.

DEAN SALKIN: I want to point out that two of my colleagues from Touro Law Center are here together, Tom Maligno, Director of the Public Advocacy Center and Professor Marianne Artusio, director of our clinic. Neither one of them had to be here. They both wanted to be here and I think their presence speaks volumes for Touro.

I have a lot of statistics in my prepared

testimony that I'm not going to share with you now because Steve Bellone did a great job of laying out the background of what's going on in Suffolk County and why there is a dire need for civil legal services. So what I really want to focus on is the highlight, how Touro Law Center has really become a national leader in providing a collaborative model in order to help our community better access civil legal services and I use the word better. It's better than not at all but we still have a long way to go, all of us working together.

JUDGE LIPPMAN: Rest assured, Dean, that we view the law schools in our state at the center of this effort and, you know, we recently had that forum at Cardozo Law School talking about what is the role of law schools in filling this justice gap that we have in our state.

DEAN SALKIN: So in 2007, Touro Law Center, when we moved into our new state-of-the-art facility in Central Islip, we created an experiment and we established the William Randolph Hearst Public Advocacy Center. This center fosters a unique partnership between the law center and local non-profit agencies and it was designed to also provide a unique educational training program and training for our law students while having a real-time impact on social justice, legal resources and

the lives of countless individuals in and beyond the local community.

Housed within the law school, the center provides furnished offices to local non-profit agencies at no cost. While the services of each agency are varied, each participating non-profit must develop a plan to engage Touro law students who can then work with the organizations to satisfy their pro bono requirements while developing an understanding of the problems facing the local community within a local, state-wide and federal context. We are the only law school in New York and, in fact, the only law school in the country to offer such an innovative program.

The Touro College Jacob D. Fuchsberg Law Center offers a progressive program rich with practical learning opportunities to a student body already engaged in the community and the world around them. Taking advantage of our location adjacent to both the federal and state courthouse, we offer innovative courses for law students that bring together the academy, the bar and the bench to ensure that students are prepared for the practice of law. Collaboration is the cornerstone of the success of these programs and our curriculum is dependent on such collaboration as we continue to develop more opportunities to involve the bar and the bench in

teaching our students about the reality of practicing law in today's ever changing global society.

Our law school has a rich tradition of teaching the moral and ethical obligations of law while promoting social justice and community service and, as you noted earlier, Judge Lippman, Touro Law was among the first in the country to require pro bono service hours of students, mandating 40 hours, and up until your recent mandate on pro bono we were only one of two law schools in the state to have instituted the requirement and, by the way, under our existing 40-hour rule, Touro law students provide 30,000 hours of pro bono work. That's based on a number of about 750 students in our student body.

JUDGE LIPPMAN: Dean, one thing I think is important and I'd ask you to -- you know, we don't believe that the 50-hour requirement, that students are going to put down their pen and say, "Gee, I've done 50 hours. I've met my requirement. That's the end of it."

Has it been your experience at Touro and your prior experience in Albany that once the law students get involved in pro bono, they don't just say, "I'm meeting a requirement," or anything else? It gets into their system. Some understand the benefit of serving others as

a member of the legal profession?

DEAN SALKIN: Yes, and I agree with your comments earlier that you hope that it will get into everybody's DNA and my experience has been that once students get over the hurdle and actually do it, that it does become a distinct go in a very positive way and the minimum requirement really becomes the bare minimum and most students do go well above and beyond that.

JUDGE LIPPMAN: That's what we're hoping for. Go ahead.

DEAN SALKIN: So to further Touro Law's early mission, it planned for and built a wing of the new law school building to be dedicated to the Public Advocacy Center and the center is now a working example of a collaboration of legal resources to serve the community and provide opportunity for law students developing an extension of professionalism and responsibility to serve the community. As I mentioned, it's the only one of its kind in the nation and serves as a statewide and national model for successful collaboration of legal services and resources to serve the community while providing hands-on opportunity for --

JUDGE LIPPMAN: What are the organizations like? Are they providers or what are they exactly in this?

DEAN SALKIN: Many organizations that you are familiar with -- in fact, SEPA Mujer who testified earlier is one of our tenants. Empire Justice Center is one of our tenants. We have a combination of legal service providers and we also have organizations that provide advocacy work and public policy work.

JUDGE LIPPMAN: So this is very much the kind of synergy that we're hoping will go in all the law schools and the providers because it's everyone's responsibility together.

DEAN SALKIN: One of the unique things about our center, one, if you look at the cost of operating and we all know that these legal service agencies operate on a shoestring budget --

JUDGE LIPPMAN: Yes.

DEAN SALKIN: -- and we're always going with our hands out to keep paying the rent for the next month. So the average rent in Suffolk County is 20 to $25 per square foot for office space.

Our Public Advocacy Center consists of about 2700, 2800 square feet of office space which saves these non-profit legal service providers approximately $61,000 per month in rent --

JUDGE LIPPMAN: That's great. They live hand to mouth and this is great.

DEAN SALKIN: -- as part of our collaboration and partnership at the law school.

So I want to tell you a little bit about what the center actually does and how the students get engaged.

As I said, the center, which we call the PAC, has proven to be a powerful partnership with the law school. The agencies working within the PAC have seen many benefits and the PAC has provided enhanced legal educational opportunity for students and this is important for legal educators to take note of as well.

The PAC has enabled the law students to learn about the way public interest law works. It doesn't mean that all of our students will become public interest lawyers, nor do we want them to, but because public service is every lawyer's responsibility we at least want our students to have a firsthand look at how it works.

We choose agencies for the PAC that present our students with the diversity of subject matter; for example, landlord-tenant, immigration law, education law, to name a few, and the diversity in the way they provide their services, so we want our students to understand that not every public service lawyer goes to court everyday. Some conduct administrative hearings. Some organize community education. Some draft legislation.

Some do research and advocacy while others do represent clients and bring class actions. The point is for our students to see the variety of areas of practice and provision of legal services.

Our students can be involved in the PAC through several avenues, either working with the agencies to complete their pro bono requirements, for academic credit or for pay through work study, through a funded fellowship that Touro offers or occasionally by being paid through the agency itself but I'll say that's more rare with the economic outlook.

A critical part of developing the PAC into a successful model for delivering legal services and enhancing legal education was the integration of the PAC into the academic life at Touro Law School and this has been achieved in several ways.

PAC attorneys have become adjunct professors teaching classes at Touro Law that incorporate the practical work of their affiliated agency.

Law school professors have used the PAC agencies by bringing them in as guest speakers or by tying their class work to the work of PAC agencies and professors have been engaged in the work of the PAC agencies. For example, one professor is now on the Board of Directors of one of our PAC agencies.

In addition, Touro Law's policy is to allow PAC agencies, as well as other outside agencies, to hold conferences and meetings in the building at no charge, only the promise to allow Touro law students to attend the events at no charge. This philosophy has brought major conferences and smaller meetings to the building that have had an impact on our students as well as legal services provided. For example, the Keys to the Homeless Conference annually brings 500 advocates, community leaders to the school to talk about legal, social and political issues that surround homelessness and our students can participate. In many cases, the students have presented panels or led discussions as part of these public events assisting both their legal education and their connections to our community.

A true center for public service housed within and working with a law school has obvious benefits. However, there are other benefits that have and continue to occur that should not go unnoticed.

More agencies than can be housed in the PAC applied for space, resulting in a dedicated group of affiliate agencies. These affiliate members meet with PAC agencies regularly and enjoy the benefits of collaborative working partners, although they are not housed within the law school. As a result of this

dynamic group of agencies who strive to work together to provide legal services efficiently and effectively, some great things have happened. Clients are able to walk down the hall from one service provider to another to get a complete legal solution. Agencies are working together to service clients most effectively and are aware of each other's work through regular updates.

The Center -- as a result, Touro Law Center has become known within the local community as an effective resource. Many agencies have partnered together on an issue to serve the community and the PAC has been called upon to provide solutions and/or guidance.

Funding for legal services on Long Island has increased as a direct result of the PAC. Some PAC agencies never had funding for a Long Island or Suffolk County office but received funding in order to be part of this venture and others. Many came in the form of grants written jointly with various agencies in the PAC, including donations, private foundations and government agencies and they have all contributed to this effort.

We're not here to replace legal services programs. Not only are they our strongest partner and they are strongest in the PAC but they are the main placement for our students who do public service work and fellowships. Some of the best experience the students

get are at agencies that need to be funded in a strong and appropriate way. We have strived not to compete with civil legal services funding for resources but attempted to bring new sources for structure for the work we all do.

Lastly, Touro Law Center is honored that you, Chief Judge Lippman, has designated our former Dean and Professor of Law, Lawrence Raful, for the implementation for the 50-hour pro bono requirement. We know that Professor Raful will apply leadership for pro bono.

We plan to work on, among other things, a guide to best practices to assist in the development of working levels between law schools and public interest providers.

As the new dean, part of my vision for Touro Law Center includes strengthening our commitment to the PAC and to research and advocacy, to civil legal services.

I invite each of you to visit Touro Law Center and the PAC. I urge the Office of Court Administration to further examine our model and to partner with us to further our knowledge and further advocacy and leadership so that together we can make a meaningful difference.

I also want to respond to some of your questions to some of the earliest panelists and some of the topics that come up.

On language barrier issues, what I've observed being at Touro for nine weeks, our Latin-American Law Students Association put on a street law project in the community presented all in Spanish. What a wonderful way for our law students to do outreach to our community and then I noticed two weeks ago that there was a sign up at the law school. If you wanted to practice your Spanish during lunchtime, the student groups were setting up tables in our cafeteria for students to get together and practice their Spanish regardless of what their proficiency level is. This is something that's sorely needed and that our students are taking upon themselves to promote. So if you want to ask where the action is, the future leadership of this profession looks fantastic, based upon the law students we have at Touro.

I also want to mention that we have six clinics at Touro Law Center. One of them is not operating this fall, our Veterans Clinic. We hope to bring it back in the spring but on average we have about 60 students each semester that have a clinical experience plus about another 75 that do externship experiences all helping to provide civil and criminal legal services.

JUDGE LIPPMAN: Well, thank you, dean, and I think it really is a terrific model.

I mean very much, as I said, what we have in

mind in terms of this collaborative relationship that there must be between the academy, the profession, the judiciary and certainly the providers. There are some examples around the state of the providers being together in one place so they can provide this kind of one stop shopping but I think housing some of it at law schools is a great idea and I think a great model, you know, so thank you so much for being here and welcome to Long Island.

DEAN SALKIN: Thank you.

JUDGE LIPPMAN: You know, downstate is -- great to see you. Thanks for being here.

MR. STANDARD: Patty, do you have another moment?

DEAN SALKIN: Sure.

MR. STANDARD: What your students experience in this market where it's so difficult to gain employment, are they benefiting from the fact that they had this extensive opportunity to get some practical training in the law school, your clinical programs?

DEAN SALKIN: You know, I have to say anecdotally the answer is yes and I base it on two bits of information and the first was my personal search in deciding to come to Touro Law School. I called a lot of the legal service providers and the County Attorney's

Office, DA's office, private law firms in Suffolk County before deciding whether to make the move and I asked them about Touro's reputation, about Touro students, and they all said to me that they would hire a Touro law student immediately because they come with more practical hands-on experience and they know how the court system works and they know how the courthouse works because as part of our curriculum, every first year student is inside the federal and state courthouses because of our location and the curriculum that we've developed before they finish their first year in law school so they have a different kind of comfort level, a different kind of knowledge, a different kind of understanding. So part of that is what employers have told me.

The second part is the statistics, and the unemployment statistics in the New York Law Journal in June shows we are number four in the state for recent grads having jobs out of law school that required a JD and so, on one hand, it's great news that Touro Law School was number four in the state. You know what's not so great news? The number was 55 percent so we do have a major problem within the profession and within the legal academy but a discussion for a different day, I think.

MR. STANDARD: Last question: Are you able to state whether the students who gained an interest in

providing pro bono service while they were students, whether they have a high incidence of providing pro bono service after they enter the profession?

DEAN SALKIN: I think that's a great question and my answer is anecdotally I say yes.

JUDGE LIPPMAN: We're going to have to track that. I think that's a very good question and we're going to have to make that connection.

Thank you, dean.

DEAN SALKIN: Thank you, and thank you, Judge.

JUDGE LIPPMAN: Now Judge Phoenix, I know you have nothing else today than to be with us but thank you for your patience and you're on.

JUDGE PHOENIX: Thank you, Judge Lippman, and I want to say thank you, first to you and Judge Prudenti and to past President of the New York State Bar Association, Kenneth Standard.

I won't be long because by this afternoon I will have a very, very busy --

JUDGE LIPPMAN: I know. I know.

JUDGE PHOENIX: -- calendar, but I have some prepared testimony but the prepared testimony will not take long so if I can proceed --

JUDGE LIPPMAN: Sure. Absolutely.

JUDGE PHOENIX: I'm here today and I'm very

honored to be here today to present testimony on perhaps what is the cornerstone of our court system and that is access to justice.

Before being elected to the Nassau County District Court bench and sitting by designation as an Acting Nassau County Court Judge, I was an attorney in private practice handling mostly Family Court cases and I was an active law guardian and what is known today as the attorney for the child.

Notably, I was a staff attorney at Nassau County Legal Aid Society and a staff attorney at Nassau-Suffolk Law Services for quite a few years. In this capacity I have represented poor people who are disadvantaged and oftentimes disenfranchised in all phases of litigation. I have provided representation for legal issues involving food stamps, public assistance, Medicaid and homelessness prevention.

I had the client who couldn't afford bus fare to return home from court. I had the client who used her last disposable diaper at noon that day. I represented the man who had been turned down a bed for the night in the middle of January and it was me on the telephone searching for his lodging sometimes until almost 7:00 p.m. on a given evening. I understand that when the food stamp allowance is reduced abruptly, that children

don't eat. These were my clients and their access to the justice system overall was very slim and I give you their background so you can know how close this issue of expansion of legal access for the poor is to my mind and to my heart.

In the District Court I sit in both a civil and criminal part. With respect to the criminal part, I preside over the Nassau County Mental Health Court, adjudicating both misdemeanor and felonies. All of the court participants have representation, as the private bar and Legal Aid play a key role in our court.

The participants are persons accused of a crime who are mentally challenged and they range on the economic scale but many are low -- in the low income scale bracket and are Medicaid recipients. We have found that access to civil legal services outside of our court has been difficult for them. Reapplication for Medicaid after being incarcerated, access to civil legal representation for other civil issues and the like have proven to be a difficult road for my Mental Health Court participants. But most of my time is sitting in a civil part in the District Court presiding over cases that involve credit card theft, medical necessity of medical testing such as an MRI, contracts and infant compromises where I see small children in my chambers. The

jurisdictional amount is $15,000.

I must explain to many pro se litigants that I see, that my court is not a small claims part and it is a true civil part where pro se litigants must either hire an attorney to represent their interests or, alternatively, be held to the standard of an attorney; knowing how to present testimony, cross-examine witnesses and the like.

These are the things that they will have to know if they choose to represent themselves. The people that I'm explaining this to are in my court each day and are there in the presence of a courtroom filled with attorneys on other matters. They squint when I speak to them and have a baffled look upon their face. Instructions about filing, affidavits of service, motion schedules and orders to show cause fall upon ears and eyes that simply don't understand.

The majority of orders to show cause that I read are from pro se litigants. They are oftentimes poorly written with misspelled words and run-on sentences and sometimes have to be deemed legally insufficient for execution of my signature.

The District Court is a court of first impression for many. I see the senior citizens who could be my grandparents at a loss for words, unprepared to

present any plausible legal issue and who are on a fixed income and unable to afford an attorney.

I see the woman who is the head of a household taking off from work without enough time to do so because she simply can't afford an attorney. I see the people who are now way over their head in credit card debt and can't even negotiate a settlement that they can pay because they are out of work. Oftentimes, the debt consists of things like food, essential clothing and other items of necessity. I see cases with cars repossessed and families now compelled to use one car or take public transportation. Before me come litigants with serious legal issues and no income to retain an attorney or to even pay to consult one. Most of the legal issues are too complex for pro se representation in my court part. An attorney is almost always essential for litigants to navigate well in a civil part.

In my part it is not uncommon to have a nervous, anxious individual unable to properly comport themselves before me or to articulate their legal issues and problems. I am always unnerved by the tears I see fall. The tears don't fall in English. They don't fall in Spanish and they don't fall in black nor white. They just fall from the faces of those Americans plagued with the impoverished condition preventing them from acquiring

legal representation.

There are a myriad of problems associated with access to justice for the poor. The national recession making overtime in our court system a rarity is a big problem. Having an extended calendar would give judges and support staff more time to sort out the issues of the unrepresented.

Another serious concern is the loss of funds for the day care centers in our courts. The District Court in Nassau County now has many more children of poor and unrepresented litigants in courtrooms and court settings because the parents can't afford child care.

Yet, perhaps the biggest problem is the lack of pro bono or free representation for poor people saddled with complex litigation issues. There is no such thing as a free attorney to help them if they can't afford one and alas, there's no such thing as a free lunch.

So what do we do? We continue to support the task force to expand access to civil legal services. We as legal professionals committed to justice form a critical mass to address pertinent and timely issues affecting access to justice. We must provide pro se desks in all of our courts to ensure a more equitable access to courts for the poor and the underserved.

Finally, I humbly suggest that we support all

efforts for legal services funding and staffing.

This past Thanksgiving eve I delivered fully cooked meals to some of the poorest families on Long Island on behalf of We Care, the charitable arm of the Nassau County Bar Association. I witnessed children shivering under a blanket in a poorly lit small apartment above a store with no food other than the basket I delivered. I entered homes colder on the inside than the outside because there had been no heat for two weeks. I can tell you stories. In fact, we all have stories to tell. We know the poor will always be with us and they are usually the most vulnerable with respect to a loss of funding and services.

Together we must forge ahead to continue to mold the legal system that brings access to justice for Americans at every income level. I have every confidence just by virtue of this proceeding that we're well on our way towards this success and I want to thank you for allowing me to present testimony today.

JUDGE LIPPMAN: Oh, thank you, Judge Phoenix for your eloquent testimony.

Let me ask you one question. Particularly in this economy, the consumer credit cases, do you see a lot of them? More people coming in on credit issues, credit card issues?

JUDGE PHOENIX: Yes, I do. The courts are flooded with these issues.

JUDGE LIPPMAN: And generally, those people are unrepresented?

JUDGE PHOENIX: They are unrepresented and many times I will conference the case and I will have to conference it in open court because they are pro se litigants and we try to reach some type of settlement.

JUDGE LIPPMAN: But you wind up not quite being the neutral arbiter that you'd like to be.

JUDGE PHOENIX: That is very true, Judge, because as you said earlier and you noted it well, it's very, very hard to preside over cases when you know in your heart, in your mind, that one or both of the litigants are saddled with not being -- not having an attorney and not understanding legal issues, thereby not being -- being able to navigate the legal system with any type of ease so many times that does lap and many times they walk into my courtroom thinking that this is small claims and that they don't need an attorney and after five or six people -- attorneys come up and present cases and we go through motion schedules and things of that nature, by the time they walk up there they understand that they are not prepared to present their case in any reasonable manner because they don't have the legal

representation that they need.

JUDGE LIPPMAN: Thank you.

Anything?

MR. STANDARD: I'll just mention one thing. I think it's also a disadvantage for the attorney.

I've defended a number of cases where I've had a pro se plaintiff against me and I also have felt that conflict, not wanting to take advantage of the pro se plaintiff at the same time having the obligation to give my client full representation and it's just a burden for everyone involved.

JUDGE PHOENIX: Absolutely, I agree with that and many of the litigants who come in and are pro se and there is an attorney on the other side, many times they even refuse to speak to the attorney because they have the perception that the attorney is going to take advantage of them and they are looking to me in many ways to help them with their legal issues because they don't have an attorney and they don't understand all of the legal issues that they must deal with.

JUDGE LIPPMAN: Okay. Thank you.

JUDGE PHOENIX: I appreciate it. Thank you both.

MR. STANDARD: Thank you, Judge.

JUDGE LIPPMAN: Thanks for being here. Thanks

for taking the time.

We're just going to finish off the collaboration pro bono panel and then we'll go to the client's panel so William Silverman from Greenberg Traurig, and the Shareholder and Head of the Pro Bono Program and John McEntee, the First Vice President and member of the Board of Directors of the Nassau County Bar Association and partner at Farrell Fritz.

Mr. Silverman, you want to start?

MR. SILVERMAN: Gentlemen, thank you very much and thank you for inviting me here today. It's an honor to be here today and with everyone here today.

I have a different perspective or maybe we do, in the sense that everyone devotes their entire career to public service and at least for me it's more of a hobby. You have my written testimony. I'm not --

JUDGE LIPPMAN: Yes, we do.

MR. SILVERMAN: I'm not going to read it but what I want to talk about is a legal clinic that works very well in New York City Family Court and enlists your continued support to expand throughout the entire state. We provide one-on-one counseling with unrepresented litigants. Each session lasts about 30 minutes. We make a big impact with a limited -- I think it's a very good model for finding pro bono commitments from private

attorneys. Our volunteer attorneys are from big firms and companies. They are trained by the Court. We have dedicated court attorneys who supervise them. The court services can provide information to unrepresented litigants but for the reasons you stated cannot provide advice to litigants and that's something we can do.

We started in 2006 and now we're in every borough but Staten Island. We have 34 firms, over 200 attorneys and we've helped thousands of people. I think it's a great example of a public-private partnership and, again, I think what I'd like to do now is just talk about the kind of expansion that I think we can accomplish

First, we're not in Staten Island but I believe as of January we will be and we're going to do that through technology. Our volunteer attorneys will be in Manhattan and they will be helping unrepresented litigants in Staten Island through Skype or some other kind of computer technology. I think that this -- hopefully, it will work and it will be a model that we can use in other parts of the state.

JUDGE LIPPMAN: Family Court, that's such a difficult place.

MR. SILVERMAN: Absolutely, and in some Family Courts there will be local attorneys where we can replicate this kind of program. In other parts there is

not -- the only way to help those unrepresented litigants is through technology so, hopefully, this is just the beginning, this expansion, and I do want to recognize Judge Fisher who really has been the example of this expansion and an inspiration for all of us who are involved in this project. We're looking at other sites and, obviously, we need to rely even more on public service organizations, law schools, and we need to lean a little bit harder on the private sector and I think --

JUDGE LIPPMAN: We're trying to do that.

MR. SILVERMAN: Well, I have a couple of suggestions but I think just a general observation.

You know, we all want more judges, more resources, more legal services attorneys. We all want a truly unified court system. I agree with your Honor that 16 and 17-year olds should not be in Criminal Court.

These are all great goals that we should all continue to work for no matter how difficult they are because they happen to be right but, in my view, we can't wait for the legislature. We can't wait for the governor. We can't wait for the economy to improve. We need to do something now. We need to do something in our control and I think the beauty of this project is that it's absolutely in our control and it's absolutely --

JUDGE LIPPMAN: It's a great project. There is

no question.

MR. SILVERMAN: Some standing throughout the state is something that I think we can do so what I hope is that we all together can come up with sort of -- we've been in existence from 2006. We can come up with sort of a five-year plan where this can be expanded, you know, throughout the state or at least in the areas of the state where we feel in Family Court the needs of unrepresented litigants are the greatest. Perhaps even having some kind of summit where you call in the heads of pro bono programs of major firms or companies and give them a challenge. "I'll pay for lunch." Tell them that, "In order for this expansion to work, we need your help." You need to do a little bit more because if you don't, these litigants really don't have, at least outside of New York City, don't really have any hope.

Another general observation is that what I see sometimes is a sense of resignation among advocates, pro bono minded people, that this is the way Family Court always has been and always will be and I also see sometimes a resistance to change that, frankly, I don't understand. I think that we need -- we should not accept things the way they are. I think we should not accept the notion that there should be two court systems, one for the kind of cases that I take in my day-to-day world

and another court system for those who can't afford attorneys. It's really not something that we should accept.

This project is a relatively low cost way that we can improve the administration of justice. It's not the perfect solution but I believe it's something that we should definitely do.

If I can just make two other general observations --

JUDGE LIPPMAN: Sure.

MR. SILVERMAN: In my experience in these clinics, obviously, we help people who aren't entitled to the appointment of counsel.

JUDGE LIPPMAN: Right.

MR. SILVERMAN: We also help people who are entitled to the appointment of counsel and for whatever reason they don't take advantage of it and to this day I don't understand why. I think some people, some unrepresented litigants feel that they would rather talk directly to the judge or maybe it's not communicated to them as clearly as it should be and that's one thing we do in the clinic.

Sometimes the best thing we do is to tell someone who is entitled to the appointment of counsel, "You should take advantage of it," because it really does

make a huge difference if someone is aware of the rights that they are entitled to.

I want to plug one other thing while I'm here.

JUDGE LIPPMAN: Sure.

MR. SILVERMAN: Equal Justice works fellowships. My firm funds 12 to 15 of these fellowships which are two-year fellowships for people right out of law school to do public interest work. I'm a very strong supporter of pro bono which is great, but I also think firms and companies should be doing more to fund these positions that are so rare and whenever we look for applicants we get a stack this high (indicating) and they are all tremendous applicants and it's a great way to make an impact.

JUDGE LIPPMAN: Well, number one, I think the last idea is a very good one and all firms should do the same thing. It would be wonderful and the Family Court program is terrific and Judge Fisher has done such a fabulous job with it. It's an area often neglected because, as you say, people take the position oh, it's Family Court and, you know, the Family Court has evolved so greatly in the last 50 years with all the celebrations that we've had recently as to the anniversary of the Family Court Act and, you know, there was a time that due process was involved in the Family Court and this is very

much the final piece of making sure that it's truly a system where people get all the rights and the representation is so important so, you know, I agree with you. It's a great program and I know Judge Fisher will have this done statewide in no time. Next one, she's got it, no problem, but it's terrific and I compliment you and all the people involved in that program with Judge Fisher and we really should see to it that it's expanded throughout the state so thank you so much.

MR. SILVERMAN: Thank you.

JUDGE LIPPMAN: Mr. McEntee.

MR. McENTEE: Yes.

Good afternoon, Chief Judge Lippman, Chief Judge Prudenti and Past President Standard:

I'm honored to be here today. I'm going to dispense with any discussion for the need of civil legal service. It's in my remarks and been discussed here already.

What I'd like to do is discuss what the Bar Association, particularly the Nassau County Bar Association is doing.

JUDGE LIPPMAN: Well, you've had some great presidents. You've been very active in this and the Nassau Bar should be congratulated and Emily Franchina is here and so many others are involved in this around the

state, Bill Savino, one of your former heads and so you know the Bar Association has a lot to be commended for and why don't you tell us what you're doing today.

MR. McENTEE: I'd first like to say that our current president, Marian Rice, is doing a great job as president here. She's here today.

JUDGE LIPPMAN: I should have started with the present president.

MR. McENTEE: Yes. One of the things that you did, Judge, is when District Attorney Rice was testifying, you asked her, you know, what do you do in a situation where you have somebody who needs civil legal services but can't provide that? Obviously, she cannot. What she said was, "I send them to the Bar Association." Okay?

What it seems is that everybody in the situation where they don't know what to do is they send them to the Bar Association so what's happened is the Bar Association has become sort of the clearinghouse. People come in who don't have the ability to pay for services and what we try to do is marshall pro bono services from our members in order to try and fill at least a portion --

JUDGE LIPPMAN: Not every bar association does that, I can tell you.

MR. McENTEE: At the Nassau County Bar

Association, it's part of our DNA.

JUDGE LIPPMAN: As it should be, yes.

MR. McENTEE: What I'd like to do is describe a couple of these programs that we're doing and then at the end I just argue that attorneys providing pro bono services cannot fulfill the vast needs for these services.

The first project to talk about is actually the project that Judge Fairgrieve spoke about, so the Volunteer Lawyers Project Attorney For the Day program, which is operated by Nassau-Suffolk Legal Services, provides representation to tenants facing eviction in the Nassau County District Court. The tenants are screened for eligibility for these services. The project is staffed with pro bono volunteer members of the Nassau County Bar Association who appear in court four days a week. These pro bono attorneys are supervised by an in-court paid supervisor.

To help pay for the costs of that supervisor, the Nassau County Bar Association every year has what we call a "Probonothon" where the officers, directors, committee chairs and others call the 5,000 or so members asking them to donate an hour of billable time, the cost of an hour, that amount to be able to fund this position.

In 2011, the project handled nearly 850 cases.

Of those cases, 324 evictions were prevented and 420 were delayed giving the tenant time to find alternative housing. I have to say my firm and I have participated in this program for a number of years now and one thing I'd like to emphasize, it's not a one-way street. Obviously, we provide services to them but we obtain things in return. Aside from feeling good about ourselves, it allows me to get associates in my firm out of there, out from behind their desks, out of the library, in court on their feet interviewing real people, real litigants with problems, challenging the facts, negotiating settlements, going on the record and putting on stipulations so there is a benefit back and forth.

I think Bill and I both struggle sometimes with trying to get in-court experience for some of our younger associates but this is an opportunity where people get into court doing good but it's also helping our firm.

The Nassau County Bar Association Foreclosure Project serves Nassau County residents in two ways. First, the Association has, for more than three years, held a monthly clinic where an average of 50 to 60 people are helped by an average of a dozen attorneys. Bankruptcy attorneys are also available at these clinics.

Second, volunteer attorneys attend the mandatory conferences in residential foreclosure actions

in the Supreme Court to help indigent defendants understand the legal process, identify and accumulate documents to support their defenses and identify their options. To date, volunteer attorneys have appeared at more than 850 conferences.

One of the preceding panels talked about access to justice issues involving language barriers. Indeed, increasing diversity of our community has been reflected in the attendance at the Nassau County Bar Association's clinics. Several years ago, the Association accepted the challenge of meeting the needs of this diverse population by instituting our Bridge Over Language Divides program known by it's acronym BOLD. Among other things, the BOLD program provides pro bono attorneys who speak languages such as Spanish, Korean, Haitian Creole, Russian and Urdu in an effort to assure that access to justice is not limited to those who speak English.

I will add that task force member Emily Franchina was one of the key supporters of this program.

There are a variety of other programs and clinics where others are providing pro bono civil and legal service. For example, the Nassau County Bar Association holds a senior citizen clinic every month, an annual

pro bono fair and, in conjunction with the Nassau-Suffolk

Legal Services, a bankruptcy clinic six times a year. In the past year it has also held a clinic for victims of domestic violence and a clinic for children with special needs. These are just a few of the many pro bono programs that the Nassau County Bar Association and its sister associations in the Second Department hold every year in an effort to meet the civil and legal needs of our society. So pro bono attorneys can assist indigent members of our society facing evictions from their homes. They can assist indigent members of our society facing the foreclosures of their homes and pro bono attorneys can assist indigent victims of domestic violence but what they cannot do is meet all the civil legal needs of our society, as the need is great while the ability of attorneys to bring pro bono services are limited.

I recognize that our state legislatures have a very difficult burden in allocating scarce resources among the needs of our society but just as there is a need for roads, tunnels and bridges, there is also a need for something less concrete but equally vital, meaningful access to justice for all members of our society and meaningful access to justice typically requires legal representation.

In closing, I can state confidently that attorneys throughout the Second Department are providing

pro bono legal services to meet the civil legal need of the indigent members of our society but they cannot shoulder the entire burden of this obligation. As a result, our legislature must find a way to provide consistent and meaningful funding for organizations such as Nassau- Suffolk Law Services and Legal Services of the Hudson Valley who everyday struggle to meet the civil legal needs of the most vulnerable members of our society.

Thank you.

JUDGE LIPPMAN: Well, thank you, counsel, and I think you stated it very well that this is a puzzle which has different pieces and I think the bulk of this needs to be public funding for civil legal services and to have providers all over the state funding that allows them to begin to meet the needs.

Absolutely vital, critical is pro bono volunteerism by the bar and the kind of wonderful work that you do in the Nassau Bar. It's a piece of the puzzle and when there -- and there isn't enough money in the world to fund the need so it's a combination and I think you are exactly right in calling on the legislature and the executive branch to fund civil legal services and then in our great noble profession to rise to the occasion and provide volunteer services, so as we've

talked about so many times they are so much a part, as your great Association recognizes, so much a part of being a lawyer and one without the other is not going to work so we need to do both. I think this particular panel and the two of you very much represent that spirit that we have in the bar that has really been so terrific and what we're trying to do with the kids -- you'll excuse the expression, but with the new generation of lawyers is to inculcate them with the same spirit of service to others at the very beginning of their careers so that they can be as they go through their careers, be so much a part of this, what we think this great profession that does so much because it recognizes that our obligation, particularly to stand up for those who can't help themselves so I thank you both so much.

Judge Prudenti, anything? Mr. Standard?

MR. STANDARD: I just want to salute these gentlemen what they do and what the firms do because they are going above and beyond and helping to keep us our profession rather than an industry as so many people see us.

JUDGE LIPPMAN: Thank you so much. I appreciate it.

Now for our last panel, we're a little bit beyond schedule but it's been worth the wait because now

we're going to get four clients who will come up: Tenzin Choezom, a client of the Queens Legal Services, accompanied by Jennifer Ching; Pamela Sandousky, client of Nassau- Suffolk Law Services, Inc., accompanied by Hannah Abrams; Mamie Copeland, client of the Legal Aid Society, accompanied by Diane Lutwak and Felicia Essix, accompanied by Linda R. Hassberg.

(Brief pause in the proceedings.)

JUDGE LIPPMAN: Okay. So now we're going to hear a little bit about what legal services or pro bono has done to change the lives or certainly impact significantly in the lives of human beings facing legal issues so I'll take Tenzin Choezom, client of Queens Legal Services to be our first witness.

TENZIN CHOEZOM: Hello, your Honor.

JUDGE LIPPMAN: Don't hesitate. You can either read your statement or tell us; however you want to do it.

TENZIN CHOEZOM: My name is Tenzin Choezom. I live in Queens, New York City. I'm the mother of a four-year-old daughter. I work as a housekeeper in a Manhattan hotel. I'm here today because I was very lucky to find a lawyer and social worker at Queens Legal Services and I believe the services I received should be available to everybody who needs them.

For many years I was married to a very abusive alcoholic and gambling man. He did terrible things to me and I stayed with him because I thought this is what my responsibility as a wife and I also respect my religious and my culture and my community in New York. He did not let me work and he would not let me talk with any other people. He did not help me with my daughter and he did not help me and our needs. But I did not know I had other choices and I was very afraid of him.

In 2011, after my husband beat me and I tried to call the police -- sorry -- but he grabbed my phone from my hand and he called the police. The police did not understand me and I was -- my husband spoke to them in English and my husband left our house and after a few days I receive a lot of paper from Family Court.

JUDGE LIPPMAN: Take your time.

Go ahead.

TENZIN CHOEZOM: I could not read and understand the papers but my neighbor told me he was trying to get order of protection against me. I could not believe this and for so many years he did terrible things to me and now he was using American court against me.

My neighbor found the Queens Legal Service for me and services. The Queens Legal Services helped me to

learn everything what was happening in the court. When I did not understand something, they will stop and explain it to me so many different ways to make me understand and even they brought an individual to our meetings so I could understand everything in my language.

When I met my social worker, Tobi, and my lawyer, Debra, I was afraid of losing my daughter to my husband. I was very afraid of my husband. I had no money, no money, and my landlord was telling me she was going to kick me out.

I was very grateful for the work the Queens Legal Services did for me. We went to court together and we won. They help me find my voice so I could plan my future and be totally independent. It was very tough time to feed myself and my daughter so without that, with their help I was able to get food stamps and find stable housing. They help me with my immigration status and also put me into ESL classes.

Before last year, my daughter would not speak and I was pretty worried about her. Since I separate from my husband, my daughter has started speaking and has become very happy girl. She and I are now free and can do what we want to do now. I have choices now and I'm very grateful to Queens Legal Services for helping me.

I did not know anything about the American

courts before coming to Queens Legal Services. I thought I had to pay for lawyer and I had no money and I did not think lawyers will understand me and my culture or everything that happened to me.

I know there are many women suffering. I hope we can make the services like Queens Legal Service more available to these women and to anyone who is living in fear and thank you everyone and thank you for Queens Legal Services. I would never forget your help and this is unforgettable in my life in helping me out and thank you so much.

JUDGE LIPPMAN: Thank you so much.

I think that your testimony really graphically illustrates what this hearing is all about and why the legal services are not some abstract concept but are all about human beings who have problems and difficulties and you are dealing with issues that are central to the fundamentals of life.

This is not about, you know, someone who tripped in front of the courthouse and needs a lawyer. This is about living, what everyone should be entitled to so thank you so much. I appreciate your coming in and telling your story.

TENZIN CHOEZOM: Thank you so much.

JUDGE LIPPMAN: Thank you.

Pamela Sandousky, client of Nassau-Suffolk Legal Services.

PAMELA SANDOUSKY: My name is Pamela Sandousky. I currently reside in Southampton, New York, and I am originally from California, reared in New Jersey and came to New York to study marine biology at Southampton College. After college, I never left the area.

I was married but have been divorced now for eight years. My ex-husband got the house when we lived -- that we lived in as part of the divorce settlement. The house is now in foreclosure and after the divorce I became a renter. I am a single parent of two children.

My legal woes began in June of 2012 and I was sent an e-mail from my landlord that I was to vacate the premises in 30 days, by July 4th. She also put a paper on the fence requesting that I vacate the premises. She did this because I was behind in some of my rent. You see, my ex-husband had moved to Florida, lost his job and was behind on child support so I was unable to make the payments alone.

I started making phone calls to see if the landlord had a proper rental permit and if she had outstanding code violations. I also made phone calls to see if I could get assistance in handling this matter. I called the Southampton Town Attorney's Office and the

town attorney referred me to Nassau-Suffolk Law Services.

I called Hannah Abrams and she agreed to assist me. Serendipitously, Law Services received funding from the Office of Court Administration which enabled them to fund an attorney to represent clients like me in landlord- tenant proceedings in the east end Justice Courts.

Ms. Abrams was the attorney assigned to that position. This was a great relief because I was, because I received this notice in the middle of the summer and I knew how difficult it would be to be able to find affordable long-term housing in Southampton in the summer.

After I received the notice, the landlord made our life miserable. She turned off utilities, disconnected cable and internet. The police were called several times and this disruption marred the celebration of my daughter's high school graduation.

In the midst of all of this, we were planning a celebration for my daughter and guests were invited from out of town and we had to deal with the turmoil of being evicted from the home.

I met with Ms. Abrams twice before going to court. She reviewed all the relevant documents with me and researched the rental permits statutes and code violation statutes.

Ms. Abrams represented me in court. First, the landlord claimed I owed her $3,500. She claimed I owed back rent and utilities and then she dropped the case.

The landlord refiled the case five days later saying I owed her more than $10,000 and she claimed as a result of my non-payment she had incurred other expenses. During the questioning, the judge determined that the judge did not have jurisdiction over the matter because I was improperly served the prerequisite rent demand. The judge declined to determine whether the landlord did or did not have the proper rental permit or accessory apartment permit until I determined whether I wished to waive the defense that had surfaced during the cross-examination of the landlord.

Ms. Abrams advised me of the advantages and disadvantages of having the case dismissed at that point in the proceedings. She explained that I could still be sued in Small Claims Court for other alleged expenses the landlord had incurred. I asked that the case be dismissed.

The matter is still not settled. I now have to face the landlord in Small Claims Court. However, with the advice given to me by Ms. Abrams, I went to the town's attorney and code enforcement division to inform them that the landlord was renting the apartment without

a rental permit and required accessory apartment permit.

As a result, the town has cited her for numerous code violations and they rarely follow-up because tenants don't ordinarily have the proper documentation or knowledge of the relevant law and statutes.

Had it not been for Ms. Abrams' legal counsel, I would not have known what the law was and what the recourse would be.

My landlord was unscrupulous. Rather than cooperate with me until I could stabilize my financial situation, she chose to try to evict me, a single mother with two children.

Thank goodness I have a place to live and, hopefully, I will prevail in Small Claims Court but, at the very least, the landlord will have to face consequences for her actions.

Without Nassau-Suffolk Law Services, I shudder to think what would have happened to me and my family.

JUDGE LIPPMAN: Thank you so much. Appreciate it, and another example. When there's no place to turn, you turn to people who are able to give you the assistance you need to again maintain.

I assume nothing is more important to you than, you know, having a place to live and decent conditions so

thank you so much for coming in.

Our next witness is Mamie Copeland and the client of the Legal Aid Society.

MAMIE COPELAND: Good afternoon. My name is Mamie Copeland. I'm a 68-year-old widow. I live alone in an apartment at 774 Driggs Avenue in Brooklyn. I don't know where I would go if I had lost this apartment which I have lived there for 25 years.

I retired last year from working full-time for many years at different jobs, first as office file clerk and then most recently as a home health aide. When I turned 60, I received a widow's pension from Social Security. From 2010 till last year I was working part-time just four hours a day. Now I receive Social Security benefits. Now I receive Social Security retirement benefits and two small pension checks every month.

I have been a widow since 1990, the same year my youngest son sadly passed away from suffering a massive stroke at 17.

In 2010 I fell behind in my rent because I was only working part-time and I suddenly had a problem with my Social Security benefits. My checks stopped coming for over a year and by the time I sorted out the problem and started getting my check again, I was very far behind

in my rent. The only way I was able to eat and survive during this time was because of my little check from my part-time work as home health aide.

At the same time I was having problems with the Social Security checks, there was a lot of problems in my building. The ownership of the building changed hands but there was a disagreement between the new owner and the old owner that made it hard for us tenants to know who was the real owner that we should pay our rent to.

Oh, sorry. In August 2010 I received a letter from two different companies each telling me to pay rent to them. Meanwhile, there was a terrible condition in my apartment and neither the old landlord or the new landlord would fix it.

In April of this year the new landlord sued me for non-payment of rent in the amount of $15,555.50 dating all the way back to November 2009. I know I owed the landlord back rent but I did not agree with how much the landlord said I owed. I went to court by myself to answer the non-payment petition and I disagreed the amount owed and also mentioned that I need repairs in my apartment. I was given a court date of April 16th, 2010 -- 2012. On that day, I went to Housing again by myself. The landlord was not there but his lawyer was there. He now claimed that I owe $17,251.80. I gave the landlord's

lawyer three months rent on the spot and also agreed to sign the rest -- and I also agreed to pay the rest of the money the landlord said I owed by the end of May. The agreement I signed gave the landlord a final judgement and a warrant of eviction, with execution of the warrant to evict staying through the end of May as long as I paid my May rent by May 18th, paid the amount 3,000 by May the 15th -- I'm sorry.

Okay. I'm sorry -- pay my rent by -- pay my May rent back May the 18th, pay my addition, 3,000 by May the 25th and pay the rest the landlord said I owe, $11,975.85 by May the 30th, even though I have mentioned in my answer to the landlord's petition that I need to repair. The agreement was signed and nothing about this.

I did pay my rent for May on time. I also paid $2,500 of the payment of 3,000 on time but I could not pay the rest. I applied -- but I could not pay the rent so I applied for help from the city. After that, I received a call from a lady at the Department of Social Services named Ms. Greenaway. She gave me the name and the phone number for the lawyer of Legal Aid and said, "If she can't help you, nobody can." By that time I had almost reached the payment deadline. If I did not pay all the money soon, I will be evicted. Because it was an emergency, the Legal Aid lawyer agreed to meet with me

right away but because she was so busy, the only time she could give me was on the afternoon of Sunday, May 27th. The lawyer listened to my story. She looked at all my papers and she told me she would start to write an order to show cause to present to the jury. She gave me an appointment to come back to sign the affidavit.

Later on that week, June 12th I went back to court for a hearing on the order to show cause; this time with my Legal Aid lawyer. This time I walked out of court with a much more fair agreement. The amount of back rent I owed was reduced and the agreement included the landlord had to send someone to make a repair in my apartment. After that, the landlord did make the repair and I paid my June and July rent by myself. On July the 18th, my lawyer paid the back rent to the landlord and the case was discontinued.

Not only that, but my Legal Aid lawyer also contacted the New York City Department of Finance for me where I had applied in 2009 for SCRIE, Senior Citizen Rent Increase Exemption. I know I was eligible for SCRIE because I am a senior citizen. I pay more than one third of my income for rent and I live in rent stabilized apartment but I had received no answer to my application.

I was very happy when my Legal Aid lawyer called me in the middle of August to tell me that my

SCRIE application had been approved and my share of rent was frozen at the amount of my old lease all the way back to 2009 when I applied.

I am so grateful that Ms. Greenaway sent me to Legal Aid and that the Legal Aid agreed to take my case. Without the Legal Aid, I am sure I would have lost my apartment. I know that I'm very lucky because now I can pay my rent in full and on time. I have no more fear of eviction and all the repairs I needed was done but I know there are many other New Yorkers like me who also need the same type of legal help I was fortunate enough to get.

I am here today to ask you to support the civil legal service in New York and to increase the funds for organizations like the Legal Aid Society.

Thank you.

JUDGE LIPPMAN: Thank you so much.

It is clear that the Legal Aid Society has really made a giant impact on your life and that's what we're trying to allow others to do because, you know, there are lots of people who come to the Legal Aid Society in New York who are turned away because they just don't have enough resources, so we're so glad that you were able to be helped and thank you for coming in.

Our last witness is Felicia Essix, a client of

Empire Justice Center.

FELICIA ESSIX: Yes. Good afternoon. Thanks for having me.

JUDGE LIPPMAN: Thanks for coming.

FELICIA ESSIX: My name is Felicia Essix and I live in Freeport, New York.

When my daughter was 9 and my son was 6, I applied at the Department of Social Services for child care for the summer. I needed child care while they were not in school so I could find a job.

My son and daughter have two different fathers. My son's father was always contributing financially for his care. My daughter's father has never paid child support, even though I have a court order against him.

When I applied to DSS I was told I could not get child care service for my daughter unless I took my son's father to court for child support. I did not believe that I should have to sue my son's father to get child care for my daughter. I also did not want to jeopardize the support and relationship that my son had with his father by suing him when he was already contributing.

I first contacted Nassau-Suffolk Legal Services and a representative agreed to request a fair hearing for me and represent me at the hearing. I lost the hearing

but the representative referred me to Empire Justice Center. The Empire Justice Center wanted to take my case because they believed that people in my position should be able to get child care benefits without having to go to court against the child's father.

Susan Antos and Linda Hassberg filed an appeal on my behalf. The Empire Justice System also worked on changing the law that required me to sue my father's -- my daughter's father and while my appeal was pending the law changed. This led to the resolution of my appeal and I started receiving child care services and was reimbursed for some of the child care I had paid out of my pocket.

As a result, I found a job and was able to work. I also obtained justice and fairness for the other parents in similar situations. I was glad that Nassau-Suffolk Law Services and Empire Law Service could help me win my case and proud that I was able to obtain justice for other parents, and I'd also like to just include that I thank the Empire Justice System for their consistency, their honesty and, you know, just whatever elements it may concern that was -- that makes it possible for people like myself to get the assistance they need without money because I know a lot of places that you go, it's always about what type of insurance do

you have or how much money do you have and when you don't have, you get services that are not good quality, you know, so I'm really appreciative of Ms. Susan Antos and Ms. Linda Hassberg that were there for me and they really, you know, did all the paperwork. They helped me because I had no clue, you know, that it was possible for me to obtain services for my daughter and I was able to get a job. I worked for quite sometime and the relationship for the both of them, son and daughter, turned out well and I'm just so thankful for the Empire Justice System.

JUDGE LIPPMAN: Well, thank you so much and, again, I know that nothing is more important to you than your children and where do you turn to and you found the Empire Justice Center can help you as no one else could, you know, so I thank all of you and I think your stories, again, are the greatest advertisement we can have for legal services because everyone sees how it affects people's lives and changes their lives and in the most basic and fundamental ways so I want to thank everyone for coming to this hearing today.

We've had a daunting day. We had our two public official s, the District Attorney of Nassau County, Kathleen Rice and County Executive Bellone come in and explain how their jobs are so much involved with

this idea of justice for all and how do the different parts of government work towards that end and both made crystal clear that without civil legal services, the district attorney couldn't do her job and the county could not maintain the fabric of its communities.

Then we had the immigration panels which emphasize the need for not only legal services but the language recourses to deal with particular problems of immigrants and just critical to again saving lives and the law schools and the bar talking about what they are doing to enhance legal services and pro bono work in our state and the judge's panel, which I don't think is quite crystal clear to everybody how it affects judges and what they are supposed to be doing in their jobs when people don't have the legal services, and then all of you which really I think made our day in terms of explaining really what this is all about.

So what we're going to do now is take the results of this hearing along with the three other hearings that we've held around the state, figure out or try to quantify what the need is in our state, what we call the justice gap between the need as all of you demonstrated and the resources that are available and try to figure out what they should be asking the legislature and the governor for in terms of help for legal services

and also figure out what we can be doing further in the way of providing pro bono services and how to energize our wonderful lawyers in our state to give even more pro bono services and try to find creative ways to do that and we thank you all and, again, I just would go back to what we started with, what these hearings are about is equal justice.

Whether you have rich and poor, high and low, whatever one's station in life, everyone is entitled to help when you are dealing with the necessities of life, if it's over someone else, physical safety, the well-being of your families, your livelihood, the right to entitlements. These are things which are very basic in our society and they can't happen without having legal services to those who need it so it is our hope that these hearings and our efforts to provide funding for civil legal services and the efforts of lawyers and law students and everyone else to volunteer their time towards giving people the help that they need will be fruitful and productive in the year ahead and we thank you all for being here.

On December 1st, the court system, or thereabouts, will put out the report, the third report of the task force to enhance legal services and put in our new request for this year for monies from the governor

and the legislature for legal services so this has really been helpful.

Thank you all, and it's been really an honor for us to be here today. Thank you.

(Hearing concluded.)

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APPENDIX 10:

Written Statements Submitted at the Third Department Hearing Held on September 27, 2012

Appendix 10

Written Statements Submitted at the Third Department Hearing Held on September 27, 2012

Stephen J. Acquario *(Executive Director, New York State Association of Counties)*

Shari Chireno *(Client of Legal Services of the Hudson Valley, accompanied by Sarah Maida)*

Hon. Michael V. Coccoma *(Deputy Chief Administrative Judge for Courts Outside of New York City)*

Community Dispute Resolution Centers

Sherry DeShane *(Client of Legal Aid Society of Northeastern New York, accompanied by Victoria Esposito)*

Karla M. Digirolamo *(Chief Executive Officer, New York State Community Action Association, Inc.)*

Joseph T. Farrell *(Director of Training, New York State Coalition Against Sexual Assault)*

Hon. Hugh Humphreys, Ret. *(Family Court, Surrogate's Court and County Court, Madison County; Adjunct Professor, Syracuse University College of Law)*

Michael T. Keegan *(Regional President, Albany-Hudson Valley North Division and Senior Vice President, M&T Bank)*

The Legal Aid of Northeastern New York *(submitted by Lillian M. Moy)*

Holly Ovitt *(Client of Legal Aid Society of Northeastern New York, accompanied by William Niebel)*

Prisoners Legal Services *(submitted by Karen L. Murtagh)*

PULSE (Partnership of Upstate Legal Services) *(submitted by Karen Nicolson)*

Heisily Rojas *(Client of The Legal Project, accompanied by Natalie Birch-Higgins)*

Hon. Eric T. Schneiderman *(Attorney General of New York State)*

Hon. Nancy Sunukjian *(Waterford Town Justice, Saratoga County; Acting Director of the Office of Justice Court Support & Special Counsel to the Deputy Chief Administrative Judge for Courts Outside of New York City)*

Stephen J. Acquario

Executive Director,
New York State Association of Counties



Challenges and Opportunities for Expanding Civil Legal Services in New York

Presented to:

The Task Force to Expand Access to Civil Legal Services in New York

On September 27, 2012

Good afternoon, my name is Stephen Acquario, Executive Director of the New York State Association of Counties. Thank you for the opportunity to present some comments on expanding access to civil legal services in New York State.

Counties bring a unique perspective to this hearing, and I want to address that perspective as context for our testimony.

Counties are the administrative arm of state government, delivering state services at the local level. In particular, with respect to health and human services, counties are the conduit for individuals and families to access essential social services. Our counties provide temporary assistance, food, shelter, financial assistance, health care, family planning, child and family support services, employment and training, home care, long term care, senior programs, veterans services, mental health programs, crisis intervention, and other advocacy and legal services for those in need.

New York is the only state in the nation that places this level of program delivery responsibility and fiscal burden on its counties. In the past four decades since the State's Medicaid program was established, the number of state mandated programs and services delivered by counties has grown. At the same time, counties are required to operate within to the 2% tax cap, leaving counties in the difficult position of being required to provide more services than ever with little to no ability to increase revenues. As a result we have seen dramatic decreases in county funding for locally focused programs and services—non-mandated services that are considered discretionary in a county budget.

It is in this context that we testify today on the future of the state's civil legal services system.

Today's hearing addresses civil legal services programs for the indigent. As you know, a United States Supreme Court decision granted the right to counsel to all indigent defendants in criminal matters on the grounds that individuals should not be deprived of their liberty without due process of law. In certain cases, this "Liberty Interest" has been extended by statute to non-criminal matters. Areas of this extension include: termination of parental rights, paternity, foster care, child protection and permanency, child visitation and cases involving domestic violence. The statutory right to counsel is also applicable in adult protective proceedings and discharge proceedings for residents of mental health facilities. In instances where unemployment insurance is appealed, this statutory right to counsel also applies.

In 1983, the State legislature created the New York State Interest on Lawyer Account Fund ("IOLA") in order to help fund civil legal service organizations that provide civil counsel to those in need. It is important, however, to recognize that IOLA cannot provide legal services to every indigent individual because of the limited resources available. As this Task Force knows in many instances, individuals appear on their own behalf, or *Pro Se*. This includes most foreclosure actions, evictions, landlord/tenant disputes, housing denials, civil suits, or small claims actions. I applaud the work of the Chief Judge and this Task Force in increasing state funds for civil legal services to meet essential needs of low income people.

As the Task Force has found, there are substantial benefits from the work of civil legal services including: saving families from publically funded shelters and representing victims of domestic violence. State funding for civil legal services also helps to relieve the substantial burden on the courts created by millions of pro se litigants.

If civil legal services are not provided and are not properly funded at the state level, there will be real and significant consequences—legal, human and financial—to individuals in need and ultimately, to the state and the counties.

Counties are not opposed to representation or alternative means such as arbitration or mediation, but counties are in no position to take on new programs that would require local services and local funding. We simply do not have the resources at our disposal. Currently, counties are under tremendous fiscal and administrative stress, given the severe New York State budget deficit and economic climate. Any additional fiscal or administrative burden on our counties would only harm the very population we seek to serve.

Finding a solution for the future of civil legal services for the indigent in these challenging economic times is a complex proposition. For our part, counties are not in a position to take on another state mandate, and our county property taxpayers cannot afford paying the tab for another state program. We applaud the Chief Judge for making civil legal services a priority in the Judiciary budget and hope you will continue to expand state funding to meet essential legal needs.

Clearly, funding for civil legal services is a matter of state concern, just as the operational support of the unified court system is. I thank you for the opportunity to discuss this important issue and wish you much success on this and the other issues which will confront the legislature during the upcoming Session.

Shari Chireno

Client of Legal Services of the Hudson Valley

My name is Shari Chireno and I am a former client of Legal Services of the Hudson Valley. The story I would like to tell begins with Hurricane Irene. My family had the misfortune of renting an apartment in a neighborhood that was decimated by floods from the hurricane. Our home flooded and we lost many of our belonging when the flooding consumed several feet of our basement and many of our treasured belongings with it. We contacted our landlord to see when we could expect all the water damage to be repaired. We got no response. We watched the remediation efforts taking place at the other homes on our street. We had the added misfortune of coping with my brain surgery that was necessary because of metastasizes from my breast cancer diagnosis. We knew that mold would be particularly dangerous to me as the surgery meant that the surgical site, in my nose, would be exposed to any environmental hazards I encountered while I healed.

At this time, I didn't know that Legal Services of the Hudson Valley existed and I did what I could to educate myself about my rights as a tenant. We pleaded with our landlord to do what was necessary to make our home safe for me, my husband, and our two children. What I ultimately learned from hours of internet research is that we had the right to withhold rent until the necessary repairs were made. When my doctors told me the mold in the apartment was potentially dangerous to anyone exposed to it, obviously I was concerned for the safety of my children, but the risk to me was particularly acute. We made a decision to withhold our rent because we didn't know what else we could do.

My husband, the sole bread winner in our family since my diagnosis, was already having his wages garnished because of judgments obtained when we were unable to pay some of our medical bills. We also live with the knowledge that my medical bills will continue to pile up and that we will likely face other judgments resulting from my continued need for medical care.

A short time later we received eviction papers from our landlord with a court date to appear in Ellenville's Justice Court as a result of our decision to withhold the rent. Still unaware of the assistance LSHV could provide, we prepared to go to court without representation. While I felt confident that I knew my rights, I knew nothing of court procedure and how to effectively advocate for myself and my family. I went to court on the date listed on the notice of petition and despite my best efforts, my landlord obtained a warrant of eviction, with no stay (meaning the Sheriff's office could force us to leave at any time upon three days notice), and a money judgment against us for the rent from the months we had withheld rent.

I was shocked and saddened by the result of our day in court and I tried to get more information about what recourse we might have. The reality of our situation was that we could have been homeless in three days. My daughter was only weeks away from graduating high school and both of my children had already endured so much. It was then that I was fortunate enough to find Legal Services of the Hudson Valley. I contacted them and two attorneys immediately began working to try to help us.

They began by filing an emergency application called an order to show cause. When the judge in Ellenville was unavailable to review the papers we took my papers to the Ulster County Court. The judge signed the order which included a stay that would temporarily prevent our LL from having us thrown out of our home and gave us a court date to appear in Ellenville to be heard regarding the assertions contained in the order to show cause. My Legal Services of the Hudson Valley attorney, Sarah Maida, appeared in court with me and was successful in getting the court to vacate the warrant and money judgment that had been entered against us. The judge even dismissed the Landlord's petition. While this was a temporary reprieve and we knew the LL would eventually re-file if we remained in the apartment, it meant that we had time to find a safe place to live. It also meant that the money judgment against us was vacated and that if we went back to court the attorneys from Legal Services of the Hudson Valley would be there with us to advocate for repairs to make our apartment habitable.

Thankfully, we were able to find a new apartment and our living situation is much better than it was. I am so grateful for the assistance Legal Services of the Hudson Valley was able to provide to me and my family and I am grateful the Office of Court Administration provides the funds that made it possible. We would never have been able to afford an attorney and we are so thankful that our attorneys, Sarah Maida and Jaime Samarel, treated us with dignity and respect.

Hon. Michael V. Coccoma

Deputy Chief Administrative Judge for Courts
Outside of New York City

HON. MICHAEL V. COCCOMA

Michael V. Coccoma is a Justice of the New York State Supreme Court. He was appointed as Deputy Chief Administrative Judge for Courts Outside New York City in May 2009 by Chief Administrative Judge Ann Pfau. In his new position, Judge Coccoma is responsible for managing the courts in the 57 counties outside of New York City.

Judge Coccoma is a graduate of The Citadel and earned his J.D. at Albany Law School. He began his career in private practice and served as Otsego County Attorney and Assistant District Attorney before being elected as District Attorney in 1991. He was elected to his first term as a multi-bench judge of County Court, Family Court and Surrogate's Court in Otsego County in 1994. Five years later, Judge Coccoma was appointed Presiding Judge of the then newly-created Otsego County Drug Treatment Court. In 2004, he ran unopposed for his reelection to County Court. Judge Coccoma was appointed an Acting Supreme Court Justice in 2000 and elected to the Supreme Court in 2008. From July of 2008 until May of 2009 he served as Administrative Judge for the Sixth Judicial District.

In addition to this experience, Judge Coccoma has served on important state-wide committees including the New York State Matrimonial Commission and the Family Court Advisory and Rules Committee, and as a member of the Law Guardian Advisory and Rules Committee for the Third Department. He also participated in the Otsego County Children's Center Committee, which created a safe haven for young family members awaiting hearings. He serves currently as a member of the New York Family Court Judicial Leadership Team.

Testimony - Chief Judge's Hearings on Civil Legal Services (September 27, 2012)

Good morning. My name is Michael V. Coccoma and I serve as Deputy Chief Administrative Judge for the courts outside New York City. I also serve as an elected Supreme Court Justice from Otsego County.

I have been asked to address the panel about the impact of this year's funding awarded to 56 Civil Legal Service providers in New York State. I will confine my remarks to addressing the providers in the Third and Fourth Departments as my colleague, the Honorable Fern Fisher, Deputy Administrative Judge for Courts within the City of New York, will be addressing the panel regarding the providers in the First and Second Departments.

Let me begin with a quote from the late Franklin Delano Roosevelt:

"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have little."

That quote certainly sums up what we are trying to do with Civil Legal Services. Those involved in Civil Legal Services are trying to provide fundamental legal assistance necessary to assist them in the essentials of life.

In just the short period of time that Civil Legal Services funding has been made available to the Judiciary, it has begun to make a profound difference in the lives of those who cannot afford legal representation.

In upstate New York, 27 providers have begun utilizing their funding to provide direct client services, as well as initiatives which assist those in need with obtaining and maintaining the essentials of life - housing, health care, and better opportunity at employment. But my remarks are not just about the programs and statistics. I would like to focus on some of the up-close and personal stories of direct client contact which has made a difference and which certainly justifies continued efforts to fund these programs.

The funding provided was awarded to a cross section of providers in order to cover a broad spectrum of need across New York State. Awards were granted to providers in urban locations, as well as our rural areas. You will see the differing needs of these disparate populations and how the awardees used the funding to best meet the needs of their clients. Their needs have ranged from those involved in litigation, health care benefit issues relating to their families, domestic violence matters, unemployment benefits, and discrimination claims. The individuals receiving assistance through Civil Legal Services all have one thing in common. Without this funding, they would have no way to pay for essentially needed legal advice. Not only would they have no way to pay for it, they would have nowhere else to turn.

Outside the City of New York, in the Third and Fourth Departments, Civil Legal Services providers assisted clients in a variety of ways. Some provided direct legal assistance, such as representation in court proceedings. Other providers used the funding to assist clients using a more broad-based methodology - free educational programs, distribution of informational materials at help desks, and by establishing HelpLines, hotlines, or referral services.

Let me first take the example of the Rural Law Center of New York. In St. Lawrence County, this program has assisted with the most serious matters of child neglect, abuse, and termination of parental rights in our Family Courts, by diverting appropriate cases away from the Courts into voluntary mediation. The Rural Law Center has used the Civil Legal Services funding to promote and support mediation conferences between parties and the local Departments of Social Services in an effort to find mutually agreeable solutions to these often painful and difficult problems.

The Rural Law Center is also part of an innovative program which partners with the New York State Bar Association Committee and the Legal Project. Within the Bar Association is a sub-committee on Courts of Appellate Jurisdiction. The partnership of the Bar Association with the Rural Law Center has created a program that assists low income clients with Appellate representation in the areas of child custody, child support, shelter and housing, and subsistence income and benefits, as well as health and education matters. This partnership is also developing an appeals guide for the unrepresented.

In Central New York, the Legal Aid Society of Mid New York used its funding to support its Central New York Legal HelpLine, which has provided advice and brief services to over 1300 low income people in central New York. This HelpLine also provided almost 3,000 brochures and referrals to legal and non-legal resources.

The Frank A. Hiscock Legal Aid Society in central New York used its funding award to retain attorney and paralegal positions that were due to be lost as a result of cuts in funds from other sources. As a result, the Hiscock Legal Aid Society was able to provide representation that benefitted 824 persons. These cases involved domestic violence, evictions and foreclosures, and unemployment benefit cases, all helping clients maintain income and security for their families. By helping families overcome obstacles, the long-term benefit will be seen for generations to come.

The numbers are impressive. But numbers aren't the only part of this equation. What do these numbers represent? Here are some examples of what funding to our legal services providers really mean.

In Buffalo, New York, the City brought a foreclosure action against a single mother who owed less than $500. A Volunteer Lawyer's Project Attorney and a pro bono attorney co-counseled to represent her and negotiated a repayment agreement that kept the woman and her children in their home and prevented them from becoming homeless.

Also in Erie County, a pro bono attorney assisted a maintenance man who was being bullied by fellow employees. As a result, this man lost his job and the pro bono attorney assisted him in obtaining much needed unemployment benefits, even successfully representing him through an appeal by the employer.

Representing a woman who had been the victim of domestic violence for many years, a pro bono attorney in Erie County, New York assisted his client in procuring part-time employment, as well as obtaining financial disclosure from her husband who was hiding assets. The attorney was able to obtain a divorce for his client, an Order of Protection, and an award of maintenance. The attorney also prepared a Qualified Domestic Relations Order to ensure that his client would receive her fair share of her husband's pension when he retired.

The Legal Aid Society of Northeastern New York, with offices in Albany, Canton, Plattsburgh, and Saratoga, New York utilized its funding in cases such as:

- a Social Security Disability case won on behalf of a client who was found not disabled at age 18 despite having an IQ of only 54;

-assisting a homeless mother with six children obtain food stamps that had been denied to her;

-won unemployment benefits for a father of eight children at home who had worked his whole life by proving that he had not voluntarily quit his job;

-won a Social Security income case for a woman who was disabled due to her hand being crushed while being beaten by her abuser.

In eight months of funding, the Judiciary Civil Legal Services supported this provider in assisting over 2,000 cases, benefitting close to 4,500 people.

I would like to tell you several more examples of how the Rural Law Center, operating in five upstate counties, assisted people in times of crisis this past year.

Like so many rural farmers, an older couple relied on the wife's off-farm job as a substitute teacher, to make ends meet in the winter and spring. When her husband had a heart attack, their already fragile family economy all but collapsed. She had to suspend her outside work and try to find help with the farm while her husband was in recovery. Although her local creditors were willing to make concessions, the uncovered medical expenses had been turned over to a collection agency by the hospital. A farm neighbor who had been helped earlier in a mediation advised her to contact the Rural Law Center. A mediation was scheduled and the attending hospital representative was willing to negotiate a reasonable payment plan for the family. Her husband made a full recovery and they are on their way to a stable financial situation.

A client with stage four pancreatic cancer had been a "father" to his wife's son for 14 years. The family, facing the husband's mortality, also was in financial crisis, since the husband could no longer work. The "son's" only request was that he be adopted before the man he had considered to be his father passed away. The Rural Law Center contacted the Surrogate's Court and requested that they expedite an adoption, given that the client was in and out of intensive care, with a dire prognosis. The Judge and his staff were compassionate and took extra steps to work toward the goal of a quick adoption, and happily the client, his wife, and his new son were able to celebrate the winter holidays as a family.

A grandmother sought assistance in seeking custody of her two grandchildren because her daughter was entering a court ordered rehabilitation program. The grandmother's only income came from social security, and she could not afford an attorney. This county's Department of Social Services was poised to place the children in foster care. RLC worked with the grandmother, drafting a custody petition, alleging extraordinary circumstances that would warrant the grandmother be granted custody. When her case went to Family Court, the judge awarded the grandmother custody, and the children are now living with her in familiar surroundings and are able to continue attending their same school.

Over and over we see the positive impact that Civil Legal Services Funding has had on the most needy in New York State.

The Worker Justice Center, operating out of Kingston, Albany, and Rochester, New York, works tirelessly to be a provider and an advocacy organization to individuals who do not have access to the legal system. All staff of this organization participates in direct outreach to isolated areas to reach workers, including nights and weekends. This organization conducts intakes and education at public places like laundromats, libraries, and health clinics. And the funding provided to it enabled this group to provide direct legal services to 584 clients.

In Rochester, New York, the Legal Aid Society of Northeastern New York utilized its funding to support the hiring of an immigration attorney to represent immigrants who are victims of domestic violence. They also utilized portions of their funding to support a disability advocacy project, a collaborative effort between the Legal Aid Society of Rochester, The Empire Justice Center, and local Departments of Social Services, assisting 419 clients.

My remarks could go on citing a number of other personal stories. However, in the brief time that I am permitted to address this panel, I felt that a small sampling of the work that is being accomplished due to the direct impact of Civil Legal Services funding would certainly create an accurate picture of how this funding is so important to life's essentials for so many who have nowhere else to turn. There is much more work which needs to be accomplished, and many more providers who need funding to accomplish it. These Civil Legal Service providers deserve our praise for their commitment to assisting those in our society who are in most need. Continued Civil Legal Services funding will ensure that those in our society who are most needy, will continue to have a place to turn for help. Next year, I hope to report on the continued success of this much needed funding.

Thank you for your time and attention today.

Community Dispute Resolution Centers

New York State Dispute Resolution Association, Inc.
1450 Western Avenue, Suite 101 • Albany, NY 12203

NYSDRA and CDRCP Testimony for the Chief Judge's Hearings on Civil Legal Services, Submitted: September 12, 2012

The New York State Dispute Resolution Association (NYSDRA) is a nonprofit professional membership organization of both public and private mediators, and is committed to the promotion of quality conflict management and peaceful dispute resolution. Among our members we are proud to include the agencies that comprise the Community Dispute Resolution Centers Program, which is a vital and essential part of the Unified Court System.

The Community Dispute Resolution Center Program is a partnership established under Article 21-A between the Unified Court System and non-profit Community Dispute Resolution Centers (CDRCs) and provides alternative dispute resolution services in each of the 62 counties in New York. This public/private partnership has flourished for over 30 years, and gained world wide recognition. Our CDRCs receive their funding from both the Unified Court System and from local charitable and community organizations.

In FY 2010-2011 CDRC mediators and staff provided mediation services to 32,935 individuals; over 10,000 mediations resolved cases within four weeks, with an agreement rate of 88%.* Our CDRCs are embedded in more than 300 courts statewide, including Family, Small Claims, Town, Village, City, Supreme, Surrogate, Criminal, County, Housing, Tribal and Youth Courts. We have the honor of working with more than 400 judges across the state, who see the value of mediation as an appropriate option for many disputes. A substantial percentage of court referred mediations provide essential services to low income New Yorkers.

CDRC's help resolve a wide variety of conflicts, including neighborhood disputes, housing matters, child custody arrangements, divorce, family matters including elder care and extended family conflicts, problems involving youth, minor criminal matters, civil matters, small claims cases. Additionally, NYSDRA administers programs for federal and state agencies, and partners with our CDRC members to provide specialized ADR services including special education and early intervention mediation, Lemon Law arbitration, and USDA appeals and agricultural credit mediation.

* Statistics from the New York State Unified Court System, Community Dispute Resolution Centers Program Annual Report, 2012-11.

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CDRCs save the courts – and New Yorkers – money and time.

CDRCs provide free or very low cost mediation services to disputants, and operate under modest and efficient budgets. A group of NYSDRA's CDRC member organizations estimated that the average mediation case costs less than $300, which is far less than the cost to handle even the most minor matter in court. The fee structures of private mediation and ADR practitioners vary with location and specialty; mediation and other ADR services are widely believed to significantly reduce costs, time and stress when compared to litigation.

The CDRCP keeps thousands of cases from flooding the court system. Many CDRCs work with courts to offer diversion programs in which appropriate disputants are identified by court or state agency personnel, screened by CDRC staff, and re-routed to our CDRCs for ADR services. Also, through extensive community outreach, 311 lines, partnerships with social service agencies and community-based organizations, we provide an option for people in conflict before they initiate litigation.

The CDRCP is also effective at reducing litigation costs and relieving court congestion by offering litigants and potential litigants the opportunity to frame their dispute in a constructive manner, clarify interests and responsibilities, restructure relationships and resolve the dispute themselves with the assistance of a neutral. Even when matters are not fully resolved in mediation, issues are often narrowed so as to facilitate court dispositions quickly at a lower cost and higher participant satisfaction.

CDRCs' juvenile justice programs provide much needed support and referral options to families, probation departments and family courts and reduce the likelihood of the juvenile having future involvement in the justice system.

Most mediated cases result in mutually acceptable and durable agreements, and mediation sessions typically take place in under two hours. Judges and court staff who refer clients to mediation are able to reduce pressure on their calendars, with an assurance that disputants will receive high quality services. Many judges ask that CDRCs place mediators in their courtroom jury boxes, so that disputants have the option of immediate, on-site mediation.

These prevention and early intervention services free up courts to focus on those issues that need judicial intervention, and prevent conflict escalation and violence in our communities.

CDRCs provide referrals and bridges to critical services to people in disputes.

Some cases referred to the CDRCs are not appropriate for mediation, and some clients may need additional services beyond what we provide. We triage thousands of cases, aligning clients with their needs beyond mediation and court. This frees up court staff time and provides an invaluable service to clients. Examples include:

- Referrals to domestic violence prevention organizations

- Reporting for child abuse and neglect allegations
- In divorce cases, working with attorneys to ensure that legal dimensions of the process are addressed
- Intake and assessment for parents referred from Family Court
- Referrals to housing, mental health, social services, legal and other programs to clients in need.
- Helping youth and their families, in collaboration with social service partners, to create plans that improve family interaction

In considering intake, case management, mediation and referral services, our CDRCs serve close to $100,000 New Yorkers each year at a cost of less than $100 per person.

Our CDRCs provide timely access to justice.

The work of our CDRC staff and mediators, as well as our private mediators, enables us to address the concept of "justice delayed is justice denied." Mediation sessions can take place immediately in the courthouse, or within a week or two in our CDRCs, saving disputants months of time, addressing current needs, and avoiding escalating conflict.

Outcome surveys and evaluations reveal that typically both disputants feel justice has been served; improved communication, trust and understanding is usually an outcome, whether an agreement or resolution is reached, or not. Mediation is both voluntary and confidential; and self-determination of the parties is a fundamental tenet of mediation Ethics and Standards. It is the full recognition of self-determination that distinguishes mediation from litigation, and ensures an exceptionally high rate of compliance with mediated agreements.

The New York CDRCs provide an innovative national and international alternative dispute resolution model.

The Unified Court System is widely recognized as a pioneer in its support of the CDRC program, and our model has been instrumental in building the mediation movement nationwide and internationally. We are simultaneously a crucial part of the court system, and a network of independent organizations with shared values and standards.

This structure allows CDRCs to develop creative programming that responds to the needs of the clients, courts and communities we serve. Initiatives we have launched include:

- Large group facilitations to bring communities together to address widespread disturbances, often in cooperation with local government.
- Restorative justice programs, including victim-offender mediation, in cooperation with District Attorney's offices, the Albany Diocese, etc..

- Training and credentialing mediators, to advance the overall mediation profession and ensure that the courts receive the highest quality mediation services.
- Bringing dispute resolution training and services into schools, to give the next generation of citizens and leaders the tools they need to nonviolently resolve conflicts.
- Numerous specialized areas of practice, including agricultural mediation, special education mediation, custody and visitation mediation, lemon law arbitration, divorce mediation, and many others.

These are a few of the many initiatives that we have been able to develop to further serve people in conflict, complement court-based initiatives, and promote healing in our communities.

We embody the most rigorous standards of quality.

Our mediators are trained under the rigorous standards promulgated by the Unified Court System's Office of ADR and Court Improvement Programs, and each Center employs extensive quality assurance and ongoing education initiatives. Mediators are thoroughly trained, apprenticed, and observed before working with clients, and our standards have influenced mediator quality control worldwide, in the public and private sectors. Within this context, each individual Center works with local courts and other partners to tailor its programs to meet local and community needs.

The majority of the CDRC affiliated mediators are highly trained volunteers, who undergo rigorous initial and continuing education, as well as ongoing quality assurance measures. Mediation training and practice is grounded in published Ethics and Standards.

We remain committed and determined – but we face serious fiscal challenges.

In 2011, the CDRCs were subjected to severe budget cuts, along with many other programs within the court system. Our Centers swiftly responded to this challenge by cutting wherever possible. Many CDRCs had to significantly reduce staff, hours of operation, diversity of programs, support to mediators, and other crucial services. While we developed new efficiencies and engaged in creative ways to bring resources to our network, the past two years have been a struggle.

Recognizing that the Unified Court System needs to make difficult decisions during tough fiscal times, we hope that there may be a restoration of funding in Fiscal Year 2014. Our ability to keep our doors open and continue to serve clients in the wake of the cuts illustrates our dedication and resourcefulness. Nevertheless, if funding is not restored, we are concerned that we will not be able to serve courts and vulnerable New Yorkers as they deserve to be. As our programs save time and money and provide expedient access to justice, we believe that a restoration of funding will ultimately benefit the Unified Court System as a whole.

One of NYSDRA's goals is to expand on existing public and private partnerships and pursue new collaborative relationships with organizations with complementary missions and resources. Although the potential for alternative dispute resolution techniques to address unmet needs is widely recognized, our experience is that they are often misunderstood and under utilized. We are grateful for the opportunity to describe the existing and potential services of our membership.

The mediation movement is gaining momentum nationwide and beyond. The National Association for Community Mediation reports that more and more people are using mediation as an option, and courts are increasingly embracing alternative dispute resolution. We hope the Unified Court System continues to promote the service that it has championed for many years.

In closing, this quote by Eleanor Roosevelt embodies our ethos:

Where, after all, do universal human rights begin? In small places, close to home so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world. Eleanor Roosevelt

We thank you for the opportunity to present our work, and for the ongoing support to NYSDRA, our individual and organizational members, and the CDRC Program

Sherry DeShane

Client of Legal Aid Society
of Northeastern New York

Sherry DeShane is originally from Norfolk, NY, grew up in Gouverneur, NY, and has lived in Massena, NY for about seven years. Her daughter is twenty-seven, and her grandson is four. She enjoys spending time with her family, reading mysteries, and writing poetry.

Testimony of Sherry DeShane

My name is Sherry DeShane. I live alone in Massena, New York. I was referred originally to Legal Aid by either Renewal House or Mental Health for my divorce in 2004 or 2005. I had worked off and on as a health care aide, when my husband allowed me to, and liked it—I would have kept working if I had been able to. But because of anxiety, depression, and PTSD, I stopped being able to work at about that same time, and I started getting SSI.

After the divorce, I got half of my ex-husband's 401(k). I reported that money to Social Security right away, as I knew I had to. Since my husband had been very controlling and had not allowed me to work much, I had no savings and no prospect of a pension, and I hoped to keep that money for my future. I heard nothing from Social Security for a year, and then my payments stopped because of the money from my divorce. I had to go on public assistance. I felt terrible having to ask for that—it was like I had reached the bottom. I was told that once I could show I had spent all the money from my divorce, I would start getting my SSI again. I had ended my marriage with practically nothing, so I spent the money I had thought would be my savings on a vehicle, a bed, furniture, and basics for my home.

After I spent the money, I went back to Social Security to get my payments back. They told me that I would have to reapply and start the process all over again. I filed a new application. I thought all I had to do was file the application and I would get my SSI back. Instead, my application was denied because they said I wasn't disabled. They never asked my doctors what they thought. My depression got worse after that—I couldn't stand being torn down again. It felt as though my dignity had been taken away. I couldn't leave my house or talk to anyone. I talked to my counselor about getting legal help, and then I came to Legal Aid for help.

Just knowing I had someone who would listen to me was a help, and once I had a lawyer, Victoria Esposito, I felt more at ease with my case. Legal Aid made me feel like they would take care of my case—I was more secure knowing I didn't need to worry about my case by myself. I will always have my depression and anxiety, but knowing that I had someone helping me made me feel better. I could leave the house, I could get out of bed.

We appealed the decision and went through a hearing. Victoria explained how the hearing would go and what it would be like. Even so, it was so hard for me to sit in the room and have to explain to someone what my problems were. I was very nervous and shaky—I didn't want to talk about my problems but I knew I had no choice. I had a panic attack at the hearing and had to step out of the room. It still gives me chills thinking about it.

I got my SSI back after the hearing because I am disabled due to my depression and PTSD. Unfortunately Social Security said I had been overpaid, from when I had my ex-husband's 401(k). They were threatening to take money from the retroactive award I was entitled to because of the long delay in requalifying for SSI. I couldn't believe they wanted that money back—if anything I felt they owed me for the years I had lost my SSI.

I called my lawyer, very upset. Victoria took all my receipts and added them up, and we filed an affidavit. I explained that I had reported the money and then spent it on necessities, that I had brought in the receipts and done everything they told me to do, After waiting a while, I was told that I did not have to pay back the money and that any overpayment was waived.

With my back pay, I was able to replace my car, which had been totaled. Without it, I had to pay taxis to get to doctor's appointments, to get to the store, and to see family.

If I had not had a Legal Aid lawyer, I would still be on public assistance. I would not have a car - -I would have nothing. I have things now that are mine-I can go into my apartment and feel the comfort and security of a home. I can pay my bills, buy food and medicine and gas for my car and have a little bit of money left over. I am more independent than I was on public assistance. I would not have been able to go through the hearing process, or to get a waiver, without that help.

People in my position don't know anything about Social Security or SSI. We need Legal Aid to see us through—without it we would be clueless.

Karla M. Digirolamo

Chief Executive Officer, New York State Community Action Association, Inc.

Testimony by
Karla Digirolamo
Chief Executive Officer, NYS Community Action Association
Guilderland, New York

Civil Legal Services in New York State
Submitted to:
Hon. Chief Judge Jonathan Lippman
Panel on Civil Legal Services

September 27, 2012
NYS Court of Appeals
Albany, New York

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Testimony before the Chief Judge's Hearing on Legal Services
Karla M. Digirolamo
September 27, 2012

Chief Judge Jonathan Lippman and Members of the Panel: Thank you for the opportunity to testify on the importance of civil legal services in New York and of the particular importance of these services to low income people.

I am the Chief Executive Officer of the New York State Community Action Association (NYSCAA.) NYSCAA is the statewide membership association, training and technical assistance provider, and public policy advocate for New York's network of anti-poverty agencies, Community Action Agencies (CAA). These agencies comprise the federally designated anti-poverty network, providing services for more than 45 years to low income people in every county in the state. In 2011, nearly $60 million in federal Community Services Black Grant (CSBG) funds were distributed to 62 eligible entities, 52 Community Action Agencies, four Indian tribes and tribal organizations, and a number of special project and training grants, including with NYSCAA. The federal budget proposals for 2013 and 2014 provide stable funding for CSBG services.

CSBG funds are administered by the United States Department of Health and Human Services Administration for Children and Families through the New York State Department of State's Division of Community Services. Community Action Agencies served over 500,000 individuals and 250,000 families in New York in 2010.

CAAs are innovators and leaders in their communities, providing flexible and responsive services to help low-income New Yorkers achieve economic security. CAA's are collaborators, partners, and conveners of other providers and allies in their community, maximizing the use of limited dollars and avoiding duplication of services. CAA's provide direct services while also creating programs and structures to help low-income people and communities achieve financial stability. Partnerships with legal services providers and resources for low income people have been vital to the ability of Community Action Agencies to ensure that people living in poverty have access to the services to which they are entitled and the help they need to overcome the barriers they face in meeting their basic needs for food, shelter, clothing, and security.

Despite the work done by the national network of 1,100 Community Action Agencies around the country, poverty threatens the stability and prosperity of

communities throughout New York State and beyond. 46.2 million Americans lived in poverty in 2010, the highest number in over 50 years. More than 14% of New York's residents live in poverty with that number being much higher in many communities in the state. 12.9% of New Yorkers and 14.5% nationally, experience food insecurity. 15% of New Yorkers did not have health insurance in 2011. Recently released census data reveals that poverty remains at dangerously high levels with income disparities becoming even greater.

Children are particularly hard hit in New York with over 20%, 868,816 children, living in poverty and more than 30% living below 150% of the federal poverty level, just $33,075 for a family of four. The poverty rate soars even higher in the cities of upstate New York. Albany, Buffalo, Rochester, Syracuse and Utica all have poverty rates exceeding the state average, ranging from nearly 25% in the city of Albany to 32.2% in Syracuse. And again, children bear an unconscionable burden with nearly 33% of the children living in Albany, 45% in Buffalo, 46% in Rochester, 45% in Syracuse, and 43% in Utica living in poverty. In New York City, Bronx and Kings Counties have high rates of poverty at 28.8% and 22.2% and child poverty rates of 41.1% and 32% respectively. And while no one is immune from falling into poverty, African Americans and Hispanics are disproportionately represented among those living in poverty, with 22.2% and 24.7% respectively, compared to 10.5% of Whites.

People living in poverty face a daunting course of challenges to simply survive, making it difficult to also build a path toward self-sufficiency and find the resources needed to access the services and legal rights to which they are entitled. Furthermore, the experience of living in poverty directly leads to the need for affordable legal services. Foreclosure and eviction matters, credit and bankruptcy assistance, homelessness prevention and rapid re-housing, child support, immigration, debt collection, unemployment insurance appeals, Social Security Disability appeals, and child custody matters are among the legal needs arising from poverty and economic challenges. Failure to resolve these matters in turn makes it even more difficult to escape poverty.

Community Action Agencies have a long history of collaboration with legal services providers to help people meet their legal service needs. For example, the Cattaraugus Community Action Agency (CCA) has worked in partnership with LawNY to serve low-income people in that rural western New York community. Despite the success of the partnership, they report that in Cattaraugus County, more than 90% of tenants facing eviction appear in town, village and city courts without even the advice

of an attorney, let alone actual representation by an attorney. Since New York law provides for only 72 hours notice before a tenant can be physically removed from a dwelling following an eviction, the absence of adequate legal representation often results in homelessness, including doubling-up and sleeping in inadequate shelter such as travel trailers and tents, often even in those cases where the tenant had a legal defense to the eviction. CCA and LawNY have also collaborated to serve victims of domestic violence who are seeking family court orders of protection.

The Schenectady Community Action Program (SCAP) has worked with the Legal Aid Society on an important homelessness and rapid re-housing program with (SCAP) staff located at the court, referring people who need an attorney to the Legal Aid Society. SCAP and LASNNY also work together to respond to problems accessing public assistance including clients with emergencies who are turned away because they arrived too late, or those facing eviction who are told to come back "when the sheriff locks you out."

Financial pressures such as unemployment, medical issues, skyrocketing health insurance costs and low wages continue to strain the budgets of New Yorkers with low to moderate incomes. Low-income New Yorkers often have to choose between providing enough food for themselves or their families and paying the month's rent or utility bills. Middle-income New Yorkers are slipping into the realm of the working poor, reporting increasingly difficulty affording to feed their families. Many are facing foreclosure or huge credit card debt. It is imperative that the working poor also have access to civil legal services. We are enhancing our connections to programs that specialize in responding to the working poor, such as The Legal Project in the Capital Region as more and more people reaching out to our programs would be classified as the "new poor"—with no experience in receiving services in the past. Such independent legal services programs are able to offer flexible assistance in creative ways to the working poor and other underserved populations who otherwise may fall through the cracks and be unable to access critical help with civil legal problems.

According to the Report of the Chief Judge's Task Force To Expand Access to Civil Legal Services in New York, 2.3 million New Yorkers navigate the civil justice system each year without an attorney, and civil legal services providers in New York report having to turn away the same number or even more potential clients than they did just one year ago. For many of the people we work with in Community Action, the inability to access these services can have devastating consequences, including the effects of untreated illness, the harmful health and social consequences of homelessness and

untreated mental illness and substance abuse, the life threatening risk posed by domestic violence or the violation of their equal employment, housing or educational rights. The courts and justice system, and the community at large suffer the negative consequence of the inability to provide legal services to vulnerable low-income people.

The Task Force Report clearly identifies the economic as well as human and social impact of the lack of legal services for low income people. Community Action Agencies are confronted with the human face of this social failure every day and in partnership with dedicated and hard working legal services providers, work for access and justice for the people and communities we serve. Community Action is also in the lead in addressing the economic impact and consequences of poverty, developing strategies to help low income people build the assets, financial, social, personal and other, to achieve and sustain financial stability. The ability to navigate the civil legal system and full access to all rights and services are key to a comprehensive, effective anti-poverty strategy.

The New York Community Action Association applauds and appreciates the Chief Judge's commitment to serving the most vulnerable New Yorker's and his efforts to provide financial support for these services during these difficult fiscal times. NYSCAA and its member agencies are committed to continuing and building on the successful partnerships developed with legal services providers throughout the state including many who are funded through the Judiciary's budget for civil legal services. Without the funding from the Court system, many of these programs would be in jeopardy, putting at risk the only source of affordable legal services for low income people in many communities in the state.

We look forward to continuing to work with legal service providers and the court system to achieve the shared goal of equal access to civil legal services for all New Yorkers.

Joseph T. Farrell

Director of Training, New York State
Coalition Against Sexual Assault

Testimony of Joseph Farrell

Director of Training

New York State Coalition Against Sexual Assault, Albany, NY

New York State Coalition Against Sexual Assault

Civil Legal Services in New York State
Submitted to:
Hon. Chief Judge Jonathan Lippman
Panel on Civil Legal Services

September 27, 2012
NYS Court of Appeals
Albany, New York

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Good morning. I am Joe Farrell, the Director of Training for the New York State Coalition Against Sexual Assault (NYSCASA). I would like to thank the Honorable Chief Judge Jonathan Lippman and the Chief Judge's Panel for the opportunity to offer testimony here today.

NYSCASA is a grant funded, member supported, nonprofit organization that supports the efforts of the 76 New York State Department of Health (DOH) approved rape crisis programs across New York State. We do this by providing training, resources, technical assistance, and advocacy. We also collaborate with other organizations and state agencies to promote the best possible response for victims and survivors of sexual violence in New York State (NYS).

The best available research tells us that crime victimization costs the United States $450 billion annually (National Institute of Justice, 1996). Rape is the most costly of all crimes to its victims, with total estimated costs at $127 billion a year (excluding the cost of child sexual abuse). In 2008, researchers estimated that each rape cost approximately $151,423 (DeLisi, 2010). Sexual abuse has a negative impact on children's educational attainment (MacMillan, 2000), later job performance (Anda et al., 2004), and earnings (MacMillan, 2000). Sexual violence survivors experience reduced income in adulthood as a result of victimization in adolescence, with a lifetime income loss estimated at $241,600 (MacMillan, 2000). Sexual abuse interferes with women's ability to work (Lyon, 2002). Fifty percent of sexual violence victims had to quit or were forced to leave their jobs in the year following their assaults due to the severity of their reactions (Ellis, Atkeson, & Calhoun, 1981). In 2008, violence and abuse constituted up to 37.5% of total health care costs, or up to $750 billion (Dolezal, McCollum, & Callahan, 2009).

However, only 16% of rapes are ever reported to police. In the fiscal year 2010-2011, the DOH funded rape crisis programs provided sexual assault crisis intervention services to 19,069 new clients, but only 2,736 rapes were reported to the New York State Division of Criminal Justice Services in 2011. In a survey of victims who did not report rape or attempted rape to the police, victims gave the following reasons as to why they did not make a report: 43% thought nothing could be done, 27% felt it was a private matter, 12% were afraid of police response, and 12% felt it was not important enough (Kirkpatrick, et al., 1992). According to RAINN, 97% of all rapists never see jail time.

There is often an intersection of sexual and domestic violence. Sexual violence is yet one more tool of power and control that is exercised by one partner in a relationship over another to keep the partner in check and to further demoralize them. This act of violence, coupled with the emotional, physical, and financial abuses practiced by the abuser, typically leave the victim isolated and without sufficient resources to remove themselves and any children they may have from this situation.

Victims have very real and legitimate concerns when seeking help. However, appropriate and early intervention can mitigate the numerous costs and consequences of sexual assault. A 2006 study found that when victims receive advocate-assisted services following assaults, they receive more helpful information, referrals, and services and experience less secondary trauma or re-victimization by medical and legal systems (Campbell, 2006).

It is often presumed that victims of sexual assault will only be accessing the criminal justice system. However, the criminal justice system often does not meet the needs of sexual assault victims, and some victims seek justice, accountability, or reparation through the civil legal system. That is why NYSCASA partnered with The Legal Project in the early 2000's on Searching for Justice, a project that provided sexual assault survivors assistance in accessing civil legal remedies. Survivors of sexual assault may require specialized legal assistance to obtain protection orders, housing assistance, academic hearings and educational accommodations, representation in criminal matters related to the assault and other legal proceedings. Further, the Family Court's response now includes sexual assault as a Family Offense, thus we are seeing increased need for civil legal services for victims that has not been forthcoming across the state. Although the federal grant funding for this project was not sustained, The Legal Project and NYSCASA have attempted to maintain the services provided as best as possible.

Access to the civil legal system is already limited to most victims/survivors for a variety of reasons including: lack of financial resources; lack of transportation; lack of agencies or organizations that provide these services, especially in rural locations. Most organizations, such as The Legal Project, that do provide these services are located in major population centers and are not easily accessed by many survivors. Even with the increased support that these programs have received through the Office of Court Administration, their resources are still very limited—

especially for services for underserved populations like sexual assault victims. It is very important that increased funding be maintained and enhanced in order to provide a viable option for assistance for these victims. When victims are unable to access civil legal services, additional burdens are placed on other systems, and these burdens result in a shared cost to everyone.

Access to civil legal services fills an important role in the healing process for sexual assault victims because it can provide justice, hold offenders accountable, and mitigate some of the impacts of sexual assault on victims. Furthermore, by holding more abusers accountable, we send a message. By coupling offender accountability with effective system responses and education, we begin to reduce victimizations.

Civil legal services is one, very important tool that is responsive to victims' needs and holds abusers accountable. The New York State Coalition Against Sexual Assault urges continued and increased funding to ensure that sexual assault victims who otherwise cannot access civil legal services are able to receive this assistance. Thank you, Judge Lippman and the Chief Judges Panel for your support for these vital services and for the opportunity to provide testimony.

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Hon. Hugh Humphreys, Ret.

Family Court, Surrogate's Court and County Court, Madison County; Adjunct Professor, Syracuse University College of Law

September 20, 2012

BIOGRAPHY: HUGH C. HUMPHREYS

After graduating from Villanova University in 1955, Hugh Humphreys served in the United States Navy aboard a destroyer in the Atlantic Fleet. He graduated from Columbia Law School in 1961 and practiced with the Wall Street law firm of Donovan, Leisure, Newton & Irvine from 1961-1963. He then joined the staff of Robert M. Morgenthau, United States Attorney for the Southern District of New York, where he prosecuted criminal cases from 1963 to1968. He was with a small Syracuse firm from 1968 to 1970 when he opened a private practice in Hamilton, New York. He has taught as an adjunct professor at Syracuse Law School from 1970 to the present, for the first thirty years in the fields of trial practice and evidence, and for the last ten years he has taught a seminar Law and Literature. He practiced law in Hamilton, New York, from 1970 until 1984 at which time he became a "three hat" Family/Surrogate/County Court Judge in Madison County. He retired as a Judge in December 2000, and has occasionally served as a Judicial Hearing Officer. In January of 2001 he began to volunteer as a pro bono attorney in the Utica office of the Legal Aid Society of Mid-New York, Inc., where he has remained to this date.

TESTIMONY BEFORE THE CHIEF JUDGE'S HEARINGS ON LEGAL SERVICES

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September 27, 2012

Mr. Humpheys: I am here today to testify regarding the need for civil legal services in New York for persons who cannot afford to retain a private attorney. The need is great. The need is undisputed. This same subject is raised at venue after venue, year after year, and always with the same result. Everyone present (usually the group is composed of those who advocate providing legal services to the poor) acknowledges the need and all call for the need to be met. The stirring rhetorical outbursts at these meetings look wonderful on paper as all conclude that more help from the private bar is needed and more funding should be provided for the woefully underpaid and understaffed legal aid societies. How do we inspire the private bar to come forward in greater numbers? In the first place many of them come forward now, and of their number it seems that the same ones volunteer time and time again and rarely turn down a case. So we discuss methods to increase their numbers. But how do we in good conscience approach the brand-newly minted lawyers whose overwhelming law school debts would place many in the financial category of the very persons we are

trying to serve? And it is very well known (among the private bar which includes myself for a period of 17 years as a small town general practitioner) that many hours each week are consumed in rendering unpaid or underpaid legal advice to those who cannot pay. So, when all the dust settles it is the public defenders and legal aid societies that struggle to fill the remaining need. I know the legal aid societies try to come up with new ideas. (I can tell you about the legal aid societies too; I've have done thousands of hours of pro bono work in a legal aid office for a few months shy of twelve years.) The latest and very successful innovation is the "Help Line". After a client is screened to see that he or she qualifies, the client speaks to a legal aid lawyer on the phone and usually obtains legal advice. This enables legal aid lawyers to reach great numbers of the needy with specific, detailed legal advice over the phone; and at times when the need can't be met by advice, legal aid tries to find a way to supply a lawyer (as I also well know).

I was a "three hat" Family/Surrogate/County Court Judge in Madison County from 1984 through 2000. During my 17 years on the Bench, hundreds of pro se litigants appeared before me. It is simply not a level playing field for a number of those who are unrepresented. Ignorance of substantive law, civil procedure and local rules act together to create substantial impediments to justice for them.

Further, unrepresented litigants present ethical dilemmas for Judges and court personnel. Judges will very often explain substantive and procedural law to pro se litigants, but must be careful to remain neutral and fair. Appearances are important since there are other parties to a case, who, while they are represented , must be convinced that the scales are evenly weighted. Thus judges are required to walk a fine line between aiding pro se litigants on one hand and, on the other, adhering to our fundamental obligation to remain neutral and unbiased. Court clerk's offices are faced with the same problems. They are not permitted to render legal advice yet they must try to make the court experience a positive one when responding to questions on, for example, filling out or filing papers. Supreme Court Justices especially face many problems of this nature in handling divorce cases with one or more unrepresented parties involving equitable distribution, maintenance issues, QDRO's, and/or real estate. When there are custody issues on which they can be assigned many lawyers also will handle the financial side too. (I have limited judicial experience here as I only occasionally sat as a Supreme Court Judge; however I know this to be true from my experience as a pro bono lawyer, as a general practitioner and from my more limited judicial experience.) On the majority of cases of this nature the unrepresented party many times qualifies for legal aid, and on at least one occasion a judge ordered legal aid to represent such a client, which legal aid was

unable to do.

The Surrogate's Courts fall under the radar here. There are many cases where the parties or potential parties are unrepresented but who would qualify for legal aid. I have experienced these cases as a judge as well as a lawyer, both private and pro bono. They involve small estates to will contests. In a recent and complex case the "Help Line" could not resolve the problem. The case involved a will under which the testator established a Supplemental Needs Trust for a party who could neither afford nor find counsel, the reason being that the case had "big problem" written all over it (that was true) and the client could not come up with a retainer. In this instance the case was handled pro bono. However, many cases of similar nature cannot be referred due to lack of resources.

So what it comes down to is more legal aid lawyers and staff are needed. And the addition of staff and attorneys is a bargain compared to the state jobs at OCA and, especially, in the state legislature and in the various state commissions. My experience with the OCA staff in my courthouse was that they were very dedicated, thoroughly professional and I felt that they put in a very full day's work. However, it is well known that the salaries and benefits of state employees are not in the same ballpark as those at a legal aid society. In Utica legal aid lawyers, who started out at $38,000 per year, recently had their

salaries reduced by 7% as a result of budget cuts. (That cut was across-the-board.) Also each employee who is part of the health plan (dental not covered) contributes about $1,500 per year for individual coverage with an increase for a family plan. A paralegal who has worked in legal aid for over 22 years is now making about $42,000 less the 7% cut. And they are not floating along doing as little as possible to get by. For example, when I left the office in Utica two weeks ago at about ten of six, there were three lawyers still working, a paralegal and the person in charge of the budget. And yet as low as the salaries are and as many hours as the staff works there is always a scramble for money to keep going. Recently the Utica office was concerned with the ending of the very important VAWA grant and the talk was as to which of the staff was to be laid off. However, yesterday (September 19) legal aid was informed that the Department of Justice renewed the grant for three years. While this crisis was averted at the last minute, another will undoubtedly arise. That's the standard fare over the years. It seems that when the economy takes a tumble legal aid is one of the first ones hit. The OCA funding has been of enormous benefit to legal aid. It has enabled legal aid to carry on, and to retain staff. The goal of OCA and legal aid, the judiciary and the bar is to provide legal services to those who genuinely cannot afford them. I am rather passionate about this. Hopefully OCA can continue its funding. It is desperately needed. Thank you.

Michael T. Keegan

Regional President, Albany-Hudson Valley
North Division and
Senior Vice President, M&T Bank

MICHAEL T. KEEGAN

Michael T. Keegan is regional president of M&T Bank's Albany and Hudson Valley Divisions. He joined M&T in 1994 as a vice president.

Keegan is a graduate of the University of Massachusetts in Amherst, Massachusetts and holds a Master of Business Administration from Union Graduate College in Schenectady, New York.

Currently, Keegan sits on the boards of the SUNY New Paltz Foundation, Retail Council Services Corp., Hudson Valley Economic Development Corporations, St. Peter's Health Partners and the Smiley Brother Board of Directors. He resides with his wife, Mary, and three children in Guilderland, NY.

Recognized for his leadership and dedication to community service, Keegan strongly supports business and private sector partnerships. Keegan is a graduate of the Capital Leadership Program, Class of 1999 and a recipient of the Capital District Business Review "40 Under 40" award.

M&T has branches in New York, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and Washington DC.

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My name is Michael Keegan and I am the Regional President of M&T Bank for the Albany and Hudson Valley Regions. I appreciate being asked to appear before you today regarding the importance of access to legal services.

M&T is a Buffalo, NY based Regional Bank with retail locations across the state. In the Capital Region we have 12 retail offices, a residential mortgage lending group and a commercial lending office. M&T has approximately 260 employees in the Capital Region. In addition to traditional bank services, M&T has a Charitable Foundation that supports various organizations in the communities in which we operate.

I want to focus on our Charitable Foundation and our employee community involvement in my testimony today. Even in difficult economic times, M&T has maintained its active role in supporting the needs of our communities. M&T distributed approximately $17 million in charitable grants to hundreds of organizations across seven states and the District of Columbia in 2011. In the Capital Region and Hudson Valley combined M&T funded over 220 organizations to the tune of approximately $700,000. In addition to the direct financial support offered through the Foundation, M&T employees in these regions provide countless hours of community service to a broad spectrum of community groups through board and volunteer services. I provide this background as the basis for why I believe that continued support for and access to legal services is more vital than ever. Our bank's culture encourages social awareness in its employees. We all see the many challenges that face our region and you have invited testimony in one of the most truly important areas. Legal representation and thoughtful review of an individual's situation remains essential. AT M&T, we recognize the need for civil legal services is more critical than ever and choose to support organizations such as the Legal Aid Society and the Legal Project that meet these rising needs. We have all heard direct testimony, met with organizations that help those that need it the most, which is what I'm here to testify on today.

The economy and the current interest rate environment has had the effect of creating a strain on consumers and businesses as well as low returns on IOLA (Interest on Lawyers) accounts. This has affected a wide range of people in various different ways, with poverty and housing remaining the top persistent problems.

M&T has been a strong supporter of programs for those existing in poverty and for housing those who are challenged in affording it. We partner with great organizations that do all that they can to make a difference. Habitat for Humanity, Better Neighborhoods, Albany Housing Coalition

and so many more that are committed in trying to help those that are less fortunate. Decisions about our community activities and grants are made locally, by the people in the bank who know our communities best. In this economy, awareness and assistance with unemployment, domestic violence, bankruptcy and foreclosure is essential. As a member of this community, I would ask that you keep these growing obstacles in mind when making your decision on the budget for civil legal services in New York. Thank you for the opportunity to discuss this important topic with you.

TESTIMONY OF
The Legal Aid Society of Northeastern New York
By Lillian M. Moy

To the

Chief Judge's Task Force to Expand Access
to Civil Legal Services

This is the testimony of the Legal Aid Society of Northeastern New York (LASNNY), through its Executive Director, Lillian M. Moy. I am privileged to serve as a member of the Chief Judge's Task Force and submit this written testimony to highlight the benefits of the Judiciary Civil Legal Services funding to northeastern New York. LASNNY serves 16 counties in northeastern New York (Albany, Clinton, Columbia, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Warren and Washington) with offices in Albany, Amsterdam, Canton, Plattsburgh and Saratoga Springs. Our service area is a mix of urban, rural and suburban communities, each with its own services challenges.

In its first year of funding, LASNNY was privileged to receive a grant of $627,000. With these funds, LASNNY provided direct legal services to preserve essential legal needs to 2,013 households, benefitting 4,475 people. The cases were in a range, with the majority being housing (900 cases or 45%); the next most requested need was income maintenance (691 cases or 34%). In addition, we provided other legal assistance to 1,167 people. A snapshot of our accomplishments includes:

- Fully favorable SSI decision after a hearing for a client whose delusional disorder prevents him from working
- Fully favorable SSI decision after a hearing for a client who suffers from, among other things, severe anxiety and PTSD; also sought and received waiver for her of an alleged $11,000 overpayment which was to have been taken from her retroactive benefits
- Fully favorable SSI decision on behalf of a client who had been found not disabled upon reaching age 18 despite an IQ of only 54.
- Won good cause for a late hearing on behalf of a learning disabled client with a ninth grade education who believed she had timely requested her SSI hearing.
- Won Social Security/SSI claim for client with mental and physical problems who had worked his whole life as a truck driver/mechanic; receipt of SSI and SSD benefits prevented foreclosure of his home
- Won adult disability benefits for a child with mental illness whose SSI benefits were being terminated

- Won SSI for a victim of domestic violence whose boyfriend beat her until her hand was crushed and had other physical and mental disabilities related to the domestic violence.
- Maintained a long-term public housing tenancy, winning a settlement in which our client paid all back due rent and received a clean slate
- Provided brief service to a mother with six children who was homeless and had not received food stamps for two months; helped her get almost $1400 in food stamp benefits
- Assisted a mentally ill man with multiple legal problems, including a utility shut-off, getting his cash assistance case started and negotiating a very favorable reduction in a judgment which would have been subject to garnishment as soon as he returned to work.
- Provided brief service to a public housing tenant in order to assist her in obtaining emergency assistance and negotiating a payment plan to maintain her public housing apartment
- Won unemployment benefits for a father with eight children living at home with him by proving that he had not voluntarily quit and was entitled to unemployment benefits.

Many individual clients had their lives changed, thanks to JCLS funding. In 2011, LASNNY used JCLS funds to represent Rasam Kellam. Mr. Kellam told his story at the 2011 Task Force hearings, and his story is featured in LASNNY's video, http://www.lasnny.org/rtf1.cfm?pagename=LASNNY%20Videos . As Mr. Kellam said, if he had been evicted, he might have become homeless again, lost everything he had worked for in the last several years, including his sobriety and employment.

In 2012-13, LASNNY received a grant of $1,442,100. To date, LASNNY has served 2,027 households, benefitting 4,471 people. The areas of greatest legal needs were in housing (897 cases, or 44%), income maintenance (361 cases, or 18%), family law (325 cases or 16%) and consumer (280 cases, or 14%). At this year's hearing, two LASNNY clients, Holly Ovitt and Sherry DeShane told their stories. LASNNY's services helped these clients gain time and funds to locate alternate housing for Ms. Ovitt and retain essential income for Ms. DeShane who is disabled and can no longer work.

JCLS funds will be used to support and expand our Private Attorney Involvement (PAI) Program, helping us to leverage pro bono services to help clients meet their essential legal needs.

For example, JCLS funds now support our Attorney For The Day program in Albany City Court. Pro bono volunteers represent tenants on their first appearance.

JCLS funds allow the Legal Aid Society to not only retain experienced and talented staff but also to begin to recruit the next generation of Legal Aid lawyers. This year represents the first expansion in attorney staff throughout the program in many years.

It's important to know that when LASNNY uses JCLS funds to meet a client's essential legal needs, it is often able to address more than one legal need. Low income people so often have many legal problems. We see this often in the case of victims of domestic violence and those who have lost income suddenly. For example, LASNNY was able to first assist Ms. DeShane with her divorce. Later, we were able to represent her in her SSI case.

In addition to the direct benefits of the JCLS grant, the work of the Task Force is helpful to legal services providers in the Third Department and throughout New York. Task Force hearings and the Task Force Report itself highlight the human, legal and economic benefit of civil legal services. The Task Force has involved local business leaders as well as judges from every corner of our large Department. Understanding the impact that a huge volume of pro se litigants have on the operation of a court has been crucial to building support for funding for civil legal services through the Judiciary budget. In the Third Department, we have also been able to tell the story of partnerships between legal services providers and community action agencies, sexual assault agencies and even the counties in which our services are located. Again, showing the broad range of support that civil legal services providers enjoy is essential to supporting the efforts of civil legal services providers.

If I can provide you with any additional information, please do not hesitate to contact me.

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Holly Ovitt

Client of Legal Aid Society
of Northeastern New York

Testimony of Holly Ovitt

My name is Holly Ovitt. I am a single mother with two sons, ages 8 and 11. Their names are Aidan and Payne. I live in Glens Falls and work as a habilitation specialist for Warren-Washington ARC, assisting people with intellectual and developmental disabilities.

Earlier this year, I had a legal issue arise in my life that required professional help. I could not afford a private lawyer, so I called the Legal Aid Society of Northeastern New York after some friends recommended it. It was a unique situation and I wasn't sure exactly what my rights were; I needed expert advice. On my initial call, I spoke to a couple of different people regarding my predicament and they each graciously listened to my story. They then referred me to the most appropriate lawyer for my case, William Niebel. I was being evicted, along with my 2 boys, from our home of 10 years. I had never been in that situation before and Mr. Niebel guided me through the legal process.

Mr. Niebel explained to me the problems with my landlord's case, my legal defenses, and the process that my landlord needed to go through to evict me. He explained that my landlord could not do what he was trying to do—evict me for nonpayment of a new rent amount that I had not agreed to pay ($750, instead of the $400 I had been paying). Instead, since I did not agree to pay such an increased rent, the landlord would have to give me a one-month notice to terminate my rental. When I was finally served with court papers for the eviction, I was given a very short time (about two weeks) to leave the premises. Mr. Niebel used my defenses to fight so that I would

be able to remain in my home for the duration of the current school year (several months). Had he not done that, my children would have been uprooted and probably would have had to change schools with just a couple months left to the school year. Since my oldest son is autistic, this would have been especially devastating to him.

Being a single mother, money was another important issue. Mr. Niebel helped me negotiate a reasonable rental payment that was far below the landlords originally requested amount, for the months I continued to live there, which saved me hundreds of dollars. The Legal Aid Society saved me money that I was able to turn around and use for a deposit on my new apartment. It was also a huge relief to have a third party communicate with my landlord. Mr. Niebel spoke on my behalf and shielded me from unwanted intimidation.

When I was served the legal documents, it was scary. I did not have the knowledge of the legal system to comfortably handle my case or to fully understand exactly what steps I should take. Because the Legal Aid Society helped me, my children and I had a very favorable outcome to my case, I was able to save money, and did not have to be in direct contact with my landlord. The Legal Aid Society was hugely beneficial to me and I really hope they continue to be funded so that they can be a resource for individuals faced with a difficult legal situation.

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Holly Ovitt

PROPOSED TESTIMONY

OF

PRISONERS' LEGAL SERVICES OF NEW YORK

BEFORE

CHIEF JUDGE LIPPMAN'S TASK FORCE

TO

EXPAND ACCESS TO CIVIL LEGAL SERVICES

Presented by:
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I. INTRODUCTION

We would like to thank Judge Lippman and the members of this Task Force for holding this crucial public hearing to further identify and analyze the unmet civil legal services needs throughout New York State and assess the level of resources necessary to meet those needs. Prisoners Legal Services (PLS) is a statewide agency created by New York State in 1976 in response to the Attica uprising. For over 36 years PLS has worked tirelessly to address the civil legal services needs of incarcerated New Yorkers but over the past decade our resources have dwindled, and in turn, so has our ability to address those crucial needs.

PLS, like other civil legal organizations in New York State, provides vital civil legal services to thousands of low income New Yorkers every year. PLS addresses significant legal problems associated with the "essentials of life" such as the living conditions of institutionalized persons, family stability, personal safety and access to health care and education. Like other civil legal services groups, PLS was created in response to the recognition that indigent individuals need competent legal representation to ensure that their civil and constitutional rights are protected and, like other civil legal services organizations, the indigent client population we serve consists predominately of people of color, as well as the illiterate, the physically impaired and disabled and those who suffer from developmental disabilities and/or mental illness. Like the majority of civil legal services

organizations in New York State, although the need for our services continues to grow, our funding has been significantly reduced. The only difference between PLS and other civil legal services organizations is that the low income New Yorkers we represent happen to be incarcerated and PLS is the only legal services organization in New York State that is equipped and devoted to responding to the direct civil legal services needs of low income incarcerated New Yorkers.

II. THE IMPACT OF JUDICIARY CIVIL LEGAL SERVICES FUNDING OF 12.5 MILLION IN 2011-2012 AND 25 MILLION IN 2012-2013

For PLS, the impact of the Judiciary Civil Legal Services Funding of 12.5 million in 2011 resulted in PLS receiving $48,000. With these funds, PLS was able to hire a full-time staff attorney in our Albany office, Sophia Heller. Sophia is a 2011 graduate of George University Law Center with extensive clinical experience and internship work in the area of indigent rights. She began her fulltime position at PLS on August 29, 2011. In addition, because the funds arrived half-way through the fiscal year, we used a portion of the funds provided to fund partial salaries of three other attorneys: Andrew Rikard and Samantha Howell, both recent graduates of Albany Law School; and Adam DeFayette, a staff attorney in our Plattsburgh office. These four attorneys worked on a myriad of cases, many of which included issues associated with medical and mental health care, re-entry concerns, programming and family stability issues.

Ms. Heller responded to over 328 requests for assistance, and successfully advocated on a number of cases. She has also filed two Article 78 petitions challenging the placement of two of her clients in long-term solitary confinement. Mr. Rikard, Mr. DeFayette and Ms. Howell provided assistance on 106 additional cases. Both Mr. Rikard and Mr. Defayette filed litigation on behalf of clients challenging their placement in solitary confinement. Ms. Howell, our Pro Bono Coordinator, received hundreds of requests for pro bono services and was able to place a number of them with counsel for representation.

In 2012, with Judiciary Civil Legal Services Funding of $25 million, PLS was awarded $60,000 to be used on issues associated with child custody and visitation. With that money PLS will be able to retain Ms. Heller as a staff attorney and have her, as well as others in the project, address custody and visitation issues for our clients. The money will also help supplement a new project involving specific outreach, by way of a newsletter, to incarcerated females on issues associated with their incarceration, including visitation and custody issues. The newsletter, *Essentials of Life:* A Newsletter Dedicated to Helping Women Face the Challenges of Prison Life, will initially be sent, free of charge, to every woman in DOCCS custody and thereafter to any incarcerated woman who requests to be placed on our mailing list.

For over 24 years, PLS has published *Pro Se*, a bi-monthly newsletter to over 7800 individuals incarcerated in New York State. *Pro Se* advises people in

prison of changes in the law, provides practice pieces to assist them in complying with statutory and regulatory requirements, and explains technical aspects of various laws affecting prisoners. While the information we provide in *Pro Se* is helpful to all incarcerated individuals, female prisoners face unique issues that require specific attention. Moreover, our current subscriber list indicates that while 15% of male prisoners subscribe to *Pro Se*, less than 5% of the female prison population subscribe. In an effort to reach more women and to provide them with relevant and helpful information, we have embarked upon the *Essentials of Life* pilot project and Judiciary Civil Legal Services Funding will help us continue this project.

III. THE CURRENT STATE AND SCOPE OF THE UNMET NEED FOR CIVIL LEGAL SERVICES FOR PRISONERS

As noted above, PLS' clients share many of the same "essentials of life" issues with the clients of other civil legal services organizations such as lack of access to adequate health care and education and the need to ensure family stability. And as noted in previously submitted testimony to this Task Force by PLS, there are other "essentials of life" issues that are unique to prisoners, notably, basic, fundamental human rights issues such as protection from torture and cruel and inhuman treatment and the fundamental right to freedom which, for prisoners,

manifests itself as the right to be released from prison on the court ordered release date.[1]

A. THE STATE OF THE UNMET NEED

1. The unmet need to challenge the overuse and unlawful imposition of solitary confinement.

In New York State prisons, prisoners are disciplined internally for any conduct that violates the prison rules. The punishment for such a violation ranges from counsel and reprimand to denial of visitation, to solitary confinement, and loss of good time. In New York State the use of solitary confinement has actually increased over the past 30 years. This is true despite the fact that, also over the past three decades, there has been a plethora of research proving the ill-effects of solitary confinement on a person's mental and physical health and public outcry to abandon its use.[2] Worse, in NYS prisons, there is no limit to the amount of time a prisoner can be placed in solitary confinement and, as a result, many prisoners are held in isolation for years at a time.

[1] See PLS Testimony, September 9, 2011, submitted to the Task Force To Expand Access to Civil Legal Services.

[2] See: http://www.hrw.org/en/news/2010/03/22/solitary-confinement-and-mental-illness-us-prisons; Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement," *Crime and Delinquency*, vol. 49, no. 1, January 2003, p. 130. See also: http://solitarywatch.com/resources/testimony/ for a transcript of a June 19, 2012 hearing before the U.S. Senate Judiciary Subcommittee on the Constitution, Human Rights, and Civil Rights on "Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences." The hearing focused on the explosion of the use of solitary confinement in the United States and the human rights, fiscal and public safety consequences of solitary confinement. The hearing explored the psychological and psychiatric impact on inmates during and after their imprisonment, fiscal savings associated with reduced use of solitary housing units, the human rights issues surrounding the use of isolation, and successful state reforms in this area.

Take for example the following case studies:

Case No. 1
Clara R. was charged and found guilty of drug use on the basis of urinalysis that was positive for amphetamines. Her defense was that she did not use amphetamines, and that she believed one or more of her prescription medications may have caused the positive urinalysis. She requested the testimony of her treating psychiatrist to support this defense. Her request was denied. She was found guilty and received a penalty including **12 months solitary confinement.** After PLS filed an Article 78 on her behalf claiming a denial her right to call witnesses, DOCCS agreed to reverse and expunge the charges.

Case No. 2
Our client was in a work release program at a DOCCS facility. He and other inmates were drinking alcohol with the knowledge and consent of the dorm officer. Our client claimed that the officer gave him and another inmate permission to leave the facility, as long as they were back in time for the 9:30 p.m. count. The officer did not dispute this. The two prisoners left the facility and went bar-hopping. Our client got drunk, fell in a ditch, and apparently passed out. Documents show that the state police apprehended him at about 10:45 p.m. He was charged with escape, temporary release violation, leaving assigned area, causing a miscount and alcohol use. At the hearing he pled guilty to alcohol use and to temporary release violation, but not guilty to the other charges because he insisted that a CO allowed him to leave. He was found guilty of all of the charges and given a penalty of **7 years and 3 months solitary confinement** and recommended loss of good time. PLS appealed and the penalty was administratively reduced to **3 years 7 months** solitary confinement.

Case No. 3
Paul D. was an inmate in the Residential Mental Health Unit at Marcy Correctional Facility when he received a misbehavior report charging him with lewd exposure in the presence of an Office of Mental Health psychologist. When it came time for his disciplinary hearing he refused to attend. He was given a refusal form to sign to acknowledge his refusal. He signed the form but wrote on the bottom of it "I am feeling suicidal and hearing voices[.] At this time I cannot attend the hearing." The hearing officer did not acknowledge this statement at the hearing and simply noted that Paul refused to come to the hearing. At the conclusion of the hearing Paul was found guilty, and a penalty including **90 days solitary confinement** was imposed. PLS filed an Article 78, asserting that Paul, because of his mental state, did not make a knowing and intelligent waiver of his fundamental right to attend his hearing. We recently received a decision from Albany County Supreme Court, reversing and expunging the hearing.

Due to our limited funding, we are only able to review approximately 15% of the more than 1000 disciplinary cases that prisoners write to us about every year. Of those we are able to review, we find that, in many cases, there are

procedural and substantive errors that warrant the filing of an administrative appeal and, if unsuccessful, an Article 78 proceeding. **PLS' advocacy on disciplinary cases over the past three years has resulted in expungement of over 120 years of solitary confinement time from prisoners' records.** PLS' ability to review those hearings and advocate accordingly resulted in numerous men and women across New York State being removed from wrongfully imposed solitary confinement and having visitation privileges and good time restored. However, there are hundreds of other prisoners who were not as fortunate.

2. The unmet need to ensure an individual's right to freedom.

Since 2009, PLS has received over 7,500 requests from prisoners to investigate parole, jail time, sentencing and good time issues that involved the prisoner being held beyond his/her legally scheduled release date. Once again, due to our limited resources, we were only able to accept a fraction (13%) of those cases for review, but even with the limited number of cases we were able to accept, **PLS' advocacy resulted in over 291 years of jail time, sentencing time and good time being restored to prisoners across New York State.** Although the clients whose freedom we were able to protect are very appreciative, there are literally thousands of others for whom our services were unavailable due to our lack of adequate resources.

3. The unmet need to ensure access to adequate medical and mental health care.

Adequate medical and mental health care for prisoners is not only constitutionally required but critically important to public health and safety. PLS investigates hundreds of allegations of inadequate medical and mental health care annually, like the following cases:

Case No. 1
Carl E. is a prisoner with a severe visual impairment and hearing loss. He has no vision in his right eye and intermittent, severely impaired vision in his left eye. All of his reasonable accommodations, included his mobility assistant, were taken away from him without process or reason. Upon review of his medical records, PLS learned that a staff member had decided that Carl was likely a malingerer. PLS sent an advocacy letter, with supporting documents, advising DOCCS that Carl had been documented by DOCCS as blind since 2008 and urged DOCCS to reinstate his reasonable accommodations immediately. Carl's accommodations were reinstated.

Case No. 2
David. P. is a foreign-born inmate that tested positive for tuberculosis (TB) because of a prior childhood vaccination in his country of origin. The prison would not order a blood test, and instead gave him the option of TB lockdown or prophylactic regimen. David opted for the medication but experienced bad side effects and reactions to them. After months of requesting it, and much correspondence with PLS, he was finally given a blood test and cleared for release back into population. As this is a recurring situation for foreign-born inmates, PLS advocated for an amendment to the DOCCS' Health Services Policy and Procedures Manual that will allow those inmates who have been vaccinated for TB to have blood tests rather than being forced to needlessly medicate. As a result, DOCCS has agreed to change its TB procedure so that inmates who maintain that they had received the TB vaccination will automatically be given the Quantiferon blood test.

PLS also investigates cases where prisoners are punished for conduct that is a result of their mental illness. The following are examples of this:

Case No. 1
Eddie B. is a seriously mentally ill inmate housed in a Behavioral Health Unit in prison. While in the shower one day, he cut himself with a razor, then wrapped the razor blade in plastic and swallowed it. When Eddie defecated the plastic

wrapped razor, he was charged with possession of a weapon. At a subsequent disciplinary hearing based on the weapon charge, he was given **12 months in solitary confinement** and 12 months recommended loss of good time. PLS submitted a supplemental appeal arguing, in part, that the weapon possession charge was in violation of Correction Law §401 which prohibits punishing a person for conduct that is a result of his mental illness. PLS argued that his defecation of the razor was a direct result of his original possession and use of the razor to cut himself, and that the charge was therefore barred by the statute. Following submission of our appeal, the hearing disposition was reduced from 12 months to 3 months.

Case No. 2

Richard P. attempted suicide. A cell extraction team removed him from his cell and placed him on a 1 to 1 suicide watch during which a psychiatrist forcibly administered psychiatric medication. Richard received misbehavior charges for creating a disturbance and flooding his cell. He was found guilty and received a **penalty of 6 months solitary confinement** with 4 months suspended. Richard refused assistance to prepare for his hearing. At his hearing, Richard requested the psychiatrist who was present during the incident as a witness but his request was denied on the ground that the testimony would be redundant to the videotape of the incident. PLS appealed arguing that Richard was not competent to refuse assistance due to his emotional state at the time of the incident and that Richard should have been permitted to call the psychiatrist who was present during the incident, as the psychiatrist could have offered insight into his mental state during the incident that might not have been apparent from the videotape. The hearing was reversed.

Case No. 3

Billy C. was charged with drug use based on a positive urinalysis for cannabinoids. He pled not guilty, but stated that he is addicted to cannabinoids and he was on a waiting list for the Alcohol and Substance Abuse Treatment (ASAT). While acknowledging that our client was on the waiting list, the hearing officer noted that the ASAT manual states that inmates with 12 months to earliest release date will be given preference." Billy, who was more than 12 months before his earliest release date, was given **18 months solitary confinement** and loss of privileges. PLS appealed but the decision was affirmed.

As a result of our work, many prisoners receive treatment as opposed to punishment which translates into a reduction in tension within the prison population. Additionally, because they are treated for their medical and mental health issues, upon release they are better able to reintegrate into society and

reunite with their family and loved ones, which often lessens the likelihood that they will re-offend and return to prison.

4. ***The unmet need to help maintain family stability.***

Maintaining family ties is crucial to successful reentry. A strong family support system upon release has been shown to be a significant factor in reducing recidivism rates. Strong family ties translate into safer prisons. Since 2010, PLS has received approximately 550 complaints from prisoners involving family issues such as visitation and custody. Although we were unable to accept every case, because of our involvement in many of these, visitation was restored and our clients were able to maintain and strengthen their family relationships. Take for example the case of Michael A:

> Michael A. is a seriously mentally ill inmate who was housed in the Attica Residential Mental Health Unit. Michael is engaged to a woman who was once employed by the Department of Corrections and Community Supervision. Michael was charged with misconduct in the visiting room and after a disciplinary hearing he was found guilty. He received a penalty of 60 days in solitary confinement and 12 months loss of visitation. During his hearing he requested a witness and the videotape of the visiting room on the day in question but the hearing officer denied both requests on the ground that the officer who wrote the report saw what happened, so neither a witness nor videotape was necessary. PLS appealed the hearing based on the denial of both the videotape and the witness and the hearing was reversed. Subsequently Michael was charged with "possession of employee information" which was related to notes his fiancé had written to him. He was found guilty and was given a penalty of 12 months loss of visitation. PLS appealed on the ground that possession of employee information is not a designated offense for which visitation penalties can be imposed. As a result, the 12 month loss of visitation was eliminated.

B. THE SCOPE OF THE UNMET NEED

The scope of the unmet legal needs of prisoners is widespread and significant. Our inability to accept a greater number of cases stems from the reduction in funding that has occurred over the past decade which has, in turn, resulted in a significant reduction in staff. In the 1990's, when the prison population reached 72,000, PLS had a staff of 40 attorneys plus additional support staff and an allocated State budget of over $4 million. Today, with the prison population approximately 56,000, our State budget is $1.5 million and PLS has a staff of 10 attorneys.

To understand the breadth of the unmet legal need for prisoners in New York State, it is helpful to look not only at case acceptance numbers and current PLS staffing, but at a comparison of the number of private attorneys providing civil legal services to the general population with the number of PLS attorneys providing civil legal services to New York State's prison population. Per a 2007 report by the Legal Services Corporation entitled "Documenting the Justice Gap in America"[3], the ratio of private attorneys providing civil legal services to the U.S. population in 2000 was roughly 1 to 525. The present ratio of PLS attorneys providing civil legal services to prisoners is 1 to 5600.

IV. ECONOMIC AND SOCIAL CONSEQUENCES OF REDUCED OR ELIMINATED PLS' SERVICES

[3] http://www.lsc.gov/justicegap.pdf

PLS' work has helped prevent another "Attica." We have helped reduce the use of excessive force against prisoners, we have significantly reduced the use and misuse of solitary confinement, we have worked to increase programming and education for prisoners, we have assisted prisoners in peacefully airing and resolving their grievances and we have been instrumental in improving the overall conditions of New York State prisons. New York State Bar Association Past President Stephen Younger stated: "One of the greatest values of PLS is that it works to avoid conditions of confinement that resulted in the devastating Attica riot. PLS is – and should remain – a vital, integral part of the state's criminal justice system and a critical component of public safety." The cost of another Attica would be astronomical; not just in dollars but in lives and in the threat to the future stability of our criminal justice system. Thus, the economic and social consequences of continuing to reduce PLS' services cannot be overstated.

The State has a legal responsibility to provide meaningful access to the courts for inmates confined in state prisons [Bounds v. Smith, 430 U.S. 817 (1977)] and PLS is the only statewide legal services organization with the expertise and capacity to fulfill the legal mandate of providing prisoners access to the courts.

PLS is the only legal services organization that provides direct legal representation to all New York State prisoners.[4] This is borne out by the hundreds

[4] Although the Legal Aid Society's Prisoners' Rights Project does handle some prison related cases, PRP focuses primarily on class action litigation in the State prisons and in the New York City jails concerning sexual assaults.

of referrals PLS receives annually from outside agencies, organizations and individuals including requests from members and staff of the Executive, Legislative and Judicial branches asking us to investigate prisoner complaints that are received in their offices. Without PLS there would be no organization available for incarcerated New Yorkers who have been assaulted, deprived of necessary medical or mental health care, and denied fundamental constitutional rights. PLS is also a vital resource to other legal service providers in the State, including Judges who often reach out to PLS asking us to accept pro se cases where the prisoner would not otherwise be entitled to representation. Just this past week PLS was contacted by a New York Supreme Court Judge who asked us to take on a forced feeding case for a prisoner. After a hearing during which it was proven that records regarding the prisoner's weight had been falsified, the Judge denied the State's motion for forced feeding. Without PLS becoming involved, it is very likely that our client would have been subjected to a forced feeding order.

As stated previously, PLS also saves the State millions of dollars every year by correcting jail time and sentencing errors and successfully seeking restoration of good time. The amount PLS saves the State is directly proportional to the amount PLS receives in State funding. In 2009, with an operating budget of $2.8 million, PLS saved NYS $6.99 million. In 2010, with an operating budget of $2.6 million, PLS saved NYS $5.36 million. In 2011, with an operating budget of $1.9 million, PLS saved NYS $3.96 million and in 2012, with an operating budget of 1.5

million, PLS is on track to save the NYS $3.5 million.

V. COST AND BENEFIT TO THE COURTS AND COMMUNITIES

PLS, by answering over 12,000 prisoner complaints annually, has discouraged, and often prevented, the filing of many lawsuits that would have otherwise been a costly burden to DOCS, OMH, the Judiciary and the Attorney General's Office. In addition, when PLS accepts a case, the courts benefit from having experienced legal counsel steering the litigation. Finally, through our *Pro Se* newsletter, our new *Essentials of Life* newsletter, Facebook page and website, PLS educates, not only prisoners, but their families and society at large on the constitutional and regulatory rights of prisoners, our criminal justice system in general, prison conditions and reentry resources.

In addition, there are benefits to the community in terms of public safety. Because of our work, many prisoners receive the mental health care, medical care, programming and education they need to succeed in life once they are released. Through our work, prisoners learn that society will not tolerate unjust treatment of its people. Our work instills in prisoners the sense that the criminal justice system is fair and just. Thus, when they are released from prison, our clients are much more likely to successfully adjust to life outside the prison walls and become law-abiding productive members of society.

VI. POTENTIAL FOR REDUCTION IN UNMET NEED THROUGH PREVENTION AND EARLY INTERVENTION, CLIENT EDUCATION, COLLABORATION AND COST SHARING AND EXPANSION OF PRO BONO EFFORTS

A. PREVENTION AND EARLY INTERVENTION

By intervening early in disciplinary, medical and mental health, visitation and other conditions of confinement matters, PLS helps prevent prisoners from being subjected to constitutional violations. Our interventions also help them prepare for successful release into society, thus reducing the "essentials of life" issues that typically arise upon release. In addition, PLS has collaborated with DOCCS to produce an educational video that DOCCS will show to all prisoners upon reception to educate and advise them of their rights and help guide them on a path to early and successful release and reentry. Early intervention on these issues will help prisoners better navigate and understand the prison system, thus helping them to avoid the many pitfalls of incarceration.

B. CLIENT EDUCATION

As noted above, PLS publishes a bi-monthly newsletter, *Pro Se*, and "*Essentials of Life*", a newsletter specifically targeted to female prisoners, both of which advise prisoners of changes in the law, provide practice pieces to assist its readership in complying with statutory and regulatory requirements, and explain technical aspects of various laws affecting prisoners. Both newsletters are provided free of charges to all prison law libraries and any prisoner who requests to be

placed on the mailing list. PLS also publishes over 75 self-help and educational memos covering a wide-variety of legal topics typically encountered by prisoners.

C. REGIONAL PROVIDERS, COLLABORATION AND COST SHARING

On a number of occasions, PLS has partnered with various legal services organizations and law schools to leverage resources, thereby increasing the number of prisoners whom we can assist. Currently we are partnering with City University of New York Law School (CUNY) and the students in CUNY's Criminal Defense Clinic, Syracuse Law School and the Disability Law Clinic, Albany Law School's Pro Bono Program and Columbia University's Prison Clinic. If PLS were given additional funding, we would be able to expand such efforts and, in turn, provide additional legal services for our clients, thereby further reducing the unmet need for legal services within our prisons.

D. EXPANDING PRO BONO SERVICES

In July 2011, as a result of a one year grant from the Tides Foundation, PLS hired a Pro Bono Coordinator and opened our Pro Bono Partnership Project. Since that time, approximately 200 cases were reviewed with approximately 50 cases undergoing further investigation for possible referral to pro bono counsel, including 10 that have been referred to pro bono counsel. We have also recruited more than 50 pro bono attorneys and approximately 20 law students who have

assisted PLS and the Pro Bono Program with a variety of tasks, including case review and drafting advocacy letters.

To facilitate case referrals, PLS hosted a CLE training on Article 78 proceedings in June 2012. As a result, several attorneys agreed to accept a pro bono case; three have also initiated proceedings on behalf of pro bono clients. The Pro Bono Coordinator also engages in personal outreach to counsel throughout New York State and frequent meetings with law schools and other civil legal service agencies to facilitate case reviews and referrals.

CONCLUSION

For 36 years, PLS has worked tirelessly to address the "essentials of life" legal problems so often confronted by its clients, the indigent New Yorkers who have ended up confined in our State's prisons. PLS has helped keep the peace in our State prisons and has increased the likelihood that prisoners will be able to successfully reintegrate into society when they are released. PLS is a critical and necessary component of New York State's civil legal services infrastructure. PLS is also an important, necessary and sound investment, not only from an economic standpoint, but from a moral, ethical and human rights one as well.

Additional resources will enable PLS to increase its ability to respond to the critical but unmet civil legal services needs of this State's indigent and oft-forgotten prison population.

Dated: September 12, 2012

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TESTIMONY OF

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Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc.

Civil Legal Services in New York State
Submitted to:
Hon. Chief Judge Jonathan Lippman
Panel on Civil Legal Services

September 27, 2012
NYS Court of Appeals
Albany, New York

On behalf of PULSE, Partnership of Upstate Legal Services

On

The Need for Civil Legal Services Funding

September 20, 2012

I am the Chief Executive Officer of Legal Services for the Elderly, Disabled or Disadvantaged of WNY, Inc. We are located in Buffalo and usually referred to as Legal Services for the Elderly. Since 1978 my program has provided free civil legal services to seniors, disabled and low-income people in a six county area and the Seneca Nation of Indians reservation. We also provide guardian services to an additional 103 elderly and disabled individuals, most of whom are victims of abuse by family members. At LSED our goal is to use the legal system to help our clients live independently and with dignity.

We are part of a consortium entitled PULSE, the Partnership of Upstate Legal Services. PULSE was established as part of an effort to respond to the unmet legal needs of the underserved and rural poor in upstate New York. We foster collaboration and resource sharing among our members in the provision of direct legal services and statewide policy advocacy to low-income, rural and other underserved populations. PULSE consists of The Worker Justice Center, Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc., the Rural Law Center of New York and The Legal Project. Our intent is to enable our programs to expand our current individual capacities to provide services to New York's most vulnerable, including the elderly, the disabled, the working poor, recent immigrants, and domestic violence victims, as well as other underserved low-income rural residents of upstate New York.

The Chief Judge has been a tremendous supporter of civil legal services, and we know that you are well aware of the importance of the work that our programs do across the state to help provide a vital safety net to the poor and working poor who face critical issues of homelessness, domestic violence, unemployment, foreclosure and bankruptcy. The economic downturn has only added to the overwhelming needs of our clients. Increasingly, our clients are new to poverty; many of whom saw their life savings evaporate in the stock market crash, or are unable to find work despite their best efforts. With the needs ever increasing, the justice gap between those who can afford legal help and those who cannot is expanding exponentially.

We continue to have a Crisis in the Delivery of Civil Legal Services to the Poor and Vulnerable.

Last year, the Chief Judge continued to build on his efforts to adequately fund agencies that provide civil legal services to the poor. As detailed in the report from the Task Force to Expand Access to Civil Legal Services in New York, his efforts have been a tremendous success, with 51,297 clients benefitting from the first 3 months of funding in the data released from August 1, 2011 to November 1, 2011.

However, there continues to be a growing crisis of 2.3 million New Yorkers

who come to the courthouse unrepresented. The Task Force, in fact, concluded that the crisis had in fact, grown over the last year, with 80% of the civil needs of vulnerable New Yorkers continuing to go unmet. The Chief Judge's second-year hearings on this issue provided evidence of this continued trend. Testimony was provided by many different stakeholders: clients, law school deans, judges, local bar leaders, business people and clergy. Each participant described their own particular stories; however, the outcomes were the same: the current system makes it hard for them to do their jobs, impacts their economic bottom line and is unacceptable for our society.

Civil Legal Services is Particularly Critical For Underserved Populations

The need for specialized services for underserved populations has been a particular challenge for our programs. The partners in PULSE are examples of programs that do not receive any federal Legal Services Corporation funding and whose core programs provide services to the most vulnerable, hard-to-reach populations. We are independent, non-profit programs that get our support largely from private donations, foundations, government funding from a variety of sources and IOLA funds. At the same time that our funding has been cut or is being threatened, we have seen a tremendous increase in demand for our services in responding to the needs of some of the most at risk — the elderly, victims of abuse, seasonal workers and the rural poor.

At Legal Services for the Elderly, for example, our goal is to use the legal system to help our clients live independently and with dignity. A primary source of funding comes from the Federal Older Americans Act and is passed through local Offices for the Aging. However, for the past decade, federal Older Americans Act funding has remained virtually stagnant, while programs funded by these dollars are seeing an increased demand for services due to the explosion of the over sixty population. In the 2000 census, Erie County had a percentage of seniors which was 3% higher than the National Average. That number continues to grow. By the year 2015, the Erie County Department of Senior Services estimates that nearly 1 in 4 residents will be age sixty or older and that there will be a 73.8% increase in the number of seniors age 85 and older as compared to 1990 (www.erie.gov/depts/seniorservices/commuity/demographics05). Calls to our office continue to increase. Despite the increased funding from the Chief Judge, we turned away 15% more people during the first 9 months of this year compared to the same time period last year. Clearly, our clients see an increasing need for our services.

The working poor or the "new poor" are growing in number in New York

State and nationally, and their legal problems too often go unrecognized and unattended, creating even larger problems that can impact the entire community. More than two-thirds of Americans are now living paycheck to paycheck, according to a survey released by the American Payroll Association. The survey of 30,600 people found that 68 percent said it would be somewhat difficult or very difficult if their paychecks were delayed for a week. These people may, on paper, be ineligible for traditional legal services, but could in no way afford assistance from the private bar. Having independent legal services and pro bono programs to respond to this underserved population is vital. Last year, The Legal Project served nearly 3,500 residents of the Capital Region through a team of five staff attorneys and over 200 pro bono attorneys, and seven non-attorney staff. This was a 21% increase over the previous year. Their participation in PULSE allows for resource sharing such as office space, shared staffing and collaborative programming, thus enhancing our collective reach and effectively leveraging our resources.

Another PULSE partner, The Rural Law Center finds it difficult to locate sufficient resources to assist the states large number rural poor. They focus on access to the legal system, as well as addressing systemic rural issues that result in legal and social barriers to economic self-sufficiency. Those barriers include lack of public transportation, few employment opportunities, scarce affordable housing, hidden domestic violence and virtually no services for the homeless. Layered on to these barriers is the fact that important civil legal issues, like evictions and debt collection, are heard in Town and Village courts. With over 1100 of the 1300+ town justices not being attorneys, it is essential that low income litigants have access to legal services to preserve and defend their rights. Yet of the 44 rural counties, 26 have no legal services office. Through programs using local referrals, increased local pro-bono, Town and Village Justice trainings, and technology, the RLC is able to offer a range of services from community legal education, accessible legal information, brief services, help for the unrepresented and direct representation. The RLC has been able to increase its services by working collaboratively and sharing resources with PULSE partners.

Another underserved population includes recent immigrants, a population targeted by The Worker Justice Center of New York (WJCNY). WJCNY provides legal education and representation to a diverse group of ethnic and monolingual immigrant workers in low-wage jobs including agricultural, construction, landscaping, and service provision. Failure to pay minimum wage and overtime, workplace discrimination, and hazardous working environments are all too common at workplaces across the region such as factories, fields, nurseries, construction sites and restaurants. The increasing numbers of both immigrants and low-paying jobs in New York State has led to significant workplace abuses. Many of these new immigrants – and many others – work in these new, increasingly low-paying, dangerous jobs where their rights are violated by

unscrupulous employers. Notably, New York has the nation's highest rate of immigrants killed in the workplace, with foreign-born workers accounting for three of every 10 deaths. (National Employment Law Project, "Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights," found at www.nelp.org.

PULSE clients are at a particular disadvantage in accessing civil legal services due to inherent barriers such as language, mobility, location and violence. Clients lacking support from family or community, rely more heavily upon the specialized skills of civil legal services providers to improve the quality of their lives. With the help of the Chief Judge, the partners in PULSE have made significant strides in our collaborative efforts to assist these clients throughout the state.

Conclusion

We appreciate that the Office of Court Administration has been supportive of the variety of programs throughout New York State. Our state simply is too large and too diverse to apply a "one-size-fits-all" approach to legal services delivery and we hope that the court system will continue to encourage the creativity that occurs when many types of programs are maintained and, hopefully, expanded. Specialized programs for special populations such as the elderly, recent immigrants, rural poor and domestic violence victims ensure that the most vulnerable among us will not be forgotten. Despite the great advances we have made through the Chief Judges leadership, our fight continues and more needs to be done to ensure justice for vulnerable people in our state.

Heisily Rojas

Client of The Legal Project

Testimony of Heisily Rojas
Client of The Legal Project
Albany, New York

Civil Legal Services in New York State
Submitted to:
Hon. Chief Judge Jonathan Lippman
Panel on Civil Legal Services

September 27, 2012
NYS Court of Appeals
Albany, New York

My name is Heisily Rojas. I am a native of Costa Rica, and Spanish is my primary language. My husband and I married in Costa Rica in 1993. Together, we have four children, three daughters and a son. My ex- husband was very abusive to me throughout our marriage, and was very controlling with money. Although my ex-husband never physically hit me, I used to wish that he would. What he did to me and my family, the emotional and psychological abuse that he put us through, I feel was worse than if he had just hit me in my face. I feel that what he did to me and my children will be in my heart and mind forever.

My ex-husband was always very controlling. When I was pregnant for my son, and we lived in Costa Rica, he would lock me and my young daughter in the house whenever he went out. He locked all the doors and all the windows shut, so we couldn't leave. He would barely give us any food. My daughter was about six years old. I was always afraid that something would happen, and I wouldn't be able to get out of the house. When my son was about three and our younger daughter was about two, my ex-husband went to the United States to work. He was supposed to send us money. I found out later that he was working at a good job, making about $600 a week. He would only send us about $80 a month for me and our three young children. Since my children were so young, I couldn't work. I just found a way for us to survive on the little that we had. A lot of times, the children didn't even have shoes. We just had to make do with what little we had.

One day, my ex-husband called me in Costa Rica and said he was going back to the United States for six months. He stayed for about eight months, and didn't send us any money at all. When I spoke to him, he said he wasn't coming back to us. I asked him for a divorce, if that is what he wanted to do. He said no. I was very angry with him for abandoning me and our children, so I told him that either he had to come back to Costa Rica or I would go to the United States. He agreed with this plan. I now think he only agreed because he didn't think that I could get a visa. Somehow, I went and got passports for myself and my three children and also I got visas. When I told him, he was very mad. He complained that it cost too much money. He was always upset because of money.

My children and I moved to the United States and moved in with my husband. He continued to abuse me. We had another child, a daughter. We were living in an apartment in Schenectady. At times, he would still lock us in the house when he left. I was very afraid. I didn't speak English that well. Later, he stopped locking us in the house when he realized that he could get in trouble if our older children weren't in school. But when he got mad, he would always say he was going to lock us up again. I was very afraid.

When we came to the United States, my husband said he had a lawyer to get us our green cards and that it was a lot of money. He also complained about the money we needed for rent and for food. My husband made me work to help earn money for our green cards, even though I didn't have a visa to work at that time. I worked really hard, trying to save money so myself and my children could get our green cards. I didn't have a choice because I was afraid of my husband and what he would do. When the time came to meet with his lawyer, I found out that he was only hiring that lawyer for himself and our son. All the money I had saved up, he took from me. He told me that he was going to keep our son here in the United States with him and send my daughters and I back to Costa Rica, or lock us up. I was afraid.

The immigration lawyer told me that she didn't even know his family lived here with him. He had never told her about it. I think she got the feeling that something was wrong, and she told my ex-husband that she had to speak to me too, not just him. She said it was to get information about our son. So my ex husband let her speak to me. She asked me a lot of questions. Then she referred me to Empire Justice Center and I was able to go there for help for immigration for myself and my children. When I was there, the lawyer asked more questions about my ex-husband and our relationship. He asked me if I wanted a divorce, and I said I did. That is how I came to find out about The Legal Project.

During this time, I worked nights. This is when the most horrible thing happened. My ex-husband was supposed to be watching the children while I was working. I began to suspect that my ex-husband was sexually abusing the children. This is very difficult for me to talk about.

I found my husband trying to watch our oldest daughter in the shower. She was about twenty. I was very upset by this. A short time later, I got home from work early one night and I caught my ex-husband with our youngest daughter on the bed. She was about three. The things she told me made me know that he was hurting her. I called the police and my ex-husband left. He seemed very afraid of what would happen to him. That was the last time he lived with us. Our youngest daughter was swollen and had difficulty walking so I took her to the hospital in Troy. She was inflamed and red but the doctor said it could be because of the diapers. I knew he was sexually abusing my child, but unfortunately there was no proof.

The doctor called CPS who came to our house and conducted an investigation, which turned out to be unfounded. CPS told me about the options of taking my ex-husband to court, but I was very scared. He was living with my half-brother in Albany. While CPS was involved, he could not see our children. When the case was closed he could see our children again. When our youngest daughter saw him, she started to do badly at Head Start. Enough that they asked me what was going on and had my baby see a psychologist who said maybe she shouldn't see her father any more.

I wanted to get a divorce from my ex-husband, but I had no money. I was barely supporting myself and my four children on my income and the money that he would sometimes give me. He wanted the children and me to go back to Costa Rica. I think he thought it would be cheaper. But I wanted a good life for myself and my children.

Luckily, I found out about The Legal Project. When I came to meet with my lawyer, Carla, The Legal Project also had a woman named Natalie who could help translate as I was not comfortable speaking in English. They were very helpful. I told the women from The Legal Project that I just wanted to be divorced, and I was always fearful Alberto would lock me up because he was so abusive to me. He would say really awful things to me and I experienced a lot of psychological abuse. He would call me names, like "fat" and "ugly". I saw a counselor who told me that that was psychological abuse. I am still dealing with the effects of his abuse of myself and my children today. The truth was, I was no longer bothered by the name calling, I was more bothered and disturbed by what he did to my daughters. I was much better when he

was not in the house and I wasn't sure if he wanted a divorce, but I thought that he would sign the papers. I was not interested in any personal property, I just wanted us to get away and be safe. My children and I will have to live with what he did to us in our hearts and minds forever.

With the help of Carla and Natalie and The Legal Project, I was able to get a separation agreement from my ex-husband which gave me sole custody of our children. My ex-husband signed the separation agreement, I think because he was afraid of being caught for what he did to our daughters. According to the terms of the Separation Agreement, he only sees our two middle children, but he hardly ever sees them anymore. A year after I got my separation from my ex-husband I went back to The Legal Project and they helped me with getting my divorce. Without the help from The Legal Project, I would still be married to my ex-husband. There is no way I could have gotten the money together to get a divorce from him on my own. The day I got my divorce papers, I was very, very happy. I am very grateful to The Legal Project for all their help. I am also grateful to Empire Justice Center for their help with my family's immigration issues. My oldest daughter, who was too old to go onto my application, is currently getting help for immigration from Legal Aid of Northeastern NY. I am thankful to them as well.

My children and I are doing very well and are very happy. My two middle children still sometimes see their father, though mostly he does not seem interested in us. My son is now in college and working to help support himself. My youngest daughter just started the second grade and is very smart! We all have our green cards and everyone is together. Our lives have changed a lot, in a good way, since I first looked for help from Empire Justice, The Legal Project, and Legal Aid. Thank you!

Hon. Eric T. Schneiderman

Attorney General of New York

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

THE CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES

SEPTEMBER 27, 2012

APPELLATE DIVISION, THIRD DEPARTMENT

COURT OF APPEALS

20 EAGLE STREET

ALBANY

TESTIMONY OF NEW YORK STATE ATTORNEY GENERAL ERIC T. SCHNEIDERMAN

Thank you, Chief Judge Lippman, for inviting me to testify today. It's an honor to be here with you, as well as First Deputy Chief Administrative Judge Larry Marks, Presiding Judge Karen Peters, and the President of the New York State Bar Association, Seymour James.

I appreciate the opportunity to participate, but more importantly, I appreciate Judge Lippman's leadership in focusing the attention of both our state's government, and the private bar, on the catastrophic lack of civil legal services for low and moderate income people in our state. It is no exaggeration to say that he is a national leader on this issue.

First, it is important to recognize the remarkable strides that New York has made in improving access to civil legal services. Those strides have been made thanks to the creative work of our judiciary, as well as some steps taken by other government actors, including my own office.

My main message today is that we have a long way to go, but the path ahead is clear. It is essential that we continue working to close the gap between the need for civil legal services and the availability of those services—what has been appropriately called the "justice gap."

One of our nation's founding principles is that every American deserves equal justice under the law. But you all know that without access to legal representation, equal justice for all is just an empty slogan.

In the criminal courts, we have an established right to counsel. While the system is far from perfect, no one faces the prospect of losing their liberty without some access to an attorney.

But what about losing your home? Or your health care? Or custody of your child? Or your right to stay in this country? Or access to public benefits that allow you to put food on the table?

Essential matters like these hang in the balance in our civil courts every day, and yet millions of New Yorkers cannot meaningfully protect their rights because they can't afford to hire an attorney.

According to the Office of Court Administration, more than 2.3 million mostly low income New Yorkers are unrepresented in civil proceedings in our state courts every year. This is the direct result of decades of deep cuts to civil legal services.

Funding for the Legal Services Corporation, the primary source of federal support for civil legal services, peaked in real terms in 1979. Since then, funding has been cut 60 percent in real dollar terms. LSC funding has been cut over 80 percent. Despite periods of reprieve, the LSC budget—in dollars adjusted for inflation—is now at an all time low.

State funding for civil legal services in New York is fragmented. One of the most important sources is the Interest on Lawyer Accounts fund. Because of the recession and low interest rates, IOLA funding plunged from around $32 million in 2008 to just $6.5 million in 2010 and 2011.

Into this grim picture stepped Chief Judge Lippman.

He provided an emergency lifeline of $15 million per year for the last three years to the IOLA fund. That prevented IOLA funded providers from falling off a cliff along with interest rates.

And he created a $12.5 million fund for civil legal services out of the judiciary's own budget in 2011-2012, and increased that fund to $25 million in 2012-2013, despite ongoing austerity measures squeezing the judiciary.

By providing direct funding, implementing innovative reforms to resolve problems before they get to the courts, and expanding pro bono representation by making pro bono hours a mandatory requirement for admission to the bar, our judiciary has provided untold numbers of New Yorkers with legal assistance—often when they were at their most vulnerable.

So I thank you for your amazing work. I also want you to know that my office is a committed partner in the struggle for equal justice.

My own experience confronting the justice gap, shortly after I became Attorney General, has been dramatic. I was faced with the grim reality of the gap when I started investigating the mortgage crisis, and the wave of foreclosures that devastated so many New Yorkers.

When I was sworn in as Attorney General, a staggering 345,000 mortgages were either in default or delinquent in our state. The number of homes underwater was unprecedented. And in the midst of this catastrophe, I discovered that half of the people who were facing foreclosure were forced to do so without speaking to a lawyer at any stage of the process.

We heard harrowing tales of abuse as we investigated the foreclosure crisis. Mortgage servicers and law firms representing servicers committed numerous violations of state and federal law. They foreclosed on people using robo-signed documents. People who had the right to re-negotiate their mortgages were unable to exercise those rights, and tens of thousands of New Yorkers were unaware that they even had those rights.

These predators were only able to engage in practices like robo-signing and sewer service because they assumed that the New Yorkers they were going after would not have access to a lawyer, and in too many cases, the predators were right.

At that point, negotiations of a national mortgage settlement over servicing abuses had already begun between the largest mortgage servicers, state Attorneys General and the Federal Government. When I joined those negotiations, I was adamant that we preserve future claims against the banks. The goal was twofold: to get a down payment that would provide immediate relief to struggling homeowners, including legal assistance; and to continue investigating the conduct that blew up the economy in order to hold wrongdoers accountable and to ensure that a catastrophe of this magnitude never happens again.

Over the early objections of the banks, we succeeded in doing that. The final settlement required the banks to put in place new mortgage loan servicing standards and to commit more than $25 billion to resolve violations of state and federal law. And, we preserved a wide range of claims for further investigation and prosecution.

Settlement funds will be used to provide relief to struggling homeowners, including mortgage principal reductions, lower interest rates, and most immediately, legal services.

In New York, in fact, we have good laws to protect us in foreclosure, if we have legal representation.

But, we were facing a crisis, because all of the state money for foreclosure prevention work was set to zero out on April 1 of this year. There was no money allocated in the state budget.

In March, my office announced that we would dedicate $15 million from the national mortgage settlement to save foreclosure prevention services in the immediate term.

We are dedicating an additional $60 million over the next three years to a homeowner protection program, which will fund providers of housing counseling and civil legal services to help struggling families stay in their homes.

And, when homeowners are represented by counsel, it not only benefits them; it makes our courts more efficient for everyone. The Task Force surveyed judges about this and found that *pro se* litigants not only fail to present relevant evidence or question witnesses effectively; they cause matters that could be settled out of court to go to trial, and delay trials with questions about basic procedure.

With counsel on the case the issues are sharpened, the resolutions are strengthened, the burden on the courts is reduced, and most importantly, the outcome is fairer.

So my commitment to you is that, if I have anything to do with it, no New Yorker should ever be wrongfully foreclosed on because of a lack of legal representation.

But I want to close by coming back to the broader problem. Here in New York, and in a lot of the country, we are good at giving people procedural rights. But we are not nearly as good at providing the resources that enable them to effectively and easily exercise those rights.

As New York State's lawyer, I am proud of the fact that as I travel through the state, I often speak of the right to counsel as the right that enables us to protect all of our other rights.

For tenants, homeowners, immigrants, the elderly, victims of domestic violence, and recipients of public assistance—the risks from lack of representation are profound, the need is vast, and our commitment to meeting that need must be unwavering.

We need every level of government, as well as the private bar, to attack the justice gap with the same urgency and creativity that our judiciary has. We need to take all legal services out of the annual budget battles in Albany, and I am committed to the goal of identifying a dedicated stream of revenue to do that. As the State's Chief Law Enforcement Officer defending the state and prosecuting enforcement of the State's laws, I can attest that eliminating or reducing the justice gap is not only fair, but it will improve the efficiency and effectiveness of the judicial system; it improves the quality of judicial outcomes. We should all be in favor of this.

Working together, I know that we can fulfill the quintessential American dream of equal justice under law for all the people of our state.

Thank you very much.

Hon. Nancy Sunukjian

Waterford Town Justice, Saratoga County;
Acting Director of the Office of Justice Court
Support & Special Counsel to the
Deputy Chief Administrative Judge
for Courts Outside of New York City

BIOGRAPHICAL INFORMATION

HON. NANCY M. SUNUKJIAN
ACTING DIRECTOR OFFICE OF JUSTICE COURT SUPPORT
SPECIAL COUNSEL TO DCAJ (ONYC)
WATERFORD TOWN JUSTICE

Nancy M. Sunukjian, Esq. is the Acting Director of the Office of Justice Court Support (OJCS) and Special Counsel to Judge Michael Coccoma, the Deputy Chief Administrative Judge for the courts outside NY City. Prior to her appointment as Acting Director, Nancy served as Supervising Counsel for the City, Town and Village Courts Resource Center, a unit within the OJCS, where she has been employed since1994. Nancy was appointed Waterford Town Judge (Saratoga County) in January, 2011 and was elected to a four year term that November.

As Acting Director of OJCS as well as Special Counsel to Judge Coccoma, Nancy continues the mission set forth in the 2006 State's Judiciary's Action Plan for the Justice Courts to provide immediate assistance and resources to the state's justice courts within the existing legal framework by providing quality education and training programs for judges and clerks, coordinating the Justice Court Assistance Program (JCAP) grant program, facilitating technological support, giving justices access to online legal research databases, overseeing the credit-card machine program and coordinating court security needs.

Nancy and the other attorneys in the office serve as confidential law clerks to the over 2,200 local judges presiding throughout the state assisting them with

all aspects of administering their local courts. The attorneys conduct extensive legal research on various topics which arise in both the Criminal and Civil areas of these courts. They assist in the training of newly elected, as well as currently sitting, judges at training sites throughout the state. The attorneys and staff are dedicated to advising and educating Justice Court personnel throughout the State and are available to the Judges and clerks seven days a week.

Nancy develops curriculum and provides training for the newly elected judges at judicial certification program sites as well as the advanced training programs for judges and court clerks. She presents at local magistrate and court clerk association meetings throughout the state and is responsible for the development and moderating of live state-wide satellite teleconferences on various issues effecting Town and Village Courts. Nancy has written numerous articles which have appeared in the “Magistrates Magazine.” She is a member of the Judicial Curriculum Committee, Exam Review Committee, and Committee for the approval of Judicial Education Credits.

A native of Colonie, NY, Nancy received her BA in Political Science from Siena College in 1982 and her JD from Albany Law School of Union University in 1990. Nancy resides in Waterford, NY with her husband Alan and their two children.

TESTIMONY TO CHIEF JUDGE ON ACCESS TO CIVIL LEGAL SERVICES
September 27, 2012 at The Court of Appeals, Albany, NY

Hon. Chief Judge Lippman, Judge Peters, Judge Marks, Mr. James and honored members of this Commission.

May it please the court, my name is Nancy Sunukjian and am the Acting Director of the Office of Justice Court Support (OJCS) as well as Special Counsel to Judge Michael Coccoma, the DCAJ for the courts outside NYCity. I am also a Town justice for the Town of Waterford, County of Saratoga.

I would like to address my comments from these differing positions. First, as Director of OJCS, and before that the Supervising Counsel of a unit within the OJCS, and next as Town Justice.

The Town and Village Courts Resource Center was established On October 11, 1990 to assist the local courts throughout NY State, including City courts. The office was initially staffed with two attorneys and 2 support staff. The office has expanded over the years, and there are now 6 attorneys and several support staff available to assist the local courts. The Resource Center attorneys serve as confidential law clerks to the over 2,200 local judges presiding throughout the state, assisting them with all aspects of administering their local courts. The attorneys at the Resource Center conduct extensive legal research on various topics which arise in both the Criminal and Civil areas of these courts

With the advent of the State Judiciary's Action Plan for the Justice Courts in 2006 - a broad-based initiative designed to improve the efficiency and quality of local town and village courts - a new focus was put on the Town and Village Courts and the Resource Center expanded to better respond to the ever increasing needs and demands of the Justice courts. The OJCS was established in 2007, with the Resource Center now coming under its purview. The OJCS was given the responsibility of administering all education and training programs of the justices and court clerks, the Justice Court Assistance Program (JCAP), digital recorder distributions, credit card machine program and many other city, town and village court related programs. The mission of this office is to support the work of the justice courts by coordinating the delivery of training, equipment, services and support to the justice and court clerks and providing administrative assistance to the local courts.

During my tenure with OCA, I have had the opportunity to handle thousands of inquiries from the town and village courts regarding a varying array of issues that arise in the Justice courts. We address issues relating to criminal matters as well as civil, including small claims, "regular civil" - including actions commenced by corporations and other complex cases not suited for the small claims part of the court, and summary proceedings. I have focused my remarks on summary proceedings as it is within the context of these particular proceedings within the local courts which an unrepresented

litigant faces the risk of losing one of their most vital and essential aspects of their lives, ie: the actual roof over their heads. In preparation of these remarks, I reviewed our statewide database to ascertain how many inquires the office had received in just the past few years dealing with summary proceedings. Just going back as far as August 2010, the office handled just over 6,500 calls dealing w/summary proceedings. That is 6,500 times that a town or village judge or court clerk reached out to our unit for assistance regarding a pending or impending Summary proceeding. The range of inquires runs the gamut from simply jurisdictional issues, to complex legal matters.

As you are all aware, unlike other UCS courts, there is no constitutional requirement that a town or village justice be admitted to the practice of law in New York. Our current records reflect that of the approximately 2,837 Town and Village judicial positions, they are filled by 753 attorney justices and 2,085 non-attorney justices. When dealing with an unrepresented litigants in the context of a summary proceeding, all judges, whether attorneys or non-attorneys, must be cautious not to cross over that invisible line between giving appropriate procedural assistance and inappropriate legal advise. For the attorney-judge, he or she is now faced with having to give additional attention to the unrepresented litigant to ensure he/she understands the nature of the proceedings and is able to utilize the justice courts. However, the judge must be careful not to give out legal advice, or the judge risks committing an ethical breach. But for the non-attorney judge, the dilemma is even greater.

At the outset, the justice courts have limited resources available to them. These courts are funded by their individual municipalities and aside from a few state funded grant programs, such as the Justice Court Assistance Program (JCAP) grant, they receive very little monetary assistance from outside their municipal borders. The presentment of an unrepresented litigant in the courtroom creates a strain on an already overloaded, and busy court. The clerk and/or judge is faced with dealing with an individual who is asking things of him/her which are better addressed to an attorney.

The attorneys and support staff at the OJCS assist the local courts in any matters pending within the court. When a judge reaches out to us our first inquiry is normally as to whether the parties are represented by counsel. Upon learning that a Petitioner or Respondent is unrepresented, the conversation must naturally take on a different approach. The unrepresented litigant creates a myriad of additional issues with which the judge must contend.

The potential conflict created for the local courts faced with unrepresented litigants occurs over three different stages of these civil proceedings, to wit: pre-commencement of the action itself, during the proceeding and post-proceeding. Prior to the commencement of a summary proceeding, unrepresented litigants seek assistance from the clerk or judge in the simplest of ways. It is quite common for a judge to receive a request from an unrepresented landlord indicating that he/she wants to evict their tenant and inquiring of the court what the procedures are. Alternatively, an unrepresented Respondent will also reach out to the judge seeking assistance based upon the receipt of a Notice to Vacate, and requesting guidance from the court regarding their options in that

regard. The issuance of the predicate notices under the Real Property Actions and Proceedings Law (RPAPL), the time frames within which these notices must be served and the manner of service, the actions required upon receipt of such notices are all matters that unrepresented litigants are continually bringing to the court clerks' window for assistance. These communications with the court are clearly requests for legal assistance and the courts have been advised throughout the years to refer the litigants to attorneys. When the parties indicate they are not represented, it creates an awkward dilemma for the court.

Once the matter is commenced in the court, additional issues are presented to the court by the unrepresented individual. The mere filing of papers in a summary proceeding require a certain understanding of the related statutory sections, of which an unrepresented litigant is generally not well-versed. Access to the court is predicated on the filing of the proper paperwork, yet clerks must be careful not to give legal advice and the line between legal advice and general assistance becomes somewhat unclear. The creation of the Petition itself often times creates stumbling blocks for the unrepresented litigant, as well as the requirements surrounding service of it along with the Notice of Petition. The clerk, or the judge in a court that does not have its own court clerk, faces these situations on almost a daily basis.

The DIY forms and websites that have been created over the past several years have been of great assistance to not only the unrepresented litigant him/herself, but to the courts as well. However, these resources simply have not alleviated the problem within the justice courts. While a court now has a resource with which to refer the unrepresented litigant, the litigant is still relying on the court often times to assist in the preparation of these forms, or with questions regarding proper service of same. The courts are struggling with that line between appropriate assistance and the inappropriateness of providing of legal advice

Once the litigants appear before the judge, there continues to be that invisible line that the judge must ensure he/she does not cross. The judge, while being careful to be impartial, is forced to deal with an unrepresented and often times, unknowledgeable, litigant who is looking to the judge for guidance. While certainly the judge is empowered, and even encouraged, to explain to the unrepresented litigant the procedural requirements of the pending hearing, the judge must be ever mindful of not erring on the side giving inappropriate legal advice or bias. In fact, often-times the court is faced with objections from the represented individual who argues the judge has gone "over" the line in giving too much assistance to unrepresented individuals. The attorney for the represented individual may take issue with the level of assistance creating the appearance of bias or impropriety.

Upon the conclusion of the civil proceeding, courts continue to be inundated with requests for assistance by the unrepresented litigant. The procedures relating to the drafting of Decisions, Orders and Warrants are often addressed to the judge, with the only resource available at this time is to refer them to the DIY sites as previously mentioned. Questions regarding the service of these documents, as well as subsequent proceedings

that may be invoked by either party, ie: appeals, execution fees and related matters, etc, are further examples of matters with which the courts must explain in limited fashion.

In my role as a town justice with the Town of Waterford, I have been confronted with these same issues. I was appointed town justice in January 2011, and ran and won for a four-year term in November of that same year. Having worked as a law clerk to these judges over the past many years, I was confident that I knew the law and would make a successful judge. What has become very obvious to me over this past year and half is that many of the unrepresented litigants appearing before me are not well versed in the law, and that has caused me to approach my civil docket in a different way than I do with represented litigants. Taking the extra time to explain to the unrepresented litigant how I conduct my court, the order of how things will run, and what is expected of them during the proceedings, requires additional time and patience as a judge. In my tenure as judge, I have been exposed to the exact types of situations with which I have been advising judges on for years. Very soon after taking the bench, I was confronted with a jurisdictional issue on a summary proceeding, which resulted in dismissal of the proceeding. The Petitioner was represented by an attorney, the Respondent was not. A review of the paperwork prior to court night revealed that proper service was not effectuated, and although both parties appeared on the return date, I was compelled to dismiss for lack of personal jurisdiction. The Petitioner, while certainly displeased with my decision, understood my ruling. The Respondent was more confused than pleased, which required additional explanation on my part to clarify to the Respondent what had transpired.

Another experience I had with an unrepresented litigant exemplified the type of success a resourceful litigant can attain. A Respondent in a summary proceeding who, after doing research on the internet, was able to contest the service of papers in her case and made application to the court for a dismissal. After allowing the Petitioner to be heard, and upon review by the court, the Respondent's request was granted. This was an example of how an unrepresented litigant with a little bit of know-how, was able to successfully defend herself in a very important civil matter. Again, the DIY forms are helpful to these litigants, but often times the existence of these types of platforms create additional issues with which the courts must deal. The litigants, armed with the forms and paperwork, often seek assistance from the clerks and/or judges regarding the proper preparation of same. Again, this may compel a judge to reach out to our office for assistance. Often times, the judge will be advised to refrain from giving additional assistance to the litigant based upon the concept that the judge must not give legal advice.

Summary proceedings in a local court are a creature of statute. There is no "common-law" right to a summary proceeding and in the context of this proceeding, the court shall have jurisdiction to recover possession of real property, to remove tenants therefrom and to render judgment for rent due without regard to amount. (UJCA §204). The consequences that can be brought to bear upon an unrepresented litigant are obvious and overwhelming. Any litigant appearing in any court is entitled to the opportunity to be heard, and a neutral arbitrator to hear him or her. A level playing field is a necessity when an individual is facing the possible displacement of himself and her family, as well

as exposure to a judgment representing large sums of money in the form of un-paid rent. Our town and village justices are trained on the procedures related to summary proceedings, have access to the OJCS attorneys to advise them on pending and impending cases, but the ever constant concern of crossing over into giving inappropriate legal advice remains an all too real obstacle for not only the judge, but the unrepresented litigant.

Thank you and I would be happy to entertain any question you might have.

APPENDIX 11:

Written Statements Submitted at the First Department Hearing Held on October 1, 2012

Appendix 11

Written Statements Submitted at the First Department Hearing Held on October 1, 2012

Dr. Elizabeth Becker *(Senior Vice President, NERA Economic Consulting)*

Angela D'Arezzo *(Client of The Legal Aid Society, accompanied by Carol Santangelo)*

His Eminence Timothy Cardinal Dolan *(Archbishop of New York)*

Carey R. Dunne *(President, New York City Bar Association; Partner, Davis Polk & Wardwell LLP)*

The Family Center *(Adam Halper)*

Hon. Fern Fisher *(Director, NYS Courts Access to Justice Program; Deputy Chief Administrative Judge, New York City Courts)*

Professor Gillian K. Hadfield *(Kirtland Professor of Law and Economics, University of Southern California Law School)*

Shalaine Jones

Legal Aid Society

Hon. Christine Quinn *(Speaker, New York City Council)*

Richard J. Usera *(Client of Legal Services-New York City [LS-NYC], accompanied by Jennifer Levy)*

Fredesvinda Vasquez *(Client of Make the Road New York, accompanied by Lorelei Salas)*

Dr. Elizabeth Becker

Senior Vice President,
NERA Economic Consulting

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Dr. Becker has applied her expertise in economics, statistics, and the management of complex databases to a broad range of employment disputes for nearly 15 years. She has been retained in numerous discrimination and wage and hour class actions to address issues of class certification, liability, and damages. She has testified in state, federal, and bankruptcy court and before arbitration panels, working for both defendants and plaintiffs. Dr. Becker also assists clients with self reviews of employment practices, implementation of remedial action, and negotiation of settlements.

In addition to her employment-related consulting, Dr. Becker has evaluated claims of discrimination in lending, education, and law enforcement. She has assessed economic losses from breach of contract, breach of fiduciary responsibility, unjust enrichment, and fraud. She also has opined on statistical questions and data integrity issues in warranty claims disputes and consumer class actions.

Dr. Becker joins NERA from Huron Consulting Group, where she was a Managing Director. Previously, she was Managing Principal at Analysis Group, Inc. and Director of the Employment Economics practice at PricewaterhouseCoopers. Dr. Becker also held an appointment as Assistant Professor of Economics at Clemson University.

Dr. Becker's research on labor economics and statistics has been presented at regional, national, and international professional conferences, and has been published in peer-reviewed journals.

Dr. Becker holds a PhD in applied economics and an MA in economics from Clemson University, and a BA in economics and political science from the University of Wisconsin, Madison.

Report by Elizabeth Becker to

The Task Force to Expand Access to Civil Legal Services in New York

Presented at the Chief Judge's Hearing on Legal Services in the 1St Judicial Department

October 1, 2012

I. Qualifications

1. I am a Senior Vice President at NERA Economic Consulting, a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. I hold a Ph.D. in applied economics from Clemson University. I am experienced in preparing economic and statistical assessments for both plaintiffs and defendants in numerous matters involving single plaintiff and class action allegations of employment discrimination, class action allegations of violations of wage and hour regulations, warranty claim and consumer class action matters. I have testified in deposition, at trial, or in arbitration more than 35 times. My empirical research has been published in peer-reviewed academic publications.

II. Assignment and Summary of Findings

2. I was asked by the Task Force to Expand Access to Civil Legal Services in New York to evaluate the economic benefits from the provision of civil legal services to low-income New Yorkers and their families to ensure they have access to various federal benefits to which they are entitled. Specifically, I was asked to:

- Evaluate the financial impact in 2011 of access to benefits from several specific federal programs on the direct recipients of those benefits and their families arising from the provision of civil legal services;
- Estimate the long-term financial impact on the direct recipients and their families of access to benefits from certain federal programs for which they can expect long-term, on-going eligibility and benefits;
- Estimate the economic impact of the flow of these incremental federal benefits into the New York State economy as a whole; and

- Compare the flow of these federal benefits into New York State to the excess federal tax burden borne by residents of New York State.

3. Representatives from the Interest on Lawyers Account Fund (“ IOLA”)provided me with summaries of the dollar value in incremental federal benefits received in New York State under several major federal programs as a result of the provision of civil legal services by grantee organizations from 2007 until 2011. I have reviewed these data, as well as publicly available data. Having reviewed this information, I find:

- The positive financial impact in 2011alone of access to benefits from several specific federal programs on the direct recipients of those benefits and their families is conservatively estimated as $378 million.

- The long-term positive financial impact on low-income New Yorkers of expected future eligibility for federal programs arising from civil legal services that were provided in the past five years ranges as high as $682 million, depending upon the expected duration of continued participation in key federal programs.

- The positive financial effect in 2011 and long-term future effects together could be as high as $1.06 billion.

- Multiplier effects for the in-flow of these financial resources to New York State result in estimated economic benefits to the State in 2011of $561 million and estimated creation of about 5,600 jobs. If the multiplier effects remain the same into the future, the in-flow of funds in 2011 together with the value created into the future result in overall economic benefits to New York State of $1.56 billion.

- These economic benefits effectively reduce New York State’s excess tax burden of approximately $20 billion by about 2 percent per year.

4. In this report, I summarize the various benefits evaluated, the data received from IOLA regarding the value of benefits received from the provision of civil legal services and publicly available data, my methodology for evaluating financial and economic impacts from the increased access to federal benefits, and the overall financial and economic impacts from increased access to federal benefits on both the direct beneficiaries of those federal programs and New York State as a whole.

III. Summary of Federal Benefits Evaluated

5. Provision of civil legal assistance enables low-income New Yorkers to obtain or retain access to benefits under several key federal programs that are targeted at the neediest in our population. Among these are:

- Supplemental Security Income: SSI is a federal program that makes monthly payments to people who have low income and few resources and are age 65 or older, blind or disabled. Eligibility for SSI depends upon income and certain assets.

- Social Security Disability Income: SSD is a federal program that pays monthly benefits to people who cannot work because they have a medical condition that is expected to last at least one year or result in death. Eligibility is tested with specific rules regarding recent work and duration of work, as well as a determination of disability by doctors and disability specialists.

- Unemployment compensation provided by the federal government: The Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular State unemployment benefits have been exhausted.

- Medicaid: The Medicaid program covers the cost of medical care for qualified low-income persons. Medicaid benefits are generally funded by the State. However , the federal government provides partial reimbursement for benefits.

- Earned Income Tax Credits: EITCs are a benefit for certain people who work and have low to moderate wages. The policy reduces the amount of federal tax owed and may even provide a tax refund from the federal government.

- Various other federal benefits: In addition to these major federal benefit programs, low-income New Yorkers may be eligible for other programs such as Veteran's benefits and Medicare.

6. Access to these benefits may be barred for low-income New Yorkers for a number of reasons. They may not be aware of the programs or of their eligibility. Determining eligibility can be complicated and require navigation through a maze of complex rules and regulations. Proof of eligibility may require documents and/or information that are difficult for low-income persons to access or obtain. Benefits may be denied incorrectly or terminated improperly. As a result, provision of civil legal assistance, including administrative advocacy, brief legal services and litigation, may be the only avenue available to low-income New Yorkers to ensure that they receive the federal benefits to which they are entitled. Provision of these federal benefits results

in substantial cost savings for State and local governments to whom these needy families would likely turn instead.

7. IOLA provided me with data reported to it by grantee organizations detailing the dollar value in benefits from cases completed in 2011 for SSI, SSD, state unemployment benefits, federal reimbursement for Medicaid benefits, Earned Income Tax Credits and various other federal benefits. Where appropriate, the value of these benefits was reported separately for back awards and on-going monthly benefits. IOLA also provided information for on-going monthly benefits for SSI/SSD to include cases closed back to 2007 and for "other" federal benefits to include cases closed back to 2009. I used these data to estimate the value of federal funds brought into New York State for each category of benefits described above.

IV. Estimated Value of Federal Funds Brought Into New York State

A. Supplemental Security Income and Social Security Disability Income

8. The largest category of federal funds brought into New York State by the provision of civil legal services to low-income New Yorkers is SSI and SSD income. These amounts may include back awards as well as on-going monthly benefits for cases closed in 2011. These amounts are reported in columns (1) and (2) of rows (B) and (C) in Table 1. Federal funds also may be received in 2011ason-going benefits for cases closed in recent years. On-going receipt of benefits under these programs occurs because the duration of participation, once a person is qualified and enrolled, is quite lengthy. The estimated duration of participation prior to retirement age 65 is 9.7 years for SSD and 10.5 years for SSI.[1]Benefits received in 2011 from cases closed between 2007 through 2011 are reported in rows (B) and (C) of Table 1.

[1]Kalman Rupp and Charles G. Scott, "Trends in the Characteristics of DI and SSI Disability Awardees and Duration of Program Participation," ***Social Security Bulletin***, vol.59, No.1, Spring 1996: pp. 3 – 21.

Table 1.Value of SSI/SSD Federal Funds Received

	Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in 2011
	Back Awards (1)	Monthly Benefits (2)	2010 (3)	2009 (4)	2008 (5)	2007 (6)	(7)
A. Inflation Rate (2011 Dollars)	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
SSI/SSD							
B. SSI/SSD back awards	26.116						
C. SSI/SSD monthly benefits		2.607	2.899	2.197	2.218	1.899	
D. Annualized SSI/SSD monthly benefits going forward		31.283	34.783	26.370	26.622	22.783	
E. Inflation-adj. SSI/SSD Benefits (2011 Dollars)	26.116	31.283	35.876	27.645	27.819	24.716	**173.455**

9. I evaluated the total economic impact of the receipt of these amounts for 2011 by annualizing the monthly benefits for each year. As benefits under these federal programs are routinely adjusted for inflation, I adjusted the monthly benefits received from past case closings upward using the Consumer Price Index.[2] I then added the value of the back awards from 2011 to this total value of monthly benefits. The estimated 2011 value of federal benefits brought into New York under these two programs is approximately $173million.

10. This approach to evaluating impact may be thought of as a "flow of funds" approach. Note that it is an extremely conservative estimate of the value of SSI/SSD brought into New York State as a result of the provision of civil legal services. It captures the value of benefits paid only in 2011and includes benefits received as a result of case closings for only the past five years of completed cases. This is an understatement of financial impact because expected on-going participation in either program, once enrolled, is considerably longer than five years. An alternative approach for estimating the value of these closed cases is to consider the economic value of the expected future stream of benefits, given the long expected duration of future participation for low-income New Yorkers that have been enrolled in the programs from the provision of civil legal services. Several alternative estimates from this "value created" approach are shown in Table 2.

[2] Source: St. Louis Federal Reserve Bank.

Table 2.Economic Value Created from Expected Future Participation in SSI/SSD

		Current Year	Projected Future Benefits								
		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
A.	Cases Completed in 2011 (Back Awards and Monthly Benefits)	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283	31.283
B.	Discounted at Prime Rate (3.25%)		30.299	29.345	28.421	27.527	26.660	25.821	25.008	24.221	23.459
C.	Benefit Received in 2011 From Past Years' Cases	116.056	116.056	116.056	116.056	116.056	116.056	91.340	63.521	35.876	0.000
D.	Discounted at Prime Rate (3.25%)		112.403	108.865	105.438	102.119	98.905	75.391	50.779	27.777	0.000
E.	**Current Value of Projected Future Benefits: 5-Year Projection**										
F.	Cases Completed in 2011	142.252									
G.	Benefits from Past Years' Cases	527.729									
H.	**Current Value of Projected Future Benefits: 10-Year Projection**										
I.	Cases Completed in 2011	240.761									
J.	Benefits from Past Years' Cases	681.675									

11. In the first approach, I estimated the future value from the provision of civil legal services provided on cases closed in 2011 alone. I projected over five years the value of the on-going monthly benefits from cases closed in 2011. These amounts are shown in columns (2) through (6) of row (A). In order to convert these future values to present value, I have discounted using the prime rate of interest at 3.25 percent, with discounted values shown in row (B). The 5-year future value of cases closed in 2011is $142 million. Adding to this amount the value of $57 million in benefits already received for cases closed in 2011 ($26 million in back awards plus $31 million in monthly benefits), the total current *and* future value of cases closed in 2011 alone would be $199 million. Alternatively, the value of the cases closed in 2011 could be projected for 10 years, as in columns (2) through (10) of row (A). This would yield a present value of future benefits of about $241. Adding to this amount the value of $57 million in benefits already provided for cases closed in 2011, the total current *and* future value would be $298 million.

12. In the second approach, I estimated the present value of expected on-going future benefits from all cases closed between 2007 through 2011. These amounts are shown in columns (2) through (6) of row (C) for a five-year projection and columns (2) through (10) of row (C) for a ten-year projection. Again the values are converted to present value using the prime rate. See row (D). The estimated future values are $528 million for the five-year projection and $682 million for the ten-year projection, respectively. The “value created” from recently closed cases far exceeds the more conservative estimate from a “flow of funds” methodology that only measures benefits received in 2011.

B. Other Miscellaneous Federal Benefits

13. The provision of civil legal services also helps low-income New Yorkers secure access to a variety of other federal benefits, such as Veteran's benefits and Medicare. As with SSI/SSD, there were both back awards paid and enrollment for on-going monthly benefits in 2011. Persons enrolled in these programs in previous years also sometimes enjoyed receipt of on-going benefits in 2011. I have estimated the value of the cases closed in 2011 and for the prior two years by assuming the average duration of these benefits is three years. Table 3 reports the conversion of monthly benefits to annual amounts and the adjustment of past benefit amount for inflation using the CPI. The total estimated value of the monthly benefits from cases closed over a three-year period, plus the 2011 back awards is about $54 million.

Table 3. Value of Miscellaneous Federal Benefits Received

	Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in
	Back Awards	Monthly Benefits	2010	2009	2008	2007	2011
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. Inflation Rate (2011 Dollars)	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
Other Federal Benefits							
B. Other Federal Benefits back awards	7.020						
C. Other Federal Benefits monthly benefits going forward		1.801	1.145	0.914			
D. Annualized Other Federal Benefits going forward		21.607	13.737	10.973			
E. Inflation-adj. Other Federal Benefits (2011 Dollars)	7.020	21.607	14.169	11.504			**54.300**

C. Federal Emergency Unemployment Compensation Extension

14. The Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular state unemployment benefits have been exhausted. In New York State, unemployed persons are generally eligible for 26 weeks of benefits. Extended federal benefits may be available from the federal program for 6, 9, 14 or 20 weeks, depending upon the circumstances of the unemployed person. The average of these extension periods is about 12weeks. IOLA reports that the provision of civil legal services has assisted unemployed New Yorkers in gaining awards to State unemployment compensation benefits of $3.49 million in back awards and $790,000 in monthly awards. If one were to assume that these State unemployment benefits are for the full 26-week

eligibility, then the federal extension would be worth about half the value of the State benefits. Thus, the value of the federal extension of unemployment benefits would be about $6.5 million. See Table 4.

Table 4. Estimated Value of Federal Unemployment Compensation Extensions

	Cases Completed in 2011		Total
	Back Awards (1)	Monthly Benefits (2)	Impact in 2011 (3)
Federal Unemployment Compensation			
A. State Unemployment Compensation (6 months)	3.490	0.791	
B. Federal Unemployment Compensation back awards[2]	1.745		
C. Federal Unemployment Compensation monthly benefits[2]		0.395	
D. Annualized Federal Unemployment Compensation		4.745	
E. Inflation-Adj. Federal Unemployment Compensation	1.745	4.745	**6.490**

D. Total Value of Federal Funds Brought to New York, Including Medicaid and EITC

15. Many low-income New Yorkers had medical benefits provided to them in 2011 from the Medicaid program. Medicaid costs are shared by the State and federal governments. IOLA has provided me with estimates of the amount of federal reimbursement for Medicaid benefits received in 2011. IOLA also has provided me with information regarding the value of Earned Income Tax Credits received by low-income New Yorkers as a result of the provision of civil legal services. These amounts are approximately $119 million and$25 million, respectively. When the value of these benefits is added to the value of the federal funds brought into the State under the other programs discussed above, the total ”flow of funds” brought into New York State in 2011 alone is $378 million. See Table 5. If one were to add the “value created” from expected future benefits (which range from $528 million for a five-year projection to $682 million for a ten-year projection) to this $378 million, then the total value of civil legal services provided in recent years would range from $906 million to over $1 billion.

Table 5. Total Value of Federal Funds Brought Into New York State: 2011

		Cases Completed in 2011		Benefits Received in 2011 From Past Years' Cases				Total Impact in 2011
		Back Awards (1)	Monthly Benefits (2)	2010 (3)	2009 (4)	2008 (5)	2007 (6)	(7)
A.	Inflation Rate (2011 Dollars)[1]	0.0%	0.0%	3.1%	4.8%	4.5%	8.5%	
SSI/SSD								
B.	SSI/SSD back awards	26.116						
C.	SSI/SSD monthly benefits		2.607	2.899	2.197	2.218	1.899	
D.	Annualized SSI/SSD monthly benefits going forward		31.283	34.783	26.370	26.622	22.783	
E.	Inflation-adj. SSI/SSD Benefits (2011 Dollars)	26.116	31.283	35.876	27.645	27.819	24.716	**173.455**
Other Federal Benefits								
F.	Other Federal Benefits back awards	7.020						
G.	Other Federal Benefits monthly benefits going forward		1.801	1.145	0.914			
H.	Annualized Other Federal Benefits going forward		21.607	13.737	10.973			
I.	Inflation-adj. Other Federal Benefits (2011 Dollars)	7.020	21.607	14.169	11.504			**54.300**
Federal Unemployment Compensation								
J.	State Unemployment Compensation (6 months)	3.490	0.791					
K.	Federal Unemployment Compensation back awards[2]	1.745						
L.	Federal Unemployment Compensation monthly benefits[2]		0.395					
M.	Annualized Federal Unemployment Compensation		4.745					
N.	Inflation-Adj. Federal Unemployment Compensation	1.745	4.745					**6.490**
Other								
O.	Federal share of Medicaid benefits received in 2011							118.895
P.	Earned Income Tax Credits							25.072
Q.	**Total Federal benefits received in 2011**							**378.213**

Notes and Sources
[1]Year-over-year percent change in average monthly CPI index value. Data from the St. Louis Federal Reserve.
[2]Estimated assuming Federal Unemployment Compensation benefits extend for an additional 3 months.

VI. Economic Impact on the New York State Economy

16. Provision of federal benefits to eligible low-income New Yorkers provides benefits not only to them and their families, but to the State as a whole. Beneficiaries are empowered to spend money on housing, food, clothing and other support for their families. Thus, every extra dollar brought into in the State results in a stimulus to the State economy overall and benefits all New Yorkers. I was asked to evaluate the economic impact of the $378 million in incremental federal benefits brought into the New York State economy as a whole in 2011, as well as the long-term value of expected future federal benefits.

17. The United States Department of Commerce reports that every dollar brought into the New York economy generates an extra 48 cents of value in stimulus to the economy overall.[3]

[3]United States Department of Commerce, *Regional Multipliers: A User Handbook For the Regional Input-Output Modeling System* (RIMS II) (3rd ed. 1997). Multiplier and average cost of a job were provided by IOLA.

Applying this multiplier of 1.48 to the $378 million in incremental benefits received in 2011 yields an overall positive impact on the State economy of $561 million. If the multiplier effect remains the same into the future, then the long-term value of 2011 funds received together with expected future value created could be as high as $1.57 billion.

18. The Department of Commerce also provides a "jobs factor" enabling estimation of overall job creation due to the stimulus to the economy. The average cost of a job supported by funds brought into the State is $100,224. Thus, the number of new jobs that are created by a stimulus of $561 million for funds received in 2011 is about 5,600 jobs. See Table 6.

Table 6. Economic Impact on New York State and Job Creation

A.	Total Federal Funds Brought Into State	$378,212,636
B.	Multiplier	1.484
C.	**Total Economic Stimulus Effect of Federal Funds**	**$561,116,267**
D.	Jobs Factor	100,224
E.	**Total Jobs**	**5,599**

VII. Reduction in Excess New York Federal Tax Burden

19. Last, I evaluated the value of the incremental federal benefits brought into New York State from the provision of civil legal services, relative to New York's excess federal tax burden. The Tax Foundation reports that New York State sends a great deal more money to Washington in taxes than it receives back in federal expenditures. New York receives only 79 cents for every dollar that it pays in federal tax.[4] New York's total federal tax liability is approximately $95 billion, making this excess tax liability about $20 billion.[5] The $378 million in incremental federal expenditures in New York from access to the federal benefits discussed above is about 2 percent of that excess federal tax liability.

Table 7. Reduction in Federal Excess Tax Burden

[4]Curtis S. Dubay, "Federal Tax Burdens and Expenditures by State: Which States Gain the Most from Federal Fiscal Operations?" *Tax Foundation Special Report*, March 2006.

[5]Scott A. Hodge, "States Vary in Distribution of Who Bears the Burden of Federal Income Taxes," Center for Federal Tax Policy. http://taxfoundation.org, 6/2/10.

A.	Total Federal Funds Brought Into State	$378,212,636
B.	Multiplier	1.484
C.	**Total Economic Stimulus Effect of Federal Funds**	**$561,116,267**
D.	Jobs Factor	100,224
E.	**Total Jobs**	**5,599**

VIII. Conclusion

20. Provision of civil legal services brings substantial federal funds into New York State to help support low-income and disabled New Yorkers and their families. The economic value from the flow of funds to the beneficiaries and their families is conservatively estimated at $378 million for 2011 alone. The expected future value created from potential on-going participation in programs like SSI and SSD dwarfs even this number, with an estimated value as high as $682 million. Together, the flow of funds in 2011 and expected future value created could exceed $1 billion. The provision of civil legal services to needy families to assist them in obtaining benefits also provides a significant stimulus to the New York State economy overall and creates thousands of jobs. Moreover, the extra federal expenditure in New York State moves the State modestly towards fairness in terms of its relative burden of federal taxation.

Angela D’Arezzo

Client of The Legal Aid Society

Accompanied by Carol Santangelo

Introduction by Carol Santangelo

Good morning Chief Judge Lippman and members of the Hearing Panel, and thank you for the opportunity to speak regarding this matter. My name is Carol Santangelo and I am a staff attorney in the Legal Aid Society's Health Law Unit. I am here with my client, Angela D'Arezzo. Several months ago, Ms. D'Arezzo called Health Law help-line when she learned that the home care services she had been receiving since 1999 were about to be drastically cut back. We represented her at a Fair Hearing where we obtained a reversal of the Agency's determination to reduce her care. We also secured an order continuing the authorization of "split-shift" Personal Care Services, providing Angela continuous care 24 hours /7 days a week.

In addition to stopping the imminent reduction of her home care services, the Health Law Unit in *pro bono* partnership with Bank of New York/Mellon, assisted her in joining a Pooled Supplemental Needs Trust (SNT). Like many low-income disabled New Yorkers who worked for years before they became ill, Ms. D'Arezzo's Federal Disability Benefits were too high for her to be eligible for Medicaid without spending down a monthly excess of $419. For years, Ms. D'Arrezo paid what she could and under Medicaid rules her home care provider had to continue providing services. However, this practice is being eliminated through cost saving initiatives of New York State's Medicaid program, and without a SNT, Ms. D'Arrezo would have faced interruptions in her home attendant services, increasing the likelihood that she would have to consider a nursing home placement. The SNT enables Ms. D'Arezzo to maintain critical Medicaid services without risk of being disenrolled from her coverage should she fail to meet her spend down at any point.

Testimony of Angela D'Arezzo
Chief Judge's Hearing on Civil Legal Services

Good morning, my name is Angela D'Arezzo and I am currently a client of The Legal Aid Society. I would like to tell you about how the work of The Legal Aid Society has helped me to maintain access to continuous Medicaid-funded personal care attendants. Without this help, I might have no other choice but to go to a nursing home.

I am 52 years old and I have had limb-girdle Muscular Dystrophy since I was 15. Muscular Dystrophy is a devastating progressive muscle disorder that slowly weakens your whole body. I now have severe muscular impairment of my trunk and all four extremities. The only way I can stand is if someone physically lifts me to a standing position and holds me up so that I don't fall over. I can take a step or two with maximum support, but I cannot walk. I have limited strength in my arms and hands, so I am unable to grasp or hold things of any weight. For example, I can hold a piece of paper, but I cannot pick up a cup of tea or hold a fork for very long. This means that I must be fed, bathed and require maximal assistance with very personal needs. I also suffer from Fibromyalgia, which causes severe pain if I am left in the same position for too long. This is especially a problem at night when I am in bed. Since I cannot turn my self, I need someone to turn and position me to relieve the pain, sometimes every hour or two.

With the assistance of Medicaid personal care services, I have been able to live on my own. For the past 19 years I have been living in Renwick Gardens, which are apartments for the disabled

and elderly located on East 29th Street, not too far from here. My brother lives in the same building – he has Muscular Dystrophy as well. Even though I keep a positive outlook on life, I desperately need continuous home care services provided in two 12 hour shifts per day / 7 days a week in order to function and continue to live on my own. The Legal Aid Society has made it possible for me to do this.

I have been receiving continuous personal care services since 1999. In February, 2012 I received a notice from HRA telling me that they were decreasing my home care hours from two 12 hour shifts per day to one 24 hour shift per day. This meant that instead of having an attendant available to turn and position me in the middle of the night to relieve my pain, and to help me with bathroom needs, I would have one attendant for the entire 24 hours who must be allowed to sleep during the night and could only be awakened a limited number of times.

The reason given by HRA was that their current review determined that a "mistake" had occurred in their previous authorizations for continuous personal care services. HRA said that previous records showed that I required only "partial" assistance with transferring, ambulating and toileting, not total assistance, and that I continued to need the same. This was so wrong. I contacted The Legal Aid Society and they immediately agreed to represent me. Ms. Santangelo visited me in my apartment to assess my capabilities and even took a video of my attendant lifting me to a standing position. She represented me at the Fair Hearing, at which she introduced evidence to show that I need total assistance with standing, transferring and toileting and that I can not walk. She argued that I need total and frequent help during the night. She also pointed out that the Agency had not identified any previous records showing that I only required partial assistance. As we had hoped, the Decision after Fair Hearing reversed the Agency's determination to reduce my services and ordered that my services be continued.

The second major issue I was facing resulted from the change in Medicaid's method of delivery of personal care services. I had heard from my brother and others in the disabled community that soon I was going to have to join a Managed Long Term Care plan to get my home attendant services. Up until now, my services have been obtained through the fee-for service Medicaid program that contracts directly with home care vendors. A major difference between the two methods is that under the new program individuals who do not pay their monthly spend down amount directly to the health plan can be disenrolled and left entirely without home care services.

Because it is critical that my home care services continue uninterrupted, The Legal Aid Society in *pro bono* partnership with the Bank of New York/Mellon assessed my eligibility for a Pooled Supplemental Needs Trust, which is a mechanism that disabled individuals like me can use to maintain Medicaid eligibility. This past July, Legal Aid and Bank of New York assisted me in joining a Trust maintained by The Center for Disability Rights. As a result of Legal Aid's representation, the risk of having my home care services suddenly discontinued for failure to meet a spend down has been greatly reduced.

I am so grateful that The Legal Aid Society agreed to help me by representing me at the Fair Hearing and in joining the Pooled Trust. If it was not for their representation, I might not have been able to maintain my personal care services which are critical in allowing me to remain in my own apartment and to live as independently as I can. However, I know that many other New

Yorkers also need this type of assistance. I cannot stress enough the importance of funding The Legal Aid Society and other civil legal services programs, because they are extremely important for those who lack the means and ability to obtain legal representation. I am here in support of continued and increased funding for civil legal services in New York. Thank you for listening to me.

His Eminence
Timothy Cardinal Dolan

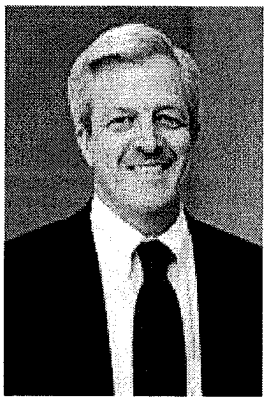
Archbishop of New York

Written Statement Unavailable

Carey R. Dunne

President, New York City Bar Association
Partner, Davis Polk & Wardwell LLP

Davis Polk



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Mr. Dunne is Chair of Davis Polk's litigation practice and a member of the firm's three-person Management Committee. He represents clients in a wide variety of criminal, civil and regulatory matters, including grand jury inquiries, internal investigations, enforcement actions by state and federal agencies, and complex commercial disputes. Most of the cases that he handles involve "parallel proceedings": competing actions and investigations that must be defended simultaneously in multiple forums. His white collar criminal and regulatory matters have involved allegations of securities fraud, insider trading, foreign corrupt practices, money laundering and other financial crimes. He also has extensive experience advising companies, boards and audit committees on compliance and corporate governance issues.

He was a prosecutor in the office of Manhattan District Attorney Robert Morgenthau from 1984 through 1987. Mr. Dunne's recent matters have included assignments in China, Korea, Pakistan, Indonesia, the Philippines, the Dominican Republic, Italy and the United Kingdom.

Recently, Mr. Dunne obtained a jury verdict of acquittal in the murder trial of Lonnie Jones, a pro bono client, clearing him of all charges and securing his release from prison, where he had been wrongly held for more than five years.

Mr. Dunne is also the current president of the New York City Bar Association, which was founded in 1870 and is the largest such organization in the city, with 23,000 members. His two-year term began in May 2012.

AT A GLANCE | NEWS, RESOURCES & EVENTS

Work Highlights

RECENT REPRESENTATIONS

- Intesa Sanpaolo, a major European bank, in an international investigation of Iranian sanctions violations by the Department of Justice, the Manhattan District Attorney, the Office of Foreign Assets Control and the Federal Reserve Bank; after four years of investigations, the DOJ and DA's office recently advised the bank that they would bring no charges and seek no penalties in the matter
- Hyundai Heavy Industries, the manufacturer of the Deepwater Horizon Oil Rig, in litigation arising out of the Gulf oil spill

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- A major investment bank in the SEC's industry-wide FCPA inquiry into the Sovereign Wealth Fund business
- A commodities-firm executive in a market manipulation investigation by the CFTC
- Nautilus Hyosung, a Korean manufacturing company, in an obstruction-of-justice investigation by the Antitrust Division of the Justice Department
- A senior executive of BAE plc in the Justice Department's investigation of alleged Foreign Corrupt Practice Act violations by that company
- Marsh & McLennan in the investigations of potential conflicts in the insurance industry, as well as the $850 million settlement reached with New York Attorney General Eliot Spitzer and the New York State Insurance Department
- Credit Suisse First Boston in the multiple investigations of "analyst independence" conducted by the SEC, the Department of Justice, the New York Stock Exchange, the NASD and the fifty state securities regulators, and in connection with the obstruction of justice trials of former banker Frank Quattrone
- ImClone in the criminal, congressional and regulatory investigations of alleged insider trading by Samuel Waksal and Martha Stewart, and a senior executive of WorldCom in the Justice Department's investigation of accounting fraud at that company

Recognition

- In 2008, he was presented by the Fund for Modern Courts with the John J. McCloy Award for outstanding contributions to the administration of justice in New York State.
- In 2006, he was chosen by Chief Judge Judith S. Kaye to chair her statewide Special Commission on the Future of the New York State Courts.

Mr. Dunne is listed as a leading lawyer in several legal industry publications, including:

- *Chambers USA: America's Leading Lawyers for Business*, where he is ranked in Band 1 and recognized as a "major presence in the white-collar world"
- *The Legal 500 U.S.*, where he is commended by clients as a "superb" lawyer who "really know[s] our business and [has] our absolute trust"
- Legal Media Group's *Benchmark Litigation* and *Expert Guide to the World's Leading White Collar Crime Lawyers*

and National Security
  - Economic Sanctions
- Foreign Corrupt Practices Act
- International Litigation and Enforcement
- International and Domestic Arbitration
- Securities Class Actions
- Securities Enforcement
- White Collar Criminal Defense

- Compliance and Advisory

BAR ADMISSIONS

- State of New York
- U.S. Supreme Court
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, E.D. New York
- U.S. District Court, S.D. New York

EDUCATION

- B.A., Oberlin College, 1980
- J.D., Harvard Law School, 1984
  - *cum laude*

- Practical Law Company's *Which lawyer?*
- incisivemedia's (formerly American Lawyer Media) *Corporate Counsel: Best Lawyers in America Guide to Commercial Litigation*; *Corporate Counsel: Corporate Governance & Compliance Law*; and *Corporate Counsel: Best Lawyers Annual Guide to Criminal Defense Law*
- Woodward/White's *Best Lawyers in America*

Of Note

CURRENT MEMBERSHIP

- President, New York City Bar Association
- Member, The Lawyer's Committee, The Innocence Project

PAST MEMBERSHIPS

- Chair, Judiciary Committee, New York City Bar Association
- Vice President and Member, Executive Committee, New York City Bar Association
- Chair, Chief Judge Kaye's Special Commission on the Future of the New York State Courts
- Commissioner, Chief Judge Judith Kaye's Commission on the Future of Indigent Defense Services
- Chief Counsel, New York State Commission on Drugs and the Courts
- Trustee, Federal Bar Council
- Director, Fund for Modern Courts (chair of the Task Force on Judicial Selection)
- Director, The Legal Aid Society (member of the Executive Committee)
- Director, National Center for Law and Economic Justice

Professional History

- Member, Management Committee, 2005-present
- Partner, 1993-present
- Associate, 1987-1993
- Prosecutor, Manhattan District Attorney's Office, 1984-1987

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The Chief Judge's Hearing on Civil Legal Services
October 1, 2012
Appellate Division, First Department
27 Madison Avenue, New York City

Testimony of the New York City Bar Association
By: Carey R. Dunne, President

Chief Judge Lippman, Justice Gonzalez and President James: I'm honored to testify before you today on behalf of the New York City Bar Association at this third series of hearings on access to justice for New Yorkers who cannot afford an attorney for their civil legal services needs.

The City Bar has long been committed to providing access to justice, and we work to achieve this on a local, national and international level. In addition to our legal and policy work in this area, our public service affiliate, the City Bar Justice Center, provides direct legal services by leveraging the efforts and resources of the City's legal community to increase access to justice for low-income individuals. and our Vance Center for International Justice stimulates and coordinates pro bono efforts in Latin America, Africa and elsewhere in the world.

The City Bar applauds the Chief Judge for his extraordinary leadership, and the Task Force for its extraordinary efforts, which have made New York a nationwide leader in the provision of civil legal services to the poor. As a result of these efforts, and despite difficult budget constraints and other pressures, the judiciary budget provided a $12.5 million increase in legal services funding last year and an additional $12.5 million, for a $25 million increase over two years, a remarkable result in these difficult times.

As we all know, however, this funding increase is well short of where we need to be. Unfortunately, we are confronting an intractable demand for civil legal assistance that all the legal services providers, plus considerable pro bono efforts of New York's lawyers, cannot come close to meeting. Though many statistics demonstrate this crisis, I cannot get past the number of two million – over two million New Yorkers walk into court each year with no legal counsel. They generally do not have the skills, and often the language ability, to pursue or defend their legal positions, and thus are particularly at risk of losing their shelter or their subsistence or facing a break up of their family. If these parties received representation, not only would their chances of success be greater, but their cases would be more effectively handled by an overburdened court system, and they might be able to recover some of the hundreds of millions of dollars New Yorkers are owed each year in federal benefits for which they are eligible.

Unfortunately, nothing happening in the larger world gives us comfort that these pressing needs will be met anytime soon. Recent census statistics show that the poverty level in New York City grew in 2011 to 20.9%, with almost 1.7 million residents classified as poor. Median income in the city declined. Unemployment remains stubbornly high, and the figures don't even reflect those who have given up looking for work. While more are suffering in New York, the increase in the poverty population elsewhere in the country will also result in a redistribution of federal legal services funding, so that New York providers will see double-digit declines even if

the overall allocation to the legal services corporation remains the same. Many lay-offs in legal services offices are occurring statewide. And the federal government has not yet retreated from its own budget cliff, risking further cuts to federal funding in the immediate future.

Surely, we need new responses to this deepening crisis. To start, we have a desperate need for additional civil legal services funding. No single means of providing services to the poor is as effective as the experienced legal services offices and lawyers that operate so heroically. They need more money, to offset federal losses and to try to meet the great need, as they have had to turn away at least 80% of those that reach out for help. We urge that the judiciary budget include a substantial increase in legal services funding, to move closer to the $100 million increased budget goal that has been set by Chief Judge Lippman.

But we need to get more help from other sources. We and other bar associations in New York have exerted substantial efforts to mobilize the private bar, and many lawyers have heard the call and given generously of their time and resources. At the City Bar Justice Center, we have 2,171 trained volunteers, who joined with the Justice Center staff to assist nearly 20,000 people last year. We also increased the value of pro bono legal services donated through programs at the Justice Center from $18 million to $20 million in one year. Our free legal hotline is supported by IOLA and OCA funding to assist thousands of New Yorkers with fast, free legal help on basic legal problems such as consumer debt, housing and family law, and it makes referrals to legal services when appropriate. Our programs also reach veterans, 9/11 victim compensation fund claimants, immigrant women and children, and victims of domestic violence and trafficking.

While other bar associations are also working hard to provide vital pro bono assistance, the current pace of pro bono activity must be accelerated further, and we have to be open to new ways of getting that done. We therefore fully support the recently issued 50-hour pro bono requirement for admission to the New York Bar. We see the requirement as inculcating the spirit of pro bono, exposing all new lawyers in the state to the rewards of pro bono service and, with 9000 new lawyers being admitted each year, generating a substantial amount of legal services. The rules provide a flexible approach, giving law students a broad range of ways they can help, and backing that up with a requirement that their efforts be supervised. It is now up to legal services providers, law schools, bar associations and others concerned about providing legal assistance to develop effective ways for law students to assist. The New York City Bar looks forward to doing its part, and to working with others to see that law student pro bono efforts are harnessed effectively.

Similarly, we experienced lawyers need to do more. There has been much effort to encourage pro bono service, but that has to be greatly intensified. The City Bar has long been in favor of the concept of mandatory pro bono service. We of course recognize that this has been a highly controversial issue within the bar. However, we also support another approach which we believe would stimulate greater involvement: the mandatory reporting of pro bono activities. In 1997, the City Bar proposed that New York lawyers be required to report the extent of their pro bono commitments, as well as their monetary contributions to organizations providing legal services to the poor (the report is appended to this testimony). Our report drew on the experience of Florida, which was the first to establish the reporting of pro bono activities and contributions, both of which grew substantially after the reporting requirement was put into place. Now, eight states have mandatory reporting. Mandatory reporting in New York can be handled in a number of ways, though perhaps the easiest would be in the form used for the biannual registration renewal. That is one of a number of details that would have to be developed, and we would be happy to work with the task force in designing such a program.

In closing, we face an historic opportunity to step up the funding for civil legal services through the New York State Office of Court Administration and the pro bono efforts of the legal profession. The new bar applicant pro bono requirement will bring law schools further into pro bono work and create important resources to help combat the increase in the poverty rate and homelessness in New York City. We must take what we have learned from the past fifty years of expanding access to justice for the poor and create smarter and more efficient ways to reach more people. At the City Bar, I pledge our full support for these efforts.

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Nina Lowenstein
Carlin Meyer
Barbara F. Newman
Katherine M. Oberlies
Katharine Huth Parker
Marian Whitney Payson
Robin A. Romeo
Daniel Roskoff
Harry Sherman
Jacques G. Simon
Michelle J. Simon
Valerie J. Wald
Amy J. Weinblatt

on Matrimonial Law
n H. Marsh, *Chair*
. Valentine, *Secretary*

Robert H. Moses
Amelia Nickles
O. Stephen Paganuzzi, Jr.
Lawrence W. Pollack
Judith M. Reichler
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Sharon Stein
Marcy L. Wachtel
Michelle Weston-Patterson
Elliot Wiener
Paulette J. Williams
Diane Yale
Joel R. Zand
John F. Zulack

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Proposal to Chief Judge Judith Kaye for an Attorney Pro Bono Reporting Requirement

by The Committee on Pro Bono and Legal Services

Introduction

To an alarming degree, the legal needs of New York State's poor are unmet. One study, published in 1990 and reissued in 1993, concluded that no more than 14% of this population's civil legal needs were being addressed. Recently, the Association of the Bar of the City of New York issued its Civil Justice Crisis Plan, which analyzes the legal services crisis and suggests a number of possible solutions in the areas of funding, *pro bono* work, making courts more "user friendly," and creating new systems and approaches. The Plan recognizes that the crisis in legal services for the poor has been exacerbated recently by the reduction in federal funds for organizations committed to providing such services and by restrictions placed on those organizations' ability to offer certain services to the poor.

The Association of the Bar of the City of New York submits this proposal to address one aspect of this crisis. We propose that the Chief Judge require members of the State's Bar to provide data on their contributions to the civil legal needs of the State's poor. Compliance with this reporting requirement would be mandatory. However, satisfaction of specific goals for attorney contributions would not be compulsory. Moreover, adoption of a mandatory reporting requirement would not carry with it any implication that a mandatory *pro bono* requirement also should exist.

The Bar's proposal would serve two important goals. First, it would help fill an information gap by establishing a continuing mechanism for collecting information about attorneys' commitment to *pro bono* work for

the poor. Second, it could encourage further voluntary *pro bono* work by engaging individual attorneys in the process of analyzing the amount of services and donations provided. These benefits would impose only a minimal burden on the members of the Bar by asking for responses to a simple questionnaire as part of the biennial attorney registration process.

In establishing a reporting requirement, the Chief Judge also would state an aspirational goal for the provision of *pro bono* services to the poor. Attorneys would retain maximum flexibility in satisfying that aspirational goal by providing time to *pro bono* work or financial assistance to organizations serving the legal needs of the indigent.

Background

The provision of legal services to the poor has raised difficult issues in a society of limited resources. Funding for legal organizations has become enmeshed in political agendas, and efforts to require mandatory *pro bono* work have met with resistance. At the present time, legal services to the poor depend in large part on the voluntary contribution of attorney time and financial resources to supplement ever scarcer resources available from other means. But the gap between the services provided and the services needed remains enormous and continues to grow.

The unmet legal needs of the State's poor have received substantial consideration. In 1988, New York State Chief Judge Sol Wachtler appointed the Committee to Improve Availability of Legal Services (often called the "Marrero Committee," after its Chair). That Committee analyzed the need for greater commitment to providing legal services to the poor, and it proposed a mandatory *pro bono* requirement for members of the Bar. While the Committee's proposal has not been implemented, the needs it detailed eight years ago remain dire. As the Committee noted, the needs of the poor for civil legal services include access to the very essentials of life, such as shelter, minimum levels of income and entitlements, unemployment compensation, disability allowances, child support, education, matrimonial relief, and health care.

In 1990, then-Chief Judge Wachtler created a second committee, the *Pro Bono* Review Committee, to obtain information about New York lawyers' commitment to *pro bono* work and to evaluate the effectiveness of efforts to increase voluntary participation in *pro bono* activities. This committee surveyed a cross-section of attorneys in the State for the years 1990 through 1992 and compiled valuable information on attorneys' provision of *pro bono* services. According to the *Pro Bono* Review Committee's

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Final Report, the rate of participation in *pro bono* work during the 1990-1992 period remained relatively constant, with little overall growth: 47-48% of the State's attorneys provided such services, and 43-46% provided some financial support for legal services organizations.

We submit the present proposal to further the work of the *Pro Bono* Review Committee by involving every attorney in the State in the process of compiling information on the commitment to *pro bono* services for the poor.

Attorney reporting requirements of the sort proposed here are not unprecedented. While several states have set aspirational goals for *pro bono* services, Florida has instituted a mandatory reporting requirement for *pro bono* contributions by its attorneys. As part of a broader undertaking to encourage voluntary *pro bono* services for the state's poor, the Florida Supreme Court in 1993 added to its rules of professional responsibility an ethical duty to spend 20 hours each year on *pro bono* services for the poor or to make annual contributions of $350 to legal aid organizations. The levels of commitment are specifically labeled as aspirational rather than mandatory, and no action will be taken against Florida attorneys who do not fulfill those goals. The reporting requirement, however, is mandatory. The Florida requirement has been actively debated by members of the Florida Bar, some of whom consider it invasive into the private practice of lawyers. Because the program is in its initial stages, detailed comparative figures are not currently available, and the reporting requirement's effect on the level of Florida attorneys' commitment to *pro bono* services cannot yet be definitively determined.

Proposal

We propose that, pursuant to judicial regulation, the Chief Judge require members of the New York State Bar to report the extent of their *pro bono* commitments.

Each attorney would report the extent to which he or she has met certain aspirational *pro bono* goals to be established by the Chief Judge. The proposed goal for an individual attorney would be (*i*) to devote a minimum of 20 hours annually to qualifying *pro bono* work or (*ii*) to make minimum annual monetary contributions to organizations providing legal services for the poor in the amount of $250 for attorneys whose pre-tax annual income is less than $50,000, and $500 for attorneys whose pre-tax annual income is $50,000 or more.

The Marrero Committee defined qualifying *pro bono* work to include the following:

> Professional services rendered in civil matters, and in those criminal matters for which the government is not obliged to provide funds for legal representation, to persons who are financially unable to compensate counsel;
>
> Activities related to improving the administration of justice by simplifying the legal process for, or increasing the availability and quality of legal services to, poor persons; and
>
> Professional services to charitable, religious, civic and educational organizations in matters designed predominantly to address the needs of poor persons.

We propose adopting this definition for purposes of the reporting requirement.

The monetary contribution goal could be satisfied by donating the above-stated amounts to any one or more of a large number of legal services organizations. Those organizations, however, must be either (*i*) primarily engaged in the provision of legal services to the poor or (*ii*) substantially engaged in the provision of legal services to the poor, provided that the donated funds are to be used for the provision of such legal services.

We recommend gathering information on attorneys' commitment to *pro bono* services through the Office of Court Administration's biennial attorney registration form. In this way, the data could be gathered in the most cost-effective manner, without needing a new bureaucracy to administer the reporting requirement.

Every attorney would be required to satisfy his or her reporting requirement by submitting information in the form of an affirmation. A questionnaire to be answered subject to that affirmation should inquire about the following issues:

> The number of hours the attorney personally provided for qualifying *pro bono* services, as defined above, during each of the two previous calendar years.
>
> The dollar contribution made to organizations that provide legal services to the poor, as defined above, during each of the two previous calendar years.
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> Whether the responding attorney's pre-tax annual income is below $50,000.
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> The attorney's employment (sole practitioner, small firm, large

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Attorney reporting would be mandatory for members of the State Bar, and attorneys failing to report the required information would be subject to sanctions. Satisfying the goals for commitment to qualifying *pro bono* work would not be mandatory.

Comments

The proposal for attorney reporting of *pro bono* commitments seeks to balance (*i*) the continuing need to collect information important to the understanding and encouragement of voluntary legal assistance to the poor of New York State and (*ii*) the burden on members of the Bar in providing that information. While the proposal is relatively straightforward, we have made certain choices that bear explanation.

1. The Aspirational Goal

The proposal establishes an aspirational goal for attorney commitment to *pro bono* service for the poor. Whether *pro bono* work should be mandatory for the State's attorneys has been actively debated. However, that issue need not be addressed to establish the proposed mechanism for gathering information and involving all members of the Bar in that process.[1]

The hourly and monetary goals in this proposal are intended to represent a fair commitment by members of the Bar, while providing maximum flexibility for satisfying those goals. Different organizations have suggested various figures for similar goals. As noted above, the Florida rule calls for an annual commitment of 20 hours or $350. In recommending mandatory *pro bono* work for New York lawyers, the Marrero Committee suggested a contribution of 40 hours every two years. The American Bar Association, in Model Rule 6.1, suggests a minimum of 50 hours of *pro bono* work each year. The suggested contribution in this proposal—20 hours every year—is consistent with the level of service recommended by the Marrero Committee and endorsed by the New York State Bar Association as an aspirational goal.

[1] The Association has endorsed a proposal to require attorneys to perform certain amounts of *pro bono* work. That proposal is not at issue here and is independent of *pro bono* reporting requirements. Additionally, we hope members of the Bar will not view financial contributions as a way to avoid the ethical responsibility of all attorneys to engage in qualifying *pro bono* work on an individual basis.

2. The Definition of Qualifying *Pro Bono* Work

The possibilities of how to define *pro bono* work are endless. We recognize that a substantial amount of work already has been done in this State concerning the unmet legal needs of the poor and the services provided by members of the Bar. We have decided not to address the issue anew, but to maintain consistency with the prior work on these issues by adopting the definition that already has gained acceptance. The definition is broad enough to encompass legal work that fills some of the most pressing needs in the State without being so broad as to detract from the goals of the reporting requirement. The breadth of the definition still permits attorneys whose practice is restricted by statute or other rules (such as many government attorneys) to engage in qualifying *pro bono* work. The definition of qualifying *pro bono* work is intended to address the current crisis in the provision of legal services to the poor. Accordingly, the definition necessarily excludes many useful and important endeavors.

3. Qualified Legal Services Organizations

The range of possible organizations that are worthy recipients of donations also may be large. Once again, we wish to focus resources where they are most needed to address the crisis in legal services for the poor. Accordingly, we have limited the potential recipient organizations to those that principally engage in the provision of those legal services or, where the donations are directed toward that work, to organizations substantially engaged in providing legal services to the poor. Individual attorneys, however, still retain broad discretion to direct donations to organizations of their own choice.

4. The Reporting Device

Using the biennial registration form provides the most accessible means of obtaining data on attorneys' commitment to legal services for the poor. Rather than creating a new agency or structure to collect this information, we can use this existing mechanism. At the same time, we would impose only minimal extra burdens on the State's attorneys, who already have to fill out the registration form, and on the Office of Court Administration, which already bears the responsibility for registering attorneys.

One drawback of using the registration form is that complete information will not be obtained on an annual basis. Thus, this mechanism for collecting information will have a relatively slow start, because complete data will not be available for comparative analysis until four years

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have passed. Nevertheless, the data obtained on a rolling basis may provide broad-brush (though perhaps less statistically valid) information for a quick understanding of lawyers' voluntary commitments to *pro bono* work.

5. Authority to Implement the Proposal

The Marrero Committee concluded that the Chief Judge or the Court of Appeals, pursuant to their authority to oversee the administration and operation of the State's court system and to regulate admission to the practice of law, could adopt a mandatory *pro bono* requirement for the State's attorneys. We believe the same legal bases authorize the Court to adopt the proposal for *pro bono* reporting requirements. Indeed, the proposed reporting requirements would impose even fewer burdens on the State's attorneys than would a mandatory *pro bono* requirement, and would merely add a new questionnaire and affirmation to the attorney registration system that already exists. The Marrero Committee's analysis thus *a fortiori* would entitle the Court to adopt the proposed reporting requirements.

The Marrero Committee determined that New York courts have inherent power to regulate practice and procedure before them, *see, e.g.*, N.Y. Const. art. 6, § 30, and to assign counsel in appropriate cases, *see, e.g., In re Smiley*, 36 N.Y.2d 433, 438, 369 N.Y.S.2d 87, 91 (1975). Pursuant to N.Y. Const. art. 6, § 28(b) and (c), and N.Y. Judiciary Law § 211, the Chief Judge may promulgate standards and administrative policies to promote and facilitate expeditious and fair treatment of civil cases involving indigents in the New York courts and to effectuate the Legislature's desire to provide counsel for indigents in appropriate cases, *see* CPLR 1102(a). The Court also has authority under N.Y. Judiciary Law § 53(1) to promulgate regulations governing the admission of attorneys to practice in the New York courts. In addition, the Chief Administrator of the New York courts has authority under N.Y. Const. art. 6, § 30, Judiciary Law § 212, and 22 N.Y.C.R.R. §§ 80.1 and 118 to promulgate standards and issue Administrative Orders concerning attorneys admitted to practice in this State. These authorizations, and the others discussed in the Marrero Committee's report, empower the Court to adopt the proposed reporting requirements discussed above.

Conclusion

By requiring members of the Bar to report their contributions to legal services for the State's poor, the Court could help alleviate the crisis that effectively cuts off a significant portion of the State's population from the justice system. The reporting requirement would permit the Court to

announce its aspirations for members of the Bar and would provide the State with a continuing flow of information to assess the scope and direction of voluntary commitments to legal services in that population. The reporting requirement also would involve each attorney in the process and, we hope, would encourage their participation.

February 1997

The Committee on Pro Bono and Legal Services

Thomas J. Moloney, *Chair*
Sian Provost, *Secretary*

Irma B. Ascher
Lois S. Bloom
Stephen G. Brooks
Cameron Clark
Martha F. Davis
Madeline H. DeLone
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Jimmy M. Santos
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Samuel W. Seymour
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Adam J. Halper, Esq.

Director of Legal Services,
The Family Center

Written Comments of Adam J. Halper
Director of the Department of Legal Services
The Family Center

Submitted to the
Task Force to Expand Access to Civil Legal Services
Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. A. Gail Prudenti, Chief Administrative Judge
Hon. Luis A. Gonzalez, Presiding Justice, First Department
Seymour W. James, Jr., President, New York State Bar Association

September 24th, 2012
Appellate Division, First Department Courthouse
New York, New York

Thank you to Judge Lippman and to the Taskforce for receiving these comments. I am the Director of Legal Services at The Family Center (TFC), a multidisciplinary agency in New York City serving individuals and families affected by grief, illness and loss. The Family Center assists clients by helping them to resolve problems connected to the "essentials of life," often, as those lives are ending.

Last year, I submitted written comments regarding the intense need for civil legal services for the indigent; specifically by providing representation before, during and after civil proceedings have ended. This year, through one illustration in particular, I submit comments on the value of preventive and early intervention services by civil legal services providers, the importance of provider collaboration with non-legal entities and the effectiveness of alternative dispute resolution mechanisms.

The Ocean Parkway stop on the Q train is a long way from our midtown Manhattan office. On Brighton Beach Avenue you'll find several fast food restaurants, bodegas and hair salons. Just off the avenue, you'll find wide sand-covered sidewalks as well as red brick apartment buildings that are set back from the street. They stand together among a mixture of single and multifamily houses in a manner which suggests that you might not be in a city.

I felt like I had travelled very far when I walked into one of those apartment buildings last October and met Sonja and her family. The apartment was a small three-bedroom unit Sonja shared with her two sisters, mother and stepfather. The spoken language was Polish; the art on the walls, books, small figurines and candles – Roman Catholic. House calls are a big part of TFC's work as is a particular sentiment that often comes with it, which is that of feeling alien. For me, that feeling has never been stronger than at that moment.

When I met her, Sonja was 24 years old.[1] She was attending school in Manhattan to get her Master's Degree in Public Administration and was doing so with a number of large loans. During the day she worked as a receptionist at a small financial firm in downtown Manhattan. Sonja and her family were immigrants from Poland and had been in the United States for ten years. Last year, there were five people living in the home in Coney Island, including Sonja, her two younger sisters, Myra (17) and Miriam (12), her stepfather, Richard and her mother, Sarah.

In October, I was really there to see Sarah. One of the social workers in the oncology unit at Maimonides Medical Center contacted The Family Center about a week prior to my visit. Sarah was in treatment for breast cancer at Maimonides and she had been referred to TFC for advance directives as well as other legal issues in anticipation of her passing. This was her second bout with breast cancer. The woman I met, although possessed of all her faculties and wit, had been ravaged by disease. At the time of my visit, the cancer that had started in one of her breasts had spread everywhere. Her hair was thin as were her limbs. Her teeth were rotted and her skin was practically yellow. The muscles in her face and neck seemed stretched and locked. In September, Sarah's doctors had told her that her prognosis was poor and that she should get her affairs in order. When people hear that news and are possessed of limited means, agencies like TFC often receive a telephone call.

The Family Center is a multidisciplinary, non-profit organization. It serves individuals and families affected by grief, illness and loss. For practical purposes, this means working with people who are dealing with intense and often chronic medical problems and significant issues in other areas as a result such as housing, income and food instability. Overwhelmingly, they are poor or come from lower, middle income households.

The model of service at The Family Center is one that recognizes that very few, if any, social problems connected to illness occur in a vacuum. In order to assist a family or individual, and do so effectively, many different professions and disciplines have to be involved. The Family Center houses social workers, case managers, medical case managers, lawyers and researchers among others – all of whom may be involved with a client or a family either concurrently or consecutively.

Using this multidisciplinary approach, one that is designed specifically to meet the needs of vulnerable clients struggling with illness, has been a successful one at The Family Center. TFC's Department of Legal Services is, even by non-profit standards, small. Its work is great. In the last twelve months, five full-time staff, one part-time assistant and a host of law student interns provided legal services to 900 people and closed 1020 legal matters on their behalf. Those 900 clients represent an additional 2000 household members, many of whom are children. In the last year, TFC attorneys helped clients delay or avoid eviction (142); preserve or obtain cash assistance and food stamps (122); obtain and preserve social security benefits (65); obtain and preserve Medicare and Medicaid benefits (41); obtain and preserve marital assets, child and spousal support (72); secure custody of minor children (92); execute advance directives and wills for ill clients, often at their bedsides (460); and secure successful judgments, resolutions and benefits in other areas including debt collection (26). We offer, to individuals and families, advice and counsel and brief representation as well as direct representation. We represent clients

[1] In preparing these comments, I changed a number of details regarding this case including names.

in all five boroughs of New York City. We work in courtrooms and in hospitals. With our Outreach Department, we conduct clinics and presentations to both providers and consumers and that work reaches 4,000 people annually. The direct economic benefits we help clients to achieve are tremendous; the social profit of our work, measured in savings to our community is even larger.

Our experience is that all good legal outcomes are greatly assisted by working with other professional disciplines. At The Family Center, we work in teams. Staff speaks to each other about clients constantly and every new client matter is presented at a weekly intake meeting attended by all directors at the agency. Respecting ethical guidelines, action to assist clients and their families is decided by a community of professionals acting in concert. Health, financial management, mental well-being and legal work are all considered at the same time. Priorities are set, tasks assigned. Many people are involved right at the beginning of a client engagement.

This was certainly true for Sonja and her mother. Notably, the Family Center's approach is similar, in some ways, to that of a hospital. Patients, and certainly those who have to be in a hospital setting overnight, may engage dozens of people in receiving their care. For instance, prior to my arrival, Sarah had seen several doctors, been attended to by a battery of nurses, nurse practitioners and countless other staff at Maimonides including people who bathed her and people who cooked her meals, cleaned rooms and examined lab results during her hospital stays. Outside of direct medical care, the family had engaged several people to deal with Medicaid and billing issues – which became more difficult because Sarah spoke only Polish. Translators had been involved as well. The social work department at Maimonides had been working with Sarah for some time, addressing social work needs while she was in the hospital and helping to coordinate efforts to hold the family together outside. They were instrumental in securing home hospice care for Sarah, something Sarah wanted very much.

At the moment I first met her family, Sonja was the point person in all family endeavors. She was, beside her 17-year-old sister, the only person in the house fluent in English. She was poised, exceptionally well-spoken. Later, watching her interact with court personnel including the Judge, I was struck that at a young age she seemed to command almost instantaneous respect. She doesn't ask for help easily but when she does, people stand up quickly. Her mother's illness was one of the rare moments when she did.

And, it could never have been any other way. When I arrived at her apartment and spoke to her mother, the family had started to suffer. Sonja is 24 and works and goes to school. Her mother, who had been working, had stopped several months prior because of her illness and its effects. Sonja's step father, a construction worker, had missed days from his job in order to care for Sarah and was in threat of losing his work altogether. Sonja's 17-year-old sister was, unsurprisingly, having problems in school including missing a great deal of it. Also, Sonja's 12-year-old sister has severe mental health challenges. In fact, it was working with a special education school in Brooklyn (and dealing with administrative issues there) which initially fueled the family's desire for Sonja to become guardian of her sisters and take control of her mother's affairs. Sarah had always been the leader in the family. As she became sicker, Sonja was the stand-in. Financial, educational and other seams were starting to split. This was a family that needed help.

No one attorney alone could have held things together for this family. The key to success and why the family avoided other troubles was because they came to The Family Center early and because they engaged successfully and consistently with a host of providers; lawyer and non-lawyers alike. Because of that, they avoided difficulties becoming catastrophes. They entered the civil court system on their own terms and purposefully. They avoided disputes in at least two other venues. These were good outcomes and were by no means assured.

First, there is no way in which Sonja or her family could have negotiated the challenges posed by her mother's passing without some sort of mental health assistance. From day one, it would have been obvious to any worker that sadness, anxiety and anger were hovering just below the surface for everyone in the family. Although they were strongly connected to their church, family counseling was needed. The family initially rejected all efforts to provide counseling and then, after intense discussion in and around the sister, Myra, they reluctantly agreed. Family counseling occurs often in the midst of crisis. This was no different. Short-term therapy did assist significantly although I am hard pressed to quantify it. I suppose, even with everything that was happening, according to the client, therapy helped make everyone feel better. The intense psychological, financial, legal and other burdens of living in a family where someone is dying got a bit lighter.

Second, the legal outcomes were better because of a multidisciplinary approach. Receiving counseling as noted above, helped with what came later -- which was an unexpected legal engagement. Service had to be conducted on the biological father who lived in New Jersey. To the surprise of everyone including Sonja, his initial reaction to the summons was to answer the petition and demand custody of Sonja's sisters. All sides, seeing that this was an appropriate case, requested mediation. The result was that the father withdrew his petition and arranged an informal agreement with his daughters, something that continues to this day. From the time my office was first contacted by Maimonides to the time when we closed the case, no less than five people at TFC assisted the family. There were two lawyers, one paralegal, a social worker and a Legal Services Department Intern. The Family Court matter ended well because even at my agency, there were multiple people assisting and working towards speedy resolution.

Third, not only was there work to be done inside the court, but during the course of the representation my agency liaised with three separate doctors' offices, workers at Myra's school, as well as various people from Calvary and Maimonides. Later, my office worked with Sonja in connection to a social security hearing for Miriam as well as to prevent a Housing Court problem when, despite best efforts, the family did fall into arrears and was threatened with a nonpayment action. Prior to any filings, we reached out to the landlord and negotiated a resolution and a payment plan on the arrears.

Finally, for a brief moment, my agency became the point of contact for assistance with the family. This allowed Sonja and her family to focus on the real issue, her mother's illness. For a short window, we assisted Sonja and her family by being their navigator. The legal work was straightforward enough, but what came with that work was not. This included mental health, special education issues, Medicaid difficulties, social security problems and more.

All of these issues became intensely aggravated when, just before the final Family Court appearance, Sarah passed away.

And after Family Court proceedings, after Sonja obtained guardianship of her sisters, after averting a Housing Court case, after dealing with the Social Security Administration and after the family had moved on from The Family Center, not long ago, Sonja paid our office a visit. It was to drop off a thank you card. Inside, there was a picture of Sonja's mother. Her image was in no way, anything like the woman I encountered when I went to Coney Island. The photo, taken three years earlier, showed a pretty, red-headed woman, immaculately dressed, at a party. She was laughing.

The lesson from a case like Sonja's might be summarized as easily as everyone simply did their jobs. But, there was much more to it than that. Everyone did their jobs together. Although not presented, I suspect that even if more substantial conflict had risen, it would have been addressed effectively and efficiently. I say this because that's how everything else in the case was addressed. It wasn't without difficulties – far from it. But when they arose, Sonja and her family had a support network of professionals who picked up the phone and called each other to assist. In doing our jobs together, those jobs changed.

The situation could have gone much differently. This was a family in a precarious financial situation; with one member dying and a special needs child in the home. This was a family for whom obtaining and preserving the essentials of life, was already a non-stop job. Through collaborative efforts, dispute resolution and though recognition that much of the work had to be done outside of court, housing instability was averted, social security benefits obtained and a bitter and pointless guardianship conflict avoided. This last sentence should be the judgment for more of our cases. I cannot stress enough that early intervention among multiple disciplines was the key to success. Additionally, there was a strong motivation by all parties to resolve disputes outside of court and make use of programs to help them do that. These considerations should be strong priorities for this initiative.

Thank you for this opportunity to submit written comments on these issues. The Family Center wishes Judge Lippman and the Taskforce good luck.

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Hon. Fern Fisher

Director, NYS Courts Access to Justice Program
Deputy Chief Administrative Judge,
New York City Courts

Testimony of Hon. Fern A. Fisher

I have been asked to address two topics this morning. I will first address how the $16,949,999 in funding awards in the First and Second Departments to legal services providers and pro bono efforts has made a difference in closing the justice gap. Second, I will provide an update on efforts to standardize and simplify practices and forms throughout the State. The latter effort was proposed by the Task Force and is being carried forward by Deputy Chief Administrative Judge Michael Coccoma and me.

If you ask the individuals who have been assisted by legal services providers if their lives been changed by the assistance they received from the Civil Legal Services grant money, the answer would be a resounding yes. If you ask the provider organizations if the grants have made a difference in their ability to provide services, each program will uniformly answer yes. Both clients and providers are grateful that the New York State system is forward thinking in understanding the moral imperative to close the justice gap. Our government partners will be happy with the cost savings that legal assistance produces. I have provided examples to illustrate the impact of the funding. These examples are a mere snapshot of the total picture of the success of the funding via the work of legal providers and volunteers.

The Civil Legal Services funding provided critical support for Legal Services NYC's (LSNYC's) service delivery system in Fiscal Years 12 and 13, since the program suffered from drastic cuts to Legal Services Corporation funding during those periods. Overall, the Civil Legal Services funding supported the delivery of legal services to thousands of families and individuals in the areas of eviction prevention, domestic violence, health and education, and economic benefits.

The grants have allowed the New York Legal Assistance Group (NYLAG) to hire 15 additional attorneys, which resulted in the handling of 5,000 more cases. One of the 5,000 cases was Aron's. Aron is 80 years old, deaf, has limited mobility, and was living in a regulated apartment he had occupied since the 1960's. Aron's landlord was suing him and he was in danger of being evicted. As a result of a fire in the apartment below his, Aron had received a monthly rent reduction order until the landlord could complete repairs on his apartment, yet the landlord continued to charge him the full rent. Aron refused to pay and the landlord sued him. An attorney picked up the case for full representation, appearing on Aron's behalf in Housing

Court, since he was unable to travel to the Court in person due to his mobility issues. He negotiated an agreement between Aron and his landlord that would allow Aron to stay in his apartment and pay an agreed upon monthly rent pending the outcome of the disputes before the Department of Housing and Community Renewal. As a result, Aron has been able to stay in his rent regulated apartment and the attorney is continuing to monitor his case to ensure the repairs are completed. We were a kinder society by preventing an 80-year old from becoming homeless.

Another individual whose life was altered by NYLAG was Samah. Samah is a 24-year-old woman who came to the Mobile Legal Help Center this past spring. She had moved to Brooklyn from Tunisia two years ago for an arranged marriage. Within six months, her new husband had become physically abusive—pushing her, strangling her and repeatedly punching her in the face. After a year together, he decided to move the family to Virginia, forcing Samah to quit her job and leave the only home she had known in the United States. Once in Virginia, the abuse escalated, culminating in an incident where Samah's husband beat her badly and threw her out of their house in the middle of the night. Alone in the United States with no family to rely on, Samah returned to Brooklyn where she went to the police to report the abuse. At the police station she was instructed to go to Family Court, but she was scared of the process and afraid to go to the courthouse alone. Seeking out the comfort and familiarity of her peers, Samah contacted the Arab American Resource Center, which is one of the agencies with which the Mobile Legal Help Center partners. The vehicle was scheduled to visit the site a few days later, and the social worker at the agency contacted NYLAG to preschedule an appointment. When Samah appeared that day, she was terrified, broke, alone and without hope. A NYLAG Family Law attorney met with her, advised her what to expect on the first court date, and gave her concrete requests to make in court. As a result, she began to feel more confident and gained a clearer understanding of her situation and options. However, the assistance of the Mobile Legal Help Center did not end there. The attorney arranged for a law student volunteer, working under a student practice order and under the supervision of a NYLAG attorney, to accompany Samah to court on the following day to secure an Order of Protection. In addition, the law student spent the morning arguing with the husband’s attorney - a difficult task that would have been left to Samah had she been on her own. The student was able to convince the opposing counsel to have the husband pay Samah’s rent for the month of August. The case then went before the Judge at which point the student advocated for a free attorney to be assigned to Samah. An attorney was assigned

and after much discussion Samah was awarded $350 in addition to the rent money so that she had some money to live on until the next court date. After a very long day in court, the student reported that this “was one of the most difficult yet most rewarding experiences I've had as a law student,” and stated that Samah “feels completely relieved now and is really optimistic about the future”.

The grants have allowed providers to assist individuals who have multiple layers of legal problems. Ms. P.'s case was first identified from a Legal Aid Society Family Law and Domestic Violence Practice staff attorney in the Bronx Neighborhood Office who had assisted Ms. P in obtaining immigration status under the federal law based on the severe domestic violence suffered by Ms. P. as well as her two children. After escaping her abuser and entering a domestic violence shelter, Ms. P. had tried multiple times to add herself to the public assistance budget of her two children. She was illegally turned away each time. As a result of the intervention of Legal Aid with the City's Human Resources Administration, she received $561.10 in retroactive cash assistance and eight months of retroactive Medicaid. She was also added on to her children's case. When she returned to reapply after her case was closed for an unrelated reason, she was again illegally turned away in violation of a federal court settlement in one of Legal Aid’s cases. At that point, she was applying not only for ongoing cash assistance, food stamps, and Medicaid but also for an emergency grant that would enable her to move from shelter into a public housing apartment administered through the New York City Housing Authority and to address her family's lack of food. Legal Aid immediately filed an urgent relief request and reported to the City that it had violated the settlement agreement. Legal Aid simultaneously advocated with the New York City Housing Authority and obtained an extension of the deadline for Ms. P. to pay the money needed to secure her new apartment. The City issued the checks to the Housing Authority, and the family received expedited benefits to purchase food. As a result, Ms. P. and her children have moved into their apartment from the shelter. Ms. P’s life and her children’s lives were saved from not having to stay in a shelter any longer and the City of New York benefitted by the savings of no longer keeping the family in the shelter system.

CAMBA used Civil Legal Services Funds last year to provide direct legal services to eligible clients in 1,112 legal matters in "essentials of life" categories including housing, family law and subsistence income, including consumer debt

litigation. The majority of these services were provided to people living in Brooklyn. However, the consumer law program provides services citywide and the Housing Unit provides legal services in Staten Island and Brooklyn.

In the 8-month grant period from last year, Civil Action Practice staff at The Bronx Defenders opened or closed 2,206 "essentials of life" legal matters benefitting 3,531 people. They represented an additional 1,563 people on other legal matters ranging from immigration issues to individual rights. Their early intervention model, assisted in keeping many legal issues from ripening.

With Civil Legal Services funds last year, The Center for Family Representation ("CAR") provided the interdisciplinary services, of a lawyer, social worker, and parent advocate, to indigent families who face separation by the children's welfare system. CFR also educates child welfare practitioners and community agency partners about family court, our services, and best practices for supporting families, as well as provide outreach to families in the community to help prevent them from becoming involved in the court system. From August 1, 2011 to March 31, 2012, CFR maintained an open caseload of more than 1,700 clients in both Manhattan and Queens. During this time they opened cases for 419 clients in Manhattan and 372 in Queens, and the program closed cases for 316 clients. In the past year, CFR kept 73% of the children of their clients out of foster care entirely. The children of their clients who did enter care "stayed for a median of just 2.2 months, which is significantly shorter than the New York State average of 29 months and the City median of 6.4 months". Furthermore, their services produce notable significant cost savings. CAR's services cost just $6,000 per family regardless of the number of children. The minimum cost to keep a child in foster care in New York State is $29,000 per year. CAR estimates that their services generated taxpayer savings of approximately "$6.9 million in a single year".

Legal services provider attorneys and support staff are the under-paid over-worked heros and sheros of New York State. Their dedication to service often is unrecognized, but the Court system knows they make a difference every day life by life. We applaud them. I want however, to also recognize the volunteer efforts that the Civil Legal Services funding has produced. These volunteer lawyers and law students have halos over their heads and deserve angel status in my opinion.

The Civil Legal Services funding provided $162,588 for all departments for NYLAG, The Brooklyn Bar Association Volunteer Lawyer Project and The New York County Lawyers Association, to partner with the Courts to provide limited scope representation to Consumer Credit defendants in Civil Court. In 2011 3,577 defendants were assisted and through July of 2012 2,666 defendants have been assisted using volunteer lawyers and law students. The results of representation are stark compared to the experience of an un-represented defendant. This effort has national attention for its success with limited-scope representation and the use of volunteers. With just a little bit of money and a productive partnership thousands of lives have been improved.

With the numbers of unrepresented litigants still coming to court in unabated numbers, the Task Force urges the simplification of forms and procedures and processes throughout the State to provide further access to courts. In addition the Task Force urges uniformity taking into consideration local needs, in order to insure equal justice across the State.

The simplification and uniformity journey is on-going. Judge Coccoma and I have formed sub-committees in the following areas : Landlord and Tenant, foreclosure, family, consumer credit, small claims, Surrogates Court, Supreme Court and divorce. The sub-committees each have judges or court clerks and bar leaders from across the state. Each sub-committee and the main committee has a New York State Bar representative. The landlord and tenant sub-committee is tweaking a final draft of a tenant answer in a non-payment proceeding, the family committee has finished a child support modification form that can be used to develop a new DIY program, the foreclosure committee is working on a foreclosure handbook for owners and a uniform settlement conference order, the consumer credit committee is reviewing all consumer credit practices and forms to insure that defendants receive uniform access to justice and plaintiffs can rely on uniformity, the divorce committee is tackling simplifying the morass of the uncontested divorce process and forms, the Supreme Court is looking first at a uniform Poor Persons petition and procedure and the Surrogates committee is reviewing the Article 81 system. All forms will be made into plain language. Each sub-committee will send their work product to the main committee chaired by Judge Coccoma and me, and then on to Judge Prudenti and/ or the Administrative Board as required.

In the words of the Carpenters “we have only just begun”. Courtrooms are stilled filled with thousands of unrepresented litigants. In some areas, the additional funding has produced an insignificant statistical change in the percentages of people represented in court. Legal services providers still turn away more people than a democratic society should abandon. Without the funding that Judge Lippman has obtained thus far the thousands served would be living different lives. However, we still have far to go before we can rest at our destiny’s end: an adequate permanent stream of funding for civil legal services. Judge Lippman the Task Force and I wish you good health and sustained and abundant energy so that you may lead us to journey’s end.

Prof. Gillian K. Hadfield

Kirtland Professor of Law & Economics,
University of Southern California
Law School

Gillian Hadfield is the Richard L. and Antoinette Kirtland professor of law and professor of economics at the University of Southern California. She studies the design of legal and dispute resolution systems in advanced and developing market economies; the markets for law, lawyers and dispute resolution; contract law and theory; and economic analysis of law; and regulation of legal markets and legal profession. She is the director of the Southern California Innovation Project and co-director of the Center in Law, Economics, and Organization. She teaches Contracts; Advanced Contracts: Strategic Analysis and Advice; and Legal Design.

Professor Hadfield joined the USC Law faculty in 2001. Her recent publications include "The Dynamic Quality of Law: Judicial Incentives, Legal Human Capital and the Adaptation of Law (Journal of Economic Behavior and Organization 2011); "Equipping the Garage Guys in Law" (Maryland Law Review 2011); "Producing Law for Innovation" (Rules for Growth 2011); and "Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource for Landscape for Ordinary Americans" (Fordham Urban Law Journal 2010).

Professor Hadfield holds a B.A.H. from Queen's University, a J.D. from Stanford Law School and an M.A. and Ph.D. in economics from Stanford University. She served as clerk to Chief Judge Patricia Wald on the U.S. Court of Appeals, D.C. Circuit. Prior to joining the faculty at USC, she was on the law faculty at the University of California, Berkeley, and the University of Toronto, and a member of the faculty of the Global Law School at New York University and the European School for New Institutional Economics. Professor Hadfield was the Sidley Austin Visiting Professor at Harvard Law School for the Winter Term of 2010 and the Justin W. D'Atri Visiting Professor of Law, Business and Society at Columbia Law School in the fall of 2008. She was a 2006-07 and 2010-11 fellow of the Center for Advanced Study in the Behavioral Sciences and a National Fellow at the Hoover Institution in 1993. She also has held Olin Fellowships at Columbia Law School, Cornell Law School and USC and is a member of the Comparative Law and Economics Forum. She is past president of the Canadian Law and Economics Association and a former director of the American Law and Economics Association. She is currently director of the American Law and Economics Association; a member of the board of the International Society for New Institutional Economics; and a member of the American Law Institute.

Summary of Testimony

Task Force to Expand Access to Civil Legal Services in New York

Chief Judge's Hearings

October 1, 2012

Gillian K. Hadfield

Chief Judge Lippman, Justice Gonzalez, and Mr. James:

Thank you for inviting me to speak with you today about the crisis in access to justice in this country and in this state.

My name is Gillian Hadfield. I am the Kirtland Professor of Law and Professor of Economics at the University of Southern California. I specialize in the economics of legal markets and institutions. I have devoted significant efforts in recent years to analyzing the crisis in access to justice facing ordinary Americans and ways to solve it.

Being both a lawyer and an economist, and an academic to boot, I'm at triple threat of hiding behind "on the one hand, on the other hand" statements when it comes to addressing public policy problems. But I am here today to make a clear unequivocal statement: there is no way to solve the crisis of civil access to justice without fundamental change in the way the judiciary regulates the practice of law. More precisely, there is no way to generate the kind of legal help that ordinary New Yorkers need solely through the expenditure of public money on legal aid and the provision of pro bono and other charitable assistance. No way. Any solution that makes a dent in the problem will also have to involve expanding the types of people and organizations that are authorized to provide legal help. I realize that is a statement that is at odds with almost everything lawyers talk about when they talk about access to justice. But it shouldn't be. It should be the main topic of conversation: how will we expand access by expanding the range of options available to ordinary people when they face the ordinary legal needs of everyday life? This is not a scary option. It is not an unethical option. It is, in my view, the only responsible option.

Don't get me wrong. Increased funding in the form of increased money for courts, legal aid and court-based pro se support services is clearly needed. Although we are often told that the U.S. is a legalistic society, my research has shown that if we take into account the fact that the American approach to regulation is much more legally-

intensive[1] than elsewhere, the U.S. is in fact far behind other advanced countries (and some less advanced ones) when it comes to public expenditure on courts, judges and legal aid.[2] I support every effort to increase the level of court funding, legal aid and pro bono efforts.

But I believe it is a major mistake for the legal profession to focus exclusively on how to solve the access problem with more money—public or charitable money—and volunteer pro bono efforts alone. The reason is that the scale of the problem is such that any reasonable amount of public funding or legal aid or pro bono work can never be more than a partial solution. The need for legal help—dare I say the demand for legal help—far, far outstrips what can be met only through publicly funded and charitable forms of supply.

Let's focus just on the part of the problem that your Task Force has been charged with studying: the civil legal needs of low-income New Yorkers living at or below 200% of the poverty line. The 2010 Task Force report demonstrated that approximately half of all these low-income households were facing an average of one and a half civil legal problems when they were surveyed. That's 3 million people or a little over 1 million households. That's 1.5 million legal problems in low-income households.

Suppose you wanted to provide every household experiencing civil legal problems just *one hour* of legal help with each problem they faced. What would that cost? The average hourly rate for a general practitioner working in solo or small firm practice in New York—the kind of lawyer who provides services to ordinary folks rather than corporations—is about $200. A little more math: 1 million households times 1.5 problems times $200 per hour equals $300 million. That's for *one hour* for each problem. Even if you think you could find enough lawyers willing to work for, say, $150 an hour (which no survey of lawyers that I've seen suggests is possible), you're still talking $225 million. Of course, for very few legal problems is one hour of help much help at all.

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[1] For example: one way to protect borrowers in mortgage lending markets is to regulate the terms of mortgages that may be offered—requiring minimum down payments, for example, or prohibiting adjustable interest rates or balloon payments. Another approach is to allow lenders to offer whatever terms they choose and to protect borrowers with legal rights—to disclosure, to truth-in-lending, to cooling-off periods, etc. The latter approach may generate more options for people in the marketplace, but it also imposes more legal costs on consumers who have to 'pay' to regulate the market individually—learning about legal rights ahead of time, reviewing disclosures, interpreting complex individualized terms, bringing claims when rights are violated.

[2] I provide some data about this in my article *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans* (37 Fordham Urb. L. J. 129).

The total budget for the Judiciary's Civil Legal Services initiative in New York this year is $25 million. That would buy 1 million low-income households about seven and a half minutes of legal help at $200 an hour. Indeed, the entire budget for New York state courts this year—$2.3 billion—would buy these 3 million low-income people only about seven and a half hours of attorney assistance with each of their legal problems.

And if you didn't want to pay hourly rates for that assistance? It would require every one of the approximately 150,000 New York licensed attorneys to work an additional 10 hours pro bono a year for *each hour* of help provided for all those facing a legal problem. To put this number in perspective, in the 2008 ABA Pro Bono survey, American lawyers provided an annual average of 28 hours of pro bono services to persons of limited means.[3] The average time spent on a single pro bono case was 24 hours—meaning that on average, American lawyers are helping the equivalent of one person or household a year with a legal problem. If this average applies in New York, it means 150,000 households receive pro bono help—that's 10% of the 1.5 million legal problems low-income households tell us they are facing.

It gets worse. The legal needs surveys, like the one your Task Force conducted in 2010, only ask households about their "erupted" problems—the divorce in progress, the job termination, the foreclosure or eviction notice. The iceberg under the water consists of all the stages before disaster strikes when people are making decisions about how to navigate their legal lives: deciding how to plan for child custody or income-sharing as a relationship struggles; whether to take a job or comply with employer demands or how to respond to an incipient hostile environment; whether to sign that mortgage or rental agreement or accept that offer to consolidate debt. This is the kind of legal work, of course, that the only "persons" who can really afford legal services in today's legal world—our "corporate persons"—predominantly call upon: advice about how to comply with regulations, execute deals, avoid disputes or minimize liability. Ordinary Americans have effectively no access to such advice. And that plays no small role in determining just how many of those problems erupt and land in your courthouses. The scale of the demand for legal assistance in America is huge, and almost entirely unmet.

That's why I believe any reasonable response to the crisis in access to justice for ordinary households in New York must involve a serious effort to increase the supply of low-cost legal assistance. There is a straightforward way to do this: allow people and organizations other than lawyers and law firms to provide some forms of legal assistance.

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[3] In addition, attorneys provided an average of 13 hours in pro bono work for organizations that serve those with limited means. The survey is not particularly clear about this but is appears that this would include, for example, serving on the board of a non-profit or assisting the organization with legal matters—not providing legal services directly for the people served by the organization.

I imagine every lawyer in the room is gasping at this point. How can a non-lawyer provide legal assistance? Isn't that recipe for shoddy assistance? Exploitation? Fraud?

No. It's not. Other professions do this in perfectly reasonable ways. Take medicine. Does a full-fledged MD have to deliver every service needed to address every medical issue you face in order to receive quality care? No. Medical care is a team sport, provided by a wide variety of medical professionals: nurses, radiologic technologists, pharmacists, nurse practitioners, physical therapists, chiropractors, registered massage therapists, certified nurse midwives, certified registered nurse anesthetists, etc. Many of these providers are licensed and authorized to provide services directly to those with medical problems. They are not limited to working under the direct supervision of MDs. Thank goodness. Because if they were we'd be paying MD rates for every sore throat and backache.

There is an urgent need for the judiciary to change the landscape of options available to those with legal needs: to exercise your ultimate authority to decide who can provide legal assistance by expanding that list beyond expensive JD-trained and bar-licensed attorneys.

Of course we want some services delivered only by expensive JD-trained and bar-licensed attorneys—we only want surgery performed by surgeons, too. But where are our nurse practitioners? Our legal systems desperately need the equivalent of nurse practitioners and other non-MD health care providers. We need non-JD legal providers who can perform simpler legal work at much lower cost and thereby fill an enormous part of the gaping legal need in this state.

The scale of the demand for such help—interpreting the terms of a rental or mortgage agreement before it is signed or breached, before it becomes the basis for an eviction, collection or foreclosure action, for example—is the great virtue here. Yes, individual situations vary. But in large numbers there is a lot of repetition. This means that it is possible to come up with relatively standardized approaches that will suit the needs of many people. Not all—the nurse practitioner working independently in a medical clinic, for example, needs to be trained to recognize when the persistent cough is more than a cold and needs to be handled by the more expensive MD. So too would non-JD legal providers need to be trained to recognize when a rental or mortgage problem calls for more expensive measures than the common solution provides—such as recognizing when there is a potential violation of significant legal obligations by a landlord or mortgage lender. This is the kind of triage that no doubt our current overworked legal aid providers have to provide on a daily basis: screening the requests for help that inundate them to determine which ones they can do something significant for and which ones they cannot. Our public interest law firms do this as well—they refrain, I'm sure with regret, from helping those with ordinary problems to find those where the help can have broad impact. I'm quite confident that in many areas there are ways to train people who

do not hold JDs to perform some of this function, following established protocols and accessing informed databases and networks of JD-based advice when needed.

Think about one of the major sources of court burden: misunderstandings about procedures and requirements and forms by pro se litigants in housing or family court, for example. Your Task Force has heard (and surely experienced) the delays and complications created by the flood of people with no alternative but to represent themselves. Yes, it would be nice if every one of these people had a full-fledged JD licensed to practice in New York to represent them. But if we can't do that—and we can't—then think about how much improved the situation would be for all concerned if these people could at least obtain low-cost assistance from people with sufficient expertise to help them navigate the process: to tell the person facing eviction for unpaid rent that if she wants to argue that her apartment has no heating and the ceiling is falling down[4], then she should bring some pictures and other evidence to court. To help people to understand what a form is asking for and to explain what some of the arcane legal language in a court order or rule means. There is much that can be done that is very helpful here that does not require deep legal expertise.

Authorizing intelligent, trained and well-supported non-JD legal assistants does not involve entering into uncharted waters. The United Kingdom, for example, has a long history of allowing a wide variety of differently trained individuals and organizations to provide legal assistance. And fortunately some very fine legal scholars have studied how well this works. Their key finding: it works very well. Indeed, in many cases, people are better served by a non-lawyer organization that *specializes* in a particular type of legal help—navigating housing or bankruptcy matters, for example—than they are by a struggling solo practitioner with a general practice. Another key finding: when people have access to lower cost alternatives to full-fledged attorneys, they use these resources. And that means they don't ignore their issues as often, they don't let them fester until they erupt into a major mess in your courthouse. Your 2010 legal needs study showed that significant majorities of low-income New Yorkers with legal problems—65% of those with housing problems, 59% of those with financial problems, 50% of those with health insurance problems—took *no action* in response to their problems. That's what in the business we call a high rate of "lumping it." Studies in the U.K., by comparison, show much lower rates of lumping it—perhaps as low as 5-10%. Again the analogy to medical care is illuminating: untreated problems often just become worse problems.

The U.S. unfortunately has little experience with non-JD legal assistance—although that may be changing. Washington State has just this past month embarked on a plan to authorize what they call "limited license legal technicians" to perform carefully defined services for people, without direct supervision by an attorney. The

[4] A vignette shared by one of the judges who testified before you in last year's hearings.

Washington State program is just getting underway with the appointment of a board to develop procedures for application, licensing and supervision of these LLLTs. It will be a program to watch.

But New York should not wait to see how Washington turns out. It should act now to evaluate its options for expanding the supply of legal assistance to New York's citizens. And it should do so in a firmly policy-oriented and evidence-based way. For too long this issue has been allowed to become buried under the intuition-based objections of existing members of the legal profession. (These are often sincerely held worries about the capacity to help those with legal trouble, although they are also, one must admit, sometimes plainly motivated by protectionist fears of competition.) If we treat this, as we absolutely must, as a matter of serious policy and we put our intuitions to the test of theory and empirical evidence, I guarantee we will find that the traditional fears are unfounded. There are numerous ways to ensure levels of quality and care in legal matters that outperform our current situation by substantially decreasing cost and increasing access. How about an RFP—a request for proposals—from a wide range of possible providers and policymakers, not merely the current members of the legal profession? I think New York, given your energy and devotion to this question, could turn the corner on innovation in legal services and take a major leadership role in a matter that is of desperate need of fresh thinking both here and throughout the country.

I urge the New York judiciary to be the next to take this bold step towards serious, meaningful resolution of the crisis in our courts and in our justice system. Ultimately it is the state judiciary that is accountable for the wisdom of a policy that denies ordinary people access to the services that well-trained, cost-effective non-JD legal assistants could provide. As a wonky policy analyst, I can say without doubt that the policy has no grounding in good economics or good sense. It is time for it to change.

Shalaine Jones

September 24, 2012

Dear Lara J. Cromwell, Esq
Sullivan & Cromwell

Re: The current state and scope of the unmet need for civil legal services by low income New Yorkers.

I am one of the many low income New Yorkers who have searched for and not found the legal services needed to solve the many problems I have encountered living in New York City. In the past I have had problems with the social service agencies and at this present time I am in the law library; located at 851 Grand Concourse, researching the laws concerning housing.

I started researching on my own over a year ago for a case I brought before the courts earlier this year and am presently researching to bring another case before the courts shortly.

I am pro-se because I have not found the help I needed in the help center located here. There is not enough specific help at

the help center, the pro-bono attorney is hard to get to if the subject matter is not something he/she helps with. There are not enough attorneys who will go into details and help you step by step with your issues, the advice is just too general, so I have spent the last year + doing the tedious work for myself and am proud to say that I am now able to find the laws and rules and regulations for any topic that I may need help with , but that is just me, one person who is capable of walking into a law library and figuring it out for herself, but what happens to those who don't have the time or the patience to do this? They fall by the wayside and get frustrated and they never learn that there are laws that are out there to protect everyone from getting railroaded by someone who knows the laws better.

Those who cannot afford an attorney desperately need help in navigating the justice system step by step. They first need to know that the law library exists and that it is open to the public and when they get there, they need someone who can help them with their case specific issues. They need help in learning how to fill out the proper forms and the deadlines for filing those forms.

Now we get to the next issue, after they arrive at the law library and get that help with their specific case issues, now it is time to find those laws and rules and regulations that pertain to their case subject matter. They go to the books and find out they have not been updated and they hit another wall because they don't know how to use Lexis or Westlaw,

what are they to do now? I know, we are going to ask that some of the $25 million be used to update the books here at the law library located at 851 Grand Concourse, we will say please, because it is so desperately needed if the public is going to get the information they need to help them navigate this complex legal system.

They've heard about the law library, they have been told that there is someone there who can help them with their case specific issues and they are shown where to find the laws they need that are up to date because the wonderful people who had the power to do something about the out dated books made sure that the law library books are always current.

Now they want to be able to print out those laws so they can take them home and study them while they are preparing for their cases, so they go to a computer and ..... it doesn't work, they are just too old and if they do work you better not leave them for too long because they get tired of waiting for you and log off all by themselves. As a person who uses the law library more than I use the public library, I know how important and necessary the computers are, and I also know how frustrating it can be when they barely work or they don't work at all.

We the public, those of us who go it alone and those who rely on the advice and knowledge of our city's attorneys ask you to please give us the necessary tools we need to help ourselves. Please keep our law library in the Bronx in mind when you are

trying to figure out how best to use the money allocated for the fiscal year 2012-2013, arm us with the resources that we need to bring before the court those things that ail us on a daily basis. We need:

1. Someone to help with case specific information; preferably someone located inside the law library.

2. Updated law books so we know the changes that have been made to better serve us.

And finally,

3. New computers that we can rely on when they are needed and access to the internet from these computers to access forms and information that is not available in the law library i.e. notice of claims forms and where to serve them depending on the agency.

I would like to thank you for all you have done in the past and present helping people like me who can't afford an attorney. Now we need your help going into the future, so please help our law library; located at 851 Grand Concourse be the beacon of hope we know it can be for those who need it most.

Thank you,

Shalaine Jones

NOTICE OF PUBLIC HEARINGS

The Chief Judge's Hearings on Civil Legal Services

The Hon. Jonathan Lippman, Chief Judge of the State of New York, will be conducting his third annual series of public hearings to evaluate the continuing unmet civil legal services needs in all parts of the state and to assess the level of resources necessary to meet those needs. As requested in the June 2010 Joint Legislative Resolution, the Chief Judge will report to the Legislature on the information obtained at the hearings, as well as the continuing work of the Task Force to Expand Access to Civil Legal Services in New York, and will request State funding to meet these unmet needs.

The Chief Judge will conduct one hearing in each of the four Appellate Division Departments together with the Presiding Justice of that Judicial Department (Presiding Justice Luis A. Gonzalez of the First Department, Acting Presiding Justice William F. Mastro of the Second Department, Presiding Justice Karen K. Peters of the Third Department, and Presiding Justice Henry J. Scudder of the Fourth Department), Chief Administrative Judge A. Gail Prudenti, and the President of the New York State Bar Association, Seymour W. James, Jr.

THE HEARINGS WILL TAKE PLACE AS FOLLOWS:

THIRD DEPARTMENT
Thursday, September 27, 2012..10:00 a.m. to 1:00 p.m.
Court of Appeals, 20 Eagle Street, Albany

FIRST DEPARTMENT
Monday, October 1, 2012 .....10:00 a.m. to 1:00 p.m.
Appellate Division, 27 Madison Avenue, Manhattan

FOURTH DEPARTMENT
Tuesday, October 2, 2012.....11:00 a.m. to 2:00 p.m.
Onondaga County Courthouse
401 Montgomery Street, Room 400, Syracuse

SECOND DEPARTMENT
Thursday, October 4, 2012.....10:00 a.m. to 1:00 p.m.
Supreme Court, Nassau County
100 Supreme Court Drive, Mineola

The purpose of the public hearings is to receive the views of interested individuals, organizations and entities on the following issues:

- The impact of Judiciary Civil Legal Services funding in the amount of $12.5 million for the completed fiscal year of 2011-2012 and in the amount of $25 million for the current year fiscal year of 2012-2013.
- The current state and scope of the unmet need for civil legal services by low income New Yorkers confronting legal problems involving the "essentials of life," including housing, family stability and personal safety in domestic relations, access to health care or education, or subsistence income and benefits.
- The economic and social consequences of the lack of sufficient civil legal services in communities and for the courts.
- The costs and benefits, to the courts and to communities, from the provision of civil legal services in matters involving the "essentials of life."
- The potential for reduction in the unmet need through:
  - Preventive and early intervention services by providers.
  - Simplification of court and administrative processes.
  - Enhanced use of technology, self-help programs, community legal education, non-lawyer advocates, provider collaborations with non-legal entities, and alternative dispute resolution techniques.
  - Regional providers' collaborations and cost sharing.
  - Expanding the availability of pro bono legal services provided by private attorneys and through greater law school involvement in narrowing the justice gap, as well as through creative and innovative development of effective pro bono programs for law students by law schools and other stakeholders in response to the new pro bono requirement for admission to the New York bar.

THE CHIEF JUDGE'S HEARING PANEL WILL CONSIDER BOTH ORAL TESTIMONY (BY INVITATION ONLY) AND WRITTEN SUBMISSIONS. Persons interested in presenting oral testimony or making a written submission are asked to follow the procedures and deadlines described below. Please note that the Hearing Panel cannot accept any comments, written or spoken, addressing details of individual litigation or comments about individual judges or attorneys.

Because of the limited time available for the hearings, oral testimony is by invitation only. If you are interested in being invited to testify at a hearing, you should send an email to **CivilLegalServices@nycourts.gov no later than 14 days in advance of the hearing** at which you propose to testify. **Proposed testimony should be no more than 10 minutes in length.** If requesting an invitation, please (1) identify yourself and your affiliation (and if you are requesting an invitation for someone else to testify, that individual's name and affiliation); (2) attach a prepared statement or a detailed outline of the proposed testimony and specify which of the topics described above will be addressed; (3) indicate at which of the hearings the testimony is proposed to be given. In advance of the hearing, invitations to testify will be issued and will include an approximate time period for each presenter's testimony. For those not invited to present oral testimony, your proposed testimony will be deemed a written submission.

Persons unable to attend a hearing, or those interested only in making a written submission, may submit their remarks by emailing them to:

CivilLegalServices@nycourts.gov at least seven (7) days in advance of the hearing, or by mailing the submission to the **Task Force to Expand Access to Civil Legal Services in New York** at the address below. The Task Force is assisting the Chief Judge in preparing for the hearings and in reporting on its results.

Mail: The Task Force to Expand Access to Civil Legal Services
c/o Lara J. Loyd, Esq.
Sullivan & Cromwell
125 Broad Street, NY, NY 10004-2498

Email: CivilLegalServices@nycourts.gov

For further information please visit the Task Force's website

www.nycourts.gov/ip/access-civil-legal-services

The Legal Aid Society

THE LEGAL AID SOCIETY

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Richard J. Davis
Chairperson of the Board

Blaine (Fin) V. Fogg
President

Steven Banks
Attorney–in–Chief

Testimony of The Legal Aid Society

on

THE IMPACT OF THE UNMET CIVIL LEGAL SERVICES NEEDS THROUGHOUT THE STATE

Submitted to:

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. Luis A. Gonzalez, Presiding Justice of the First Department
Hon. Gail Prudenti, Chief Administrative Judge
Seymour W. James, President of the State Bar Association

FIRST DEPARTMENT HEARING

October 1, 2012

The Legal Aid Society welcomes this opportunity to testify at this special hearing on the critical need for civil legal assistance in New York State and the impact of the Chief Judge's civil legal services initiative. We greatly appreciate the consideration of this urgent problem by the Chief Judge, the Presiding Justice, the Chief Administrative Judge, and the State Bar President. With the crucial support of the Governor, the Assembly and the Senate, the Judiciary's leadership in addressing this problem has been extraordinary – first by allocating funding to rescue the New York State IOLA Fund in the Judiciary's budget to partially offset a dramatic drop in IOLA funding due to the historic reduction in interest rates, and now by implementing this initiative to respond to the unmet need for civil legal assistance across the State.

We submit this testimony to provide information about the continuing urgent need for civil legal assistance for families and individuals in New York who need legal help to maintain the essentials of life – shelter from the elements, family safety and integrity, access to health care, food, clothing, and subsistence income – in the midst of the most extreme economic conditions since the Great Depression of the 1930s.

As you know, with a staff of nearly 1,700, including more than 1,000 lawyers and more than 600 social workers, paralegals, investigators, and support and administrative staff, The Legal Aid Society provides comprehensive civil, criminal, and juvenile rights legal assistance to low-income families and individuals in literally every community in the five boroughs of New York City. During the past year, The Legal Aid Society provided these legal services in more than 300,000 cases and legal matters for New Yorkers in desperate need of legal help. Many of our clients are referred to The Legal Aid Society by the constituent services staffs of State elected officials or by community-based organizations serving every district of the City. Indeed, since its founding in 1876, The Legal Aid Society has been a vital part of the social fabric of the City.

We are mindful of the continuing financial challenges that the State is facing. At the same time, these difficult economic conditions are having an especially harsh impact on low-income New Yorkers and the need for the civil legal help for these struggling families and individuals is increasing exponentially. Without ongoing substantial support for the provision of civil legal assistance in New York State, the Society and other civil legal services programs across the State and in New York City will have to turn away more families and individuals who need legal aid to get unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness.

Every day, civil legal services programs like the Society provide for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situations our clients are facing – loss of jobs, foreclosure, eviction, hunger – are the grim hallmarks of this current fiscal crisis.

As the Chief Judge's civil legal services task force found in its comprehensive 2010 and 2011 reports, the legal help provided by civil legal services programs also saves State and local governments millions of dollars each year and brings millions of dollars of federal

benefits for clients into the New York economy – and is thereby a proven, tested and wise investment.

Nevertheless, even at current funding levels, the Chief Judge's task force has found that at best 20 percent of the legal needs of low-income New Yorkers are being met.

The situation is even more extreme at The Legal Aid Society because low-income families and individuals seek our assistance as the safety net when all other safety nets have failed. During the last year, we worked on some 43,000 civil legal matters in literally every zip code in the City. However, we are able to help only one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. The situation has become particularly dire since the economic downturn began. Homelessness, for example, is at record levels in New York City, and unemployment, hunger, and foreclosures are on the rise.

In these severe economic times, civil legal assistance is needed now more than ever. As we reported previously, since the economic downturn began in 2008, we have seen unprecedented increases in requests for help in core areas of need:

- a 29% increase in requests for help with unemployment benefits and employment problems;
- a 40% increase in requests for health law assistance and help obtaining Medicaid, Medicare, and other health care coverage;
- a 12% increase in requests for help to obtain food stamps, federal disability benefits, and public assistance;
- a 16% increase in requests for domestic violence and family law help;
- a 15% increase in requests for help from current or former low wage workers with earned income tax credit or other low income taxpayer problems;
- a 21% increase in requests for eviction prevention representation; and
- a stunning 800% increase in requests for foreclosure defense assistance.

Even more troubling, during the past year, we have seen further increases in requests for our civil legal aid above these high levels of increased legal need: an additional 54% increase for low-wage employment and unemployment matters; an additional 18% increase for housing problems; an additional 12% increase for domestic violence and family matters; an additional 23% increase for subsistence income support problems; and an additional 11% increase for access to health care matters.

Behind these troubling statistics is the great suffering of low-income families and individuals who desperately need our civil legal help. The Chief Judge's civil legal services funding initiative has literally been a lifeline for these New Yorkers. Without the civil legal services funding that the Chief Judge has allocated in the Judiciary's budget, we would have had to turn away even more of the children and adults who have needed our assistance to maintain or obtain the essentials of life.

For example, at this First Department hearing, the testimony of a wheelchair-bound Legal Aid client who sought our help to prevent the wrongful termination of homecare assistance illustrates the critical need for civil legal aid. Likewise, later this week, at the Second Department hearing, another Legal Aid client who is a 68-year-old retiree will testify about how our legal representation prevented her from losing her home of 25 years. Other desperate low-income families and individuals who would not have received our legal aid but for the Chief Judge's civil legal services initiative include: veterans, Ground Zero workers with health problems or who were denied wages that they earned as part of the Lower Manhattan cleanup, survivors of domestic violence, senior citizens, children and adults who have disabilities or chronic illnesses, immigrants fleeing oppression, unemployed and low-wage workers, persons living with HIV infection, and children and adults faced with evictions, foreclosures and homelessness.

Against this backdrop, the Chief Judge's initiative to conduct these hearings in each of the four Departments, appoint a task force to make recommendations to meet the unmet need for civil legal assistance, and, based on those recommendations, allocate funding for civil legal services in the Judiciary's budget is exactly the breakthrough that is needed in these extreme economic times. Indeed, the increasing number of unrepresented parties has adversely impacted court operations and represented parties – in addition to having themselves been denied access to justice because of the lack of legal help. The Chief Judge's initiative is literally bridging the gap in access to justice for these most vulnerable New Yorkers who are in desperate need of our civil legal aid.

Thank you for your consideration of these matters that are so critical for low-income families and individuals in New York City and throughout the State who need civil legal help to obtain the basic necessities of life.

Hon. Christine Quinn

Speaker, New York City Council

The Honorable Christine C. Quinn, Speaker
New York City Council

Testimony before the Honorable Jonathan Lippman's
Task Force to Expand Access to Civil Legal Services in New York
October 1, 2012

Thank you. I would like to address the significant work that this historic Task Force has done under the leadership of Chief Judge Lippman, review the work that the Council has done and the programs we have supported in the past year, and offer some suggestions for where we go from here to continue to advance the cause of equal justice in our communities.

- **Judge Lippman and the Task Force have secured important funding for legal services and set significant standards for pro bono for the legal profession**

I want to congratulate Judge Lippman and the Task force for your tremendous work on behalf of equal access to justice over this past year.

First, you have secured unprecedented stable and secure funding for legal services by including the funding in the Judiciary's budget. I commend you for the commitment of $25 million for legal services in this fiscal year. More than half of these funds now support legal services in New York City – and many of our City residents facing eviction, needing food stamps, facing loss of federal benefits, and who are victims of domestic violence who in the past were unrepresented, now have legal representation thanks to your financial commitment.

Second, I want to applaud your new pro *bono* requirement for newly admitted attorneys. This both instills in new lawyers and in the legal profession the importance of serving the needy as a central element of every lawyer's work and will generate countless hours of legal assistance for New York State residents. On behalf of New York City residents, I want to thank you.

- **Since last year, the problem of access to civil legal services has only grown**

Poverty continues to rise in New York City. Nearly 1.7 million New Yorkers are now classified as poor, up from 1.6 million last year, and the percentage of New Yorkers living under the poverty line has increased from 20.1 percent last year to 20.9 percent this year. Last year, median household income in New York City fell by over $800 and median earnings for workers fell by over $1,000.

- **Despite significant budget cuts, the Council has continued its support for civil legal services**

The City Council provides substantial support for legal services to address housing, education, family issues, health, and basic subsistence issues. This includes over $4 million for civil legal services and over $3 million to fund legal representation for residents facing eviction or foreclosure. The Council has been particularly concerned by the many immigrants who are being defrauded by people promising to handle their cases while free legal services are available throughout the City. To address this issue, the Council has allocated $4.5 million for legal services for immigrants including help to become US Citizens. We have also targeted funding for victims of domestic violence and we have allocated $1.5 million to the

Civilian Complaint Review Board to fund an Administrative Prosecution Unit to address allegations of police abuse, allegations that are primarily made by residents in poor communities in the City.

- **The Council uses its other powers too to help needy New Yorkers**

This year, the Council passed Living Wage and Prevailing Wage legislation. We want to help people who work in New York City to be able to afford to live in the City, and we are defending these laws in court now in the face of a legal challenge from the Mayor. We have also challenged the City's plans to limit access to shelters for single adults. We will continue to protect the needy in New York through legislation, oversight, and financial support. And we will make sure that the City effectively implements the laws that we have put on the books to protect vulnerable citizens.

- **The question for the Task Force, and for all of us, is where do we go from here to meet the still dramatic unmet needs of New Yorkers. I have three proposals that I would like to offer for your consideration:**

  First, build on your dramatic efforts to increase funding for and provision of civil legal services with new funding streams, including possibly a *Pro Hac Vice* fee

  The work that you have done to institutionalize funding for legal services within the budget of the judiciary is momentous. I applaud this effort unambiguously. Yet, we have to continue to find additional funding streams for legal services. I propose that you consider the imposition of a fee for litigants who seek to appear in New York Courts *Pro Hac Vice* the proceeds of which would go toward the Judiciary's budget.

  Out-of-state attorneys could pay a nominal fee to appear *Pro Hac Vice*. Forty-two states, most recently Massachusetts, already charge fees and at least nine use the funding for indigent legal services. Models exist to maximize revenue with minimal administrative costs. Certainly, no fees should be charged for pro bono representation or that would otherwise bar low income litigants from the courts, but there appears to be potentially an untapped source of funds here that could exclusively support civil legal services simply because it is new and no other program currently relies on this funding source.

  Second, using the crime mapping model, a detailed, localized analysis of civil legal services needs would increase the efficiency and effectiveness of precious legal services resources

  The Task Force's 2010 statewide survey is an immensely useful resource. We would like to work with you to take this analysis further and develop a local analysis of legal service needs so that we can effectively and strategically target funding and services. Mapping has been used to identify crime patterns and assist police and community efforts to fight crime. We can use the 2010 Census, income and employment statistics, poverty rates, demographic information, housing data, rates of foreclosure, and arrests for domestic violence, and more to assess needs, and we can then provide services to match the needs in the community.

Third, we would like to work with the Task Force to develop a localized cost-benefit analysis of civil legal services to build on the tremendously valuable statewide analysis that you have completed.

The Task Force consultants' report of 2011 clearly demonstrated that the State can actually save money through its financial support for civil legal services. The report detailed the $85 million in savings related to domestic violence, $116 million from preventing evictions and homelessness, and $348 million in federal benefits brought into the State. Legal service providers in the City have reinforced the cost effectiveness of legal services in their reports to the Council. Providers have estimated that representing New Yorkers facing eviction **saves the City $36,000 per family in avoided shelter costs**. The City also reaps **significant savings when New Yorkers are able to recover federal benefits** or obtain **employment and debt settlements.** I believe that if we do a program by program analysis at the City level, we could provide justification for regular and sustained City funding for legal service programs.

We stand ready to work with you in each of these areas. Thank you for your time and for your careful consideration of these promising initiatives.

Richard J. Usera

Client of Legal Services – New York City [LS-NYC]
Accompanied by Jennifer Levy

Testimony of Richard Usera before the Chief Judge's Hearings on Legal Services
October 1, 2012

Good morning. My name is Richard Usera. I am a resident of the Bronx and I was an active duty service member from 1981-1985.

Two years ago, I had an annual income of $35,000 as a commission shoe salesman for Lord & Taylor. I have a Section 8 housing voucher from the New York City Housing Authority so the amount of rent I pay is based on my income. Based on my $35,000 income, my share of the rent was approximately $800 per month.

In February of this year, my income dropped drastically. I fell behind on my rent. In March, I received court papers. In April, I went to the Housing Authority to see if my rent could be adjusted to reflect my drop in income. They told me it couldn't be changed until my annual review. I kept falling further behind but hoped for a pick-up in sales in May – it didn't happen.

In June, I applied for a one-time grant from the Human Resources Administration to pay my rent arrears. By August, I had still not received a decision on my application.

On Wednesday, August 1, the City Marshall appeared at my door and I was evicted. I slept at a friend's house the first night and then went to a homeless shelter.

When I was evicted, I called the Veteran's Administration. I was told to go to court so that my belongings would be kept safe. I went to court that Friday. By Monday, Irv Schwartz from Legal

Legal Services NYC
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Raun J. Rasmussen, Executive Director
Joseph Steven Genova, Board Chair

Services NYC was there negotiating an agreement with my landlord on my behalf. He also got an approval from HRA for help with my rent arrears by Tuesday and by Friday I was back in my apartment. At the same time, Elizabeth Maris, also from Legal Services, got the Housing Authority to adjust my share of the rent to reflect my income so this won’t happen again.

Fredesvinda Vasquez

Client of Make the Road New York

Accompanied by Lorelei Salas

Biographical and Contact Information
Fredesvinda Vasquez

Fredesvinda Vasquez is 55 years old. She is currently disabled and recently lost her housing after NYCHA terminated her voucher. After receiving legal services at Make the Road New York, Ms. Vasquez was able to regain her NYCHA voucher.

Contact information:
Fredesvina Vasquez, 511 Willoughby apt 2; Brooklyn, NY 11206.
Tel: (347) 679-4876

Attorney: Lorelei Salas, Legal Director, Make the Road New York

Testimony of Fredesvinda Vasquez
Before the Chief Judge's Hearings on Legal Services

Attorney: Lorelei Salas, Esq., Legal Director, Make the Road New York

October 1st, 2012

My name is Fredesvinda Vasquez. I want to thank you for letting me speak today about the legal assistance I received from Make the Road New York in a court case in Manhattan with the New York City Housing Authority. Because of Make the Road New York, my family and can once again have a home.

I am 55-years old and live my daughters and grandchildren. I am disabled and cannot work, and my only income is Social Security Disability Insurance (SSD). I was able to find affordable housing with the help of a federal Section 8 voucher. The voucher was in the name of my daughter, Marilyn. In late 2010, Marilyn asked the New York City Housing Authority (NYCHA) to put the voucher in my name, since Marilyn was going to be moving out of state. I was eligible as an original member of the household -- in fact, my family was approved for the subsidy because of my disability, and I signed most of the initial paperwork. However, NYCHA ignored our request. In February 2011, my daughter and I again requested that NYCHA put the voucher in my name. This time, a NYCHA employee told us to fill out a "self-termination" form to remove Marilyn from the household and to submit a letter in my name requesting succession. We did so -- Marilyn filled out the "self-termination" form and I wrote a letter, in Spanish, requesting my succession rights.

NYCHA ignored these forms, just like it ignored our request to transfer the voucher to another apartment, since our landlord wanted us out. Marilyn moved out, and finally, the rest of my family and I had to leave our home. We were left in the street. Since then, we have only been able to live in a cramped space, doubled up with other relatives. But it is not a home.

Almost a year after we made our second request to NYCHA to put the voucher in my name, and still with no answer, I spoke with a housing advocate at MRNY, and we began to investigate what turned out to be a complicated case. After MRNY advocates viewed my file in a formal request, we discovered that almost a year after my daughter and I last requested to put the voucher in my name, NYCHA decided to terminate the subsidy -- because Marilyn had "self-terminated." I was never given notice of this decision, and my requests to succeed were disregarded.

After extensive research and investigation, MRNY prepared and filed a petition against NYCHA in Supreme Court. The many hours of investigation and preparation paid off. The NYCHA attorney agreed to settle the case by issuing a new voucher in my name, so that my family and I can once again live in appropriate, affordable housing.

I am extremely grateful for the many hours my attorney and others at MRNY put on this case. Without Make the Road's help I could never have obtained this kind of resolution. They helped me fight NYCHA's denial of my succession rights and made them accountable for their mistakes. I was one of the lucky people who had access to competent free legal representation from

attorneys who work in the community and who were willing to go the extra mile to protect my rights. But there are thousands of New Yorkers out there who are in desperate need of legal representation without which they are more likely to lose their homes. We need New York State government to find a fair solution to the problem of lack of funding for civil legal services in our State.

Thank you again for the opportunity to testify.

APPENDIX 12:

Written Statements Submitted at the Fourth Department Hearing Held on October 2, 2012

Appendix 12

Written Statements Submitted at the Fourth Department Hearing Held on October 2, 2012

Dean Hannah Arterian *(Syracuse University College of Law)*

Cheri Caiella *(Mother of Client of Pro Bono Legal Clinic for Veterans & Active Military Service Members)*

Phil Dailey *(Paralegal, Law NY and Veterans Outreach Center; Iraq Combat Veteran)*

Hon. Craig J. Doran *(Administrative Judge for the Seventh Judicial District)*

Sally Fisher Curran *(Legal Director, Volunteer Lawyer Project of the Onondaga County Bar Association and Say Yes to Education, Syracuse)*

Irene Aurora Flores *(Solo Practitioner, Syracuse, New York)*

Sarah Heim *(Law Student, Cornell Law School)*

Andrew Kloc *(President, New York State Unified Court Law Libraries Association; Automation Services Law Librarian, Appellate Division, Fourth Judicial Department Law Library)*

Legal Assistance of Western New York *(Submitted by C. Kenneth Perri)*

Legal Services of Central New York *(Submitted by Dennis A. Kaufman)*

Hon. Patricia D. Marks, Ret. *(Monroe County Court Judge and Presiding Judge of Veterans Treatment Court; Interim Director of Veterans Outreach Center and current Board Member; NDCI Faculty Training for Veterans Treatment Courts)*

Anthony P. Marshall *(Chair, Say Yes to Education: Legal Support Task Force; Partner, Harris Beach PLLC)*

John G. Powers *(Director, Onondaga County Bar Association Veteran & Military Service Member Pro Bono Clinic; Partner, Hancock Estabrook, LLP)*

Dean Stewart J. Schwab *(Allan R. Tessler Dean and Professor of Law, Cornell Law School)*

Catherine Sinnwell Gerlach *(Pro Bono Fellow, Syracuse University College of Law)*

Jeffrey Unaitis *(Executive Director, Onondaga County Bar Association)*

Christopher Wiles *(Assistant Attorney General, Syracuse Regional Office)*

Dean Hannah Arterian

Syracuse University College of Law

October 2, 2012

TESTIMONY BEFORE THE CHIEF JUDGE'S HEARING ON LEGAL SERVICES

DEAN HANNAH R. ARTERIAN

Thank you for the opportunity to address you on the role of legal education in meeting the unmet need for legal services in New York State, and improving the access to justice, something increasingly acute in the extended economic downturn.

Before stating my own views and providing a snapshot of how Syracuse College of Law assists, I note that last spring Cardozo Law School hosted a program devoted to this issue and members of the Syracuse College of Law Community – faculty, staff and students - participated with representatives from other law schools in New York State. The conference created new insights into approaches to engagement in our community of need in New York State.

It is evident that access to justice is a top priority concern of Chief Judge Lippmann. Meeting that need can be overwhelming – the more you look, the more you see. As I express my views of the role of law schools in New York State to address such needs, it is important to note that without a tremendous change in the commitment to pro bono by those who are already in practice, or those who are retired from practice, the problem will simply grow.

At the most fundamental level, lawyers are critical, essential actors in civic leadership. One of the responsibilities of legal education is to grow greater awareness that the monopoly privilege lawyers have comes with very heavy, inescapable responsibilities.

While these are often thought of with respect to one's clients, and behavior within the realm of ethics and professionalism, the role of civic leadership is much deeper.

As I speak about the role of our College in access to justice in New York State, I am mindful that community service, in addition to pro bono, is a value our students should grow and share. That service is rendered without the limitation of licensing, or licensed supervision, but it creates bedrock help for those who are often without hope.

As I describe the role of our College in access to justice issues, there are two framing and defining statements:

1) With respect to academic programs, defined as for credit classes, experiences, or any other activity for which credit towards the J.D. degree is earned; the primary justification must be the academic aspect of the credited experience. For examples, clinics, externships, projects under faculty supervision for which academic credit is given towards a degree exist primarily for the academic substance of the work.

2) There are many academic or volunteer programs that are designed around access to justice broadly – that is beyond the boundaries of our city, county, state, region and country.

With respect to the first point, while access to justice is an obvious "reason" people look at with respect to many clinics and externships, it is not the core purpose. The core purpose is academic development, and the setting, the medium and the byproduct of it is often, if not always, directly related access to justice.

With respect to the second point, a broader, informed, global perspective on the access to justice issues is of deep value to the profession, and law students' opportunities to do that is essential.

However, for most students the "neighborhood" is where they are most likely to be engaging in the work on the issue – while they are in law school and afterwards.

Describing the role legal education has in the access issue is likely to be articulated differently based on history and opportunity. As probably every single law school in New York State, Syracuse has a long standing program of clinical education, taught by our faculty in our law building who supervise students in representing real clients, with real messy legal problems. Our program is headed by Professor Deborah Kenn, a leader in clinical education who is the Associate Dean for Clinical and Experiential Education. Over the years, the number of "in-house" clinics has grown, as have the needs served by our academic program. In addition to a Criminal Defense Clinic, there is a long standing Community Development Law Clinic, a Disability Rights Clinic, a Low Income Taxpayer Clinic, a Securities Arbitration & Consumer Law Clinic, a Children's Rights and Family Law Clinic and an Elder Law Clinic.

These are taught by our faculty, many of whom are tenured, to very small groups of students who are supervised individually. Doing this well is a personnel and resource intensive enterprise, one that contributes to tuition costs for which law schools are criticized, but which demonstrably serve needs for access to justice.

In addition to the clinics, the College has a major Externship Program with students placed in a wide variety of public offices. Again, this is a credit bearing program, which should secure primarily an academic purpose while doing so through an access to justice window.

About 230 students in clinics and externships participate in these programs for credit in a year, including the summer.

Beyond academic programs, Syracuse has a major pro bono structure in place for students through our Office of Student Life. The Senior Assistant Dean of Student Life, Tomas González, and the members of the staff in the Office of Student Life match students with opportunities. Our students have a Pro Bono Advisory Board.

The variety of current opportunities will be attached to my written testimony. Since January 10, 2012, 104 students at the College of Law have logged 7,368 pro bono hours under supervision of lawyers, in addition to the community service hours they undertake. This does not include the many who do pro bono work without logging or reporting it to the Office of Student Life.

More broadly, focus in on hours logged or students enrolled misses the obvious – creating an environment where the opportunities to serve are evident, and where students feel the underlying value to what will be a professional career responsibility is more important than any requirement created that is imposed.

Law Schools hold many responsibilities given to them as the three year "custodian" of what is actually a lifetime of learning in the profession. None can be completed during a short time period, but attitudes and habits can be encouraged.

SERVING THE COMMUNITY

Lawyers are professionals with an obligation to serve the legal profession and their community. This obligation begins with enrollment in law school. In order to meet this obligation and to implement a process for instilling a sense of service in our students, we encourage every student at the Syracuse University College of Law to participate in the Pro Bono Program. This voluntary program coordinates pro bono and community service opportunities for students. Participation in community and pro bono service activities helps students develop professionalism and an understanding of a lawyer's responsibility to the community. Moreover, it increases the availability of legal services to needy populations. Students also benefit by gaining practical experience and developing their lawyering skills.

Pro bono and community service can take on a variety of forms. During the 2011-12 academic year, Syracuse College of Law students devoted more than 8,000 hours of service to the community. They mentored children in local elementary schools, collected food and clothing for agencies, raised funds for local charities, prepared income tax returns for low income families, provided free translation services to legal agencies and their clients, and volunteered in Landlord/tenant Court. Students also volunteered with the Law Students in Action project, providing free legal assistance to low-income clients in Western New York.

Because the College of Law is proud of its students' commitment to pro bono and community service work, a special recognition program has been created to honor them. In order for a student to receive special recognition at graduation, they must be in good academic standing and have completed at least 30 hours of pro bono and community service within this program.

More information on the Pro Bono Program, including projects students can become involved with, is available online at http://law.syr.edu/student-life/pro-bono-program/

COLLEGE OF LAW PRO BONO ADVISORY BOARD

The SU College of Law Pro Bono Advisory Board is a committee of law students that works to instill a sense of service in the law students and to encourage all students to participate in pro bono and community service activities. For it's work the Board received the 2012 NYSBA President's Pro Bono Service Award. In addition, the group was recognized in 2011 with the SU Chancellor's Awards for Public Engagement and Scholarship.

SYRACUSE PUBLIC INTEREST NETWORK (SPIN)

The Syracuse Public Interest Network (SPIN) is a student-run organization that encourages and supports students seeking to do public interest work and community service. Through a variety of programming, SPIN seeks to instill a sense of passion for pro bono efforts and community service in students at the Syracuse University College of Law, as well as create a public interest network for students to connect with alumni, practitioners, and the community.

In addition, the SPIN Fellows Program provides a stipend to law students who obtain unpaid legal internships at public interest agencies for the summer. The application process is open to all College of Law students, with preference given to students that have a proven record of public service and involvement in fundraising activities. In the past 18 years, approximately 300 summer fellowships have been awarded through the SPIN program. $56,000 was awarded during the summer of 2012 to students working throughout the country in legal service organizations, nonprofit groups, and government entities.

More information about the SPIN program and the SPIN Summer Fellowship program is available on line at http://www.law.syr.edu/student-life/student-activities/student-organizations/spin/index.aspx

HIGHLIGHTED PRO BONO PROGRAMS

Language Bank
Students that are fluent in a second language and are interested in working as a translator for attorneys representing indigent persons are encouraged to register with the Office of Student Life in the Language Bank! Please contact ProBono@law.syr.edu with the language you speak and/or write and your level of fluency.

Pro Se Divorce Clinic
The Onondaga County Bar Association Volunteer Lawyer Project (VLP) holds Pro Se Divorce Clinics at least three times per academic year and seeks student volunteers to assist their participants with the Uncontested Divorce forms at its first upcoming clinic in September. The clinic is from 4:30pm until 7pm on Monday, September 10, 2012 with a mandatory training session on Friday, September 7, at 12:30pm. This is a great first time pro bono opportunity for first year students. Volunteers provide a much needed one on one experience for participants who qualify at 175% of the Federal Poverty Guidelines. For more information, contact Cady Gerlach at csgerlac@syr.edu. The next divorce clinic information will be posted as it becomes available.

Prisoner's Legal Services
Prisoner's Legal Services seeks interested volunteers to assist with translation, legal research and memo drafting, and transcription of hearings to assist those inmates of correctional facilities located in New York State and ensure their civil rights are protected. Primarily, these opportunities are for second and third year students, but will take interested applications from first year students on occasion. PLSNY communicates most time sensitive opportunities through the College of Law's Pro Bono Advisory Board newsletters and emails. If you are interested in working with PLSNY, please contact Cady Gerlach at csgerlac@syr.edu.

Landlord Tenant Court
Landlord-Tenant Court is a Pro Bono Program organized by the Onondaga County Bar Association's Volunteer Lawyer Project (VLP). This is an exciting opportunity to help volunteer attorneys represent tenants facing eviction and to observe the landlord-tenant court proceedings and negotiation process. Volunteers will shadow the intake process in order to present the case to the volunteer attorney. This ground-work is vital because it allows the attorney to quickly grasp the essence of the case and focus on the defenses and negotiations to effectively represent the client. Students interested in volunteering should contact Cady Gerlach at csgerlac@syr.edu and watch the training: http://law.syr.edu/student-life/pro-bono- program/Tenant%20Law%20Training%20Video.aspx

Cold Case Justice Initiative
Cold Case Justice Initiative (CCJI) is an interdisciplinary project that engages Syracuse University College of Law faculty and students. The Cold Case Justice Initiative seeks justice for racially motivated murders during the Civil Rights era on behalf of the victims, their families, local communities, and society at large. The CCJI project conducts investigations and research on unresolved cases, offers academic courses, public forums and other special events, and serves as a clearinghouse for sharing and receiving information on active cases. The CCJI insists on vigilant attention to these long unresolved racially motivated killings and continuing issues of racial justice. For more information on getting involved, please see the Cold Case Justice Initiative Website.

Bankruptcy Program
The Pro Bono Bankruptcy Program is provides a pro bono legal opportunity primarily for first year students, although students from all three classes are eligible to participate. Established in 2008, the program helps indigent individuals file for bankruptcy relief. Student volunteers must attend a three hour evening training program, and will be assigned to teams managed by the students in the Bankruptcy Clinic. Each clinic student and team will be assigned a real pro bono client. The students interview the clients to obtain the detailed personal and financial information required by the Bankruptcy Code, prepare the client's bankruptcy petition and schedules, appear with the client before the trustee at the Official Meeting of Creditors, and deal with any legal issues that arise during the bankruptcy case. Professor

Germain supervises the program and is counsel of record in the cases. Last year the students completed 20 bankruptcy cases. Interested students should attend the general pro bono informational meeting on Thursday, September 6 at 12:00 p.m. in Room 100. After the informational meeting, students who wish to sign up for the program should fill out and submit to Student Life the **Volunteer Interest Form**, and should send an email to Professor Germain at glgermai@syr.edu.

LawHelp.Org LiveHelp!
LawHelp/NY (www.lawhelp.org/NY) is a website designed to help low-income New Yorkers with their legal questions. LawHelp/NY provides "know your rights" information on common issues to low-income New Yorkers, as well as referral information for free or low-cost legal services. The LawHelp website helps connect those in need of information with resources written in easy to understand language regarding their legal problems and/or helps them identify a free legal aid organization for more in-depth representation and advice. Volunteers for LawHelp/NY's LiveHelp program will staff will the online, real-time chat service and will direct users towards relevant self-help materials, legal assistance organizations, and court information. Volunteers do not give case specific advice. Student volunteers are asked to commit to a weekly three-hour shift for one semester. The shift can be done from school or home. Anyone interested in volunteering with LawHelp/NY's LiveHelp program should contact Meredith Burke at mmburke@syr.edu. There will be a training session conducted in early September for interested students.

Community Service Opportunity: Auburn Correctional Facility GED Tutoring
The Auburn GED Tutoring Program is considering applications for volunteers to tutor for the 2012-2013 school year. It's a great opportunity for students, faculty, and staff to get involved in social justice initiatives and a great choice for students interested in community engagement, criminal justice and education. Tutoring sessions are once per week and last from 5:30pm until later in the evening. If interested, please contact Melissa Swartz at mkswartz@syr.edu.

THE PRO BONO PROGRAM AT THE COLLEGE OF LAW

A. Voluntary Pro Bono Program

Lawyers are professionals with an obligation to serve the legal profession and their community. This commitment to service begins with enrollment in law school. In order to meet this obligation and to implement a process for instilling a sense of service in our students, we encourage every student at Syracuse University College of Law to participate in the Pro Bono Program. We also undertake this as part of our commitment to the pursuit of excellence in learning, professionalism, and service.

Qualifying work must be:

- law-related and necessitate the use of legal skills (examples of qualifying work include: client representation, legislative drafting, witness interviews, case investigation, legal policy and advocacy, or community legal education)
- supervised by an attorney or law school faculty member
- on behalf of a nonprofit organization, a legal services organization, a government agency or a private law firm **providing pro bono legal services to people with limited means**
- not for academic credit or financial compensation

For more information, please refer to the Pro Bono Program Handbook located on the Student Life website.

B. Special Recognition for Pro Bono and Community Service

Because the College of Law is proud of our students' commitment to pro bono and community service work, we have created a special recognition program. In order for a student to receive special recognition at graduation, a student must be in good academic standing and have completed at least 50 hours of volunteer work. 80% of the hours completed must be law related pro bono work as defined above. 20% of the hours can be traditional community service (such as volunteering at homeless shelters, soup kitchens, tutoring, home building-projects etc.).

Students who complete the minimum 50 hours will receive a certificate from the Dean and special recognition at Commencement.

Students who complete 75+ hours will receive a Blue Pro Bono and Community Service Honor Cord.

Students who complete above 100+ hours will receive an Orange Pro Bono and Community Service Honor Cord.

The top three graduating students providing the most pro bono and community service hours will be individually recognized.

The Special Recognition Awards will be given out in connection with the end of year graduation and convocation exercise, and will be noted in the graduation materials.

In the spirit of supporting our students in their efforts to provide pro bono and community service, faculty should also strive to provide pro bono and community service on an annual basis. Faculty members are encouraged to voluntarily report pro bono and community service activities on the annual Faculty Assessment Form.

All service hours must be officially reported through the Office of Student Life by the end of the academic semester which they were performed. For third year students, hours performed in the spring semester of your graduating year must be reported by March 25th in order to tabulate total hours for honors.

Syracuse University College of Law

Clinical Legal Education & Externship Programs

Clinical Programs

The Office of Clinical Legal Education operates two programs: an on-campus law office representing low income individuals, not-for-profits, and small businesses; and an externship program, which places students in the community to work with government and public interest attorneys and with judges. Students receive academic credit for both of these programs, with opportunities available for 2nd and 3rd year students.

In-House Clinics

The Office of Clinical Legal Education includes eight clinics, all housed in the College of Law's MacNaughton Hall. Students enrolling in a clinic represent clients and practice law under the supervision of law school faculty. To encourage students to develop as competent, professional and thoughtful lawyers, the clinics include close supervision and rigorous feedback and critique. Students practice in a range of settings, from city, state, and federal courts, to proceedings before the IRS and arbitration panels. Students also assist community organizations in securing nonprofit corporation status and in addressing a range of other legal issues, and often conduct community education programs.

Students Learn

- Lawyering skills
- Substantive Law
- Collaboration
- Professional Responsibility
- Law Practice Management

Externship Program

The Externship Program provides students with the opportunity to work with and as lawyers. The Program consists of the Externship Placement, where students work under the supervision of a lawyer or judge in offices throughout Upstate NY, and the Externship Seminar, which addresses lawyering as a profession.

Placement Areas

- Judicial Chambers
- Government Offices
- Public Interest Firms
- University Offices

Bankruptcy Clinic

The Bankruptcy Clinic is an extension of the Pro Bono Bankruptcy Program that was started in 2009. In its first year of operation, the program received the President's Award from the New York State Bar Association for excellence in pro bono service.

Clinic students will represent indigent individuals in need of bankruptcy protection. A bankruptcy client will be assigned to each clinic student. First year pro bono student volunteers will also assist the clinic students as part of a team. The clinic students and volunteers will work with the clients to obtain the information required by the Bankruptcy Code, organize the information, and prepare the petition and supporting bankruptcy schedules. The clinic students will also represent the client at the official meeting of creditors, and will be responsible for addressing any issues that arise in the case.

The class component will involve formal training in basic consumer bankruptcy law and practice, and a regular open discussion of issues that have arisen in the cases.

The clinic students will be supervised by Professor Germain, who will teach the course component and work closely with the students in preparing and filing the bankruptcy petition and schedules.

What to expect:

The bankruptcy clinic is a full year one credit course. The class will meet every other week for fifty minutes. In addition, students will be expected to spend an average of 2 hours per week working with clients and their team members on the cases.

In the Classroom:

The class component will include basic training in consumer bankruptcy law, including a review of the state law judgment collection process, exemptions both in and out of bankruptcy, the Chapter 7 bankruptcy process, the means test and dismissal rules, exceptions to discharge, the scope and function of the discharge, reaffirmation, and an overview of the Chapter 13 process. The class component will focus on the applicable New York and federal bankruptcy statutes. In addition, the clinic students will discuss the status of and issues that arise in their cases.

The process of preparing a bankruptcy case involves the following basic tasks:

- Formal engagement of the client.
- A client interview to determine the client's financial history, including assets, liabilities, income, expenses, creditors, and property transfers.
- A careful review of the client's credit report.
- Organizing the client information and preparing the bankruptcy schedules for review by the professor. After review, the schedules will be revised until they are ready to be filed.
- Meeting with the client and the professor to print, sign and file the bankruptcy petition.
- Providing the trustee with any requested information in advance of the official meeting of creditors.
- Representing the client at the official meeting of creditors, where the client will be questioned by the trustee (and possibly by creditors).
- Addressing any other matters that arise in the case, such as objections to discharge, requests for exceptions to discharge, reaffirmation of debts, student loan hardship discharges, and other matters that may arise in the case.

The students will be responsible for performing these tasks, and working with the clients to obtain the needed information.

Children's Rights and Family Law Clinic

Students represent families and children in federal and state courts and before administrative agencies and engage in non-litigation legal advocacy and educational outreach. Students provide services in a variety of areas, including custody and visitation issues, child and spousal support, domestic violence, matrimonial matters, general and special education issues and other children's rights issues. Students also assist clients through the Syracuse University Medical Legal Partnership, a collaborative venture with S.U.N.Y. Upstate Medical University where students address legal needs that impact children's health.

What to expect

CRC is a 2 semester, 6 credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility is a co-or pre-requisite.

Students will:

- Represent clients in local, state and federal courts and in administrative proceedings.
- Negotiate, argue motions; interview and counsel clients.
- Conduct discovery, legal research and analysis.

In the Classroom

The CRC offers students the opportunity to learn about the following areas of law: matrimonial law, custody and visitation issues, child and spousal support, domestic violence, general and special education issues, adoption, and other children's rights issues.

Community Development Law Clinic

Our Community Development Law Clinic (CDLC) is one of the oldest community development law clinics in the country. It was founded in 1988 and represents not-for-profit organizations involved in improving low income communities. The caseload also includes representation of low and moderate income individuals starting businesses and buying homes for the first time. Student attorneys practice transactional law for clients engaged in activities such as the development of affordable housing; creation of business and job development programs; creation and development of community centers, after-school programs, day care centers, neighborhood advocacy organizations, disability advocacy organizations, and community development corporations. Students represent individual clients in real estate closings and development of start-up businesses.

What to expect

CDLC is a 2 semester, 6 credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility is a co- or pre-requisite.

Students will:

- Represent clients in all aspects of corporate entity formation. Provide general counsel representation to corporations once formed.
- Interview, counsel, and advise corporations; analyze documents; negotiate transactions; troubleshoot with state and federal agencies.
- Research diverse areas of law.
- Represent first-time homebuyers at real estate closings.

In the classroom

The CDLC offers students the opportunity to learn about the following areas of law:

- Business law
- Transactional law and economic justice
- For-profit and not-for-profit corporations law
- Law of tax exemption
- Real estate
- Intellectual property
- Contracts
- Copyright and trademark law

Criminal Defense Clinic

The Criminal Defense Clinic, the oldest of our in-house clinics, provides representation to clients charged with misdemeanors and violations in Syracuse City Court. The students do extensive fact investigation, interviewing, client counseling and plea negotiations, and conduct hearings and trials. Students represent clients on civil matters related to their criminal cases, such as school disciplinary hearings and benefits issues.

What to expect

CDC is a 1 semester, 6 credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility, Evidence and Constitutional Criminal Procedure are co- or pre-requisites.

Students will:

- Negotiate plea agreements, argue motions to dismiss, participate in pretrial conferences and hearings.
- Conduct legal research and analysis.
- Conduct fact investigations, and interview witnesses.
- Draft discovery demands and motions.
- Engage in critical analysis of the criminal justice system and potential reforms.

In the classroom

The CDC offers students the opportunity to learn about the following areas of law in context: New York State Penal Law and New York State Criminal Procedure Law, as well as a holistic approach to criminal defense practice.

Disability Rights Clinic

The Disability Rights Clinic, part of the Office of Clinical Legal Education, assists individuals with disabilities who are denied their rights because of their disability. The Clinic also helps advocacy groups representing the disabled community. DRC student attorneys practice in federal and state courts, and before administrative agencies in a broad range of disability matters, including employment, access to government services and places of public accommodation, and prisoner rights.

What to expect

DRC is a two semester, six credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility and Disability Law are co- or pre-requisites. In addition to representing clients in state and federal courts and in administrative proceedings, students engage in advocacy for policies, practices, and procedures that benefit people with disabilities.

In the classroom

The DRC offers students the opportunity to learn about federal disability law, including the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act, prison litigation, and federal civil procedure rules.

Elder Law Clinic

The Elder Law Clinic is a general practice on behalf of the elderly. Areas of practice typically include health insurance (Medicare, Medicaid, and private insurance), access to medical care, advance directives, social security issues, consumer law, housing law, and more. Students have substantial opportunities to interview and counsel clients, conduct fact investigations, grapple with thorny ethical issues unique to elderly clients, and advocate for clients in a variety of settings, including administrative proceedings. The Elder Law Clinic is part of the Syracuse Medical Legal Partnership collaborating with geriatricians to better serve our respective, and sometimes joint, clients and patients. Students interested in health care, elder law, family law, administrative law, and general practice will find this clinic a great place to develop skills and substantive expertise.

What to expect

ELC is a 1 semester, 6 credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility and Elder Law are co- or pre-requisites.

Students will:

- Interview and counsel clients.
- Represent clients at administrative proceedings and in court.
- Conduct informal advocacy with agencies, health care providers, and family members.
- Engage in fact investigation.
- Counsel clients on planning for future health care, financial needs.
- Conduct legal research and analysis.
- Advocate on healthcare and other policy issues.

In the classroom

The ELC Clinic offers students the opportunity to learn about the following areas of law in context: Surrogate decision making, Medicare, Medicaid, private insurance, social security, landlord tenant law, real property issues, consumer law, administrative law, and health law.

Low Income Taxpayer

The Low Income Taxpayer Clinic offers legal assistance to lower-income taxpayers who have controversies with the Internal Revenue Service. The discrepancies may include collection, examination and appeals matters. Students represent clients in administrative proceedings before the I.R.S. and in judicial proceedings before the United States Tax Court or Federal District Courts.

What to expect

LITC is a 1 semester, 3 credit clinic. Students spend 10-12 hours per week on their cases and other clinic-related work. Professional Responsibility is a co- or pre-requisite.

Students will:

- Represent clients in administrative proceedings before the I.R.S.
- Represent clients in judicial proceedings before the United States Tax Court or Federal District Courts.

In the classroom

The LITC offers students the opportunity to learn how to represent taxpayers. Students learn basic tax procedure and applicable substantive tax law.

Securities Arbitration Consumer Clinic

The Securities Arbitration and Consumer Clinic assists small investors and other consumers with problems in the financial and consumer markets. Whether against Wall Street or Wal-Mart, student attorneys fight fraud and other improper conduct on the part of stockbrokers, used car sales people, and flimflam artists everywhere. Our securities cases generally involve small investors who have been sold unsuitable or other improper investments. The consumer cases run the gamut from shoddy home repairs to fraudulent car sales to oppressive debt collection practices. Students also have the opportunity to participate in policy advocacy and community education.

What to expect

SACC is a 1 semester, 6 credit clinic. Students spend 20-25 hours per week on their cases and other clinic-related work. Professional Responsibility is a co- or pre-requisite.

Students will:

- Conduct intensive fact investigation and review of financial documents.
- Conduct legal research and analysis.
- Prepare for litigation and arbitration.
- Negotiate with opposing counsel representing banks and brokerage houses.
- Educate the community.

In the classroom

The SACC offers students the opportunity to learn about the following areas of law: securities law, securities arbitration, consumer rights and defenses, common law causes of action, corporate law and civil procedure.

Externship Program

The Externship Program is available to second and third year students who are in good academic standing. Students may participate in the Program during the academic year and/or during the summer. Interested students participate in an application and interview process with pre-established placement sites during the spring semester.

What to expect

The Externship consists of a 2 or 3 credit placement. Students spend 112 or 168 hours per semester at their placements, depending on the number of credits. The seminar is a 2 credit course. Professional Responsibility is a co- or pre-requisite. Placements are available to 2L and 3L students. Students need a minimum GPA of 2.2 to apply.

Students will:

- Identify legal problems and mechanisms for solving those problems.
- Prepare cases for presentation before judicial and administrative bodies.
- Identify and resolve ethical problems arising in cases.
- Negotiate, conduct legal research, and draft documents.
- Interview and counsel clients.
- Acquire knowledge in the substantive areas of law practiced at each placement.

In the classroom

The Externship Seminar provides an opportunity for reflective learning. The students are asked to consider what they do in their placements and how they can learn from those experiences. We focus on how do get good supervision, how to learn from observation, how to obtain and use feedback, and how to make the transition from being a law student to being an attorney.

Cheri Caiella

Mother of Client of Pro Bono Legal Clinic for Veterans & Active Military Service Members

I am honored to offer testimony today. I am also grateful to Chief Judge Lippman for conducting this hearing as it gives an opportunity to share our family's journey these last five years. In doing so, it provides an avenue for change and offers of hope to our Veteran Community and their families.

In March 2006, one day after my son turned twenty years old, he left for Parris Island, boot camp for the United States Marine Corps. He graduated with a perfect physical fitness test (PFT) score and as an expert marksman. Upon his graduation from the School of Infantry (SOI), he was asked to become part of the Surveillance and Target Acquisition or STA platoon. The targets being the enemy. In March of 2007, our son would "see the world," as promised by his recruiter, and find himself in The Garden of Eden, or what we know as Iraq. He went as part of President Bush's surge. He returned home six and a half months later and our family had no idea what awaited us.

Our son seemed healthy and sound, however, four months after returning from combat, he would be tossed out of the Marine Corps with an other than honorable, OTH, discharge. The OTH discharge, affords the ability to petition the Veteran's Affairs, (VA) for benefits. These benefits would not be granted to my son for approximately two years.

He had been discharged without being evaluated or treated. He is now rated 100% disabled with the VA as well as having his discharge status restored to honorable for the purposes of the VA. This means he has access to all VA benefits. His discharge status with the Department of Defense was denied an upgrade despite our son's VA rating of 100% and receipt of Social Security Disability Insurance, SSDI.

Our son has been diagnosed with post traumatic stress disorder, PTSD and a "mild" traumatic brain injury, mtbi. Please understand my son did not pursue any of these benefits, he could not due to his "invisible wounds."

Our family did not see our son as broken, damaged or even vulnerable. After all, he served in combat; hard combat, as part of a scout sniper platoon. And he survived. At home, he would often share with me that combat was easy compared to living at home or as a civilian. This is a sentiment I hear quite often from the Veterans I encounter.

Life would be a challenge, as he could not articulate his needs. Admitting needs would also mean admitting weakness and that would mean admitting vulnerability. Vulnerability exposed, this community soon learned, either in training exercises or in combat, could produce dire consequences. Training exercises can end in injury or death, and most training exercises occur on US soil.

We are all in a position to do something for this Veteran community and their families. One woman who runs a non-profit shared the following:

"Many times a Vet who is accused of a crime has at the root cause ptsd and/or tbi as the lead motivator. They are likely struggling with: finding a job, getting to and making it through college, supporting their family, affording a home, learning to live with his/her "new normal," which revolves around ptsd and/or mTBI, with substance abuse, sleep, functioning in the civilian world. Veteran Courts are an excellent idea.

In the case of our encounter with our attorney, John Powers, a letter arrived from the Syracuse City Court for our son. I made sure my son "knew" of it. He ignored it and I left it for him to deal with. About two – three months later, another letter from the court arrived. This one I hesitantly opened.

I made my husband, a Deputy Sheriff, aware of this letter. We discovered that our son had ignored his court date and as you are all lawyers, you understand the ramifications of ignoring such letters. In our travels to the Syracuse Vet Center, I had noticed that a free legal clinic was available. Our first meeting with this attorney, my son could not advocate for himself; in fact, he barely remembered getting the ticket, let alone realize that he had an obligation to appear in court.

Had we not had John Powers intervene and advocate for our son, he faced possible arrest, and jail due to the inevitable bench warrant that would have been imposed. Our son would have sat in jail and struggled to remember what he did to deserve being in jail.

John was also instrumental in setting up a Power of Attorney. Without this document, it is impossible to discuss any matters regarding my son. John offered this service pro bono. This made advocating for my son a much "easier" task.

With our son's injuries, this put a financial strain on us. I was unable to work as my husband and I decided that our son could not be left alone for long periods of time and our son needed proper evaluations and treatment. We had one child in college and another about to enter college. Many families must navigate serious financial distresses. An attorney was out of reach for us. The VA doesn't offer its benefits immediately, and this puts a serious strain upon the family and the Veteran. Families must still manage day-to-day financial management and when there is not enough money due to a lack of the partner's ability to work, this means financial disaster. One family, I am familiar with, obtained an attorney who did not represent them in their best interest. This family had to file bankruptcy, and eventually lost their home. Unfortunately, this occurs much more frequently than is reported by the media.

I offer this glimpse in an effort to encourage you to move forward with your efforts to offer services to our Veteran Community and their families. The worst thing that can happen is nothing changes. If we say that we appreciate what our Veterans do for us to preserve our freedoms, then this is our time to re-pay them for these freedoms we expect and cherish.

Phil Dailey

Paralegal, LawNY and Veterans Outreach Center;
Iraq Combat Veteran

October 2, 2012 Testimony of Phil Dailey

My name is Phil Dailey and I am a Paralegal with Legal Assistance of Western New York, known as LawNY. I am also a First Iraq War veteran and served as an infantryman with the 101st Airborne Division in that conflict. LawNY is a civil legal aid office which serves low-income people in 14 counties, including Monroe County and the surrounding Greater Rochester area. I work on The LawNY Legal Services Project for Veterans, which is a collaborative project between LawNY and the Veterans Outreach Center of Rochester (VOC). VOC is the oldest and largest veterans' advocacy and supportive service organization in upstate New York. The Legal Services for Veterans Project provides legal services onsite at VOC to veterans and their families, with particular focus on the problem of veteran homelessness.

After completing military service, veterans face unique life challenges transitioning back to the civilian world. This is of particular importance today because 2 million men and women have been deployed to combat zones since September 2001. The legal community began to respond to these needs by creating specialized veteran's treatment courts in the criminal realm. However, the same issues that make veterans candidates for treatment courts, like PTSD, TBI, and MST, create havoc in other areas of their lives as well. Seemingly simple things, like maintaining steady employment, become difficult. And in the absence of a stable job, they face mounting debt issues, evictions, and even a need for public assistance. In fact, one out of every four homeless persons is a veteran.

In large part because of the military culture they have embraced, veterans are resistant to seeking help for their problems from organizations that are outside their community of fellow veterans and tend not to trust persons who do not understand military culture or share their values. VOC is an independent agency originally founded by returning Vietnam veterans and run primarily by veterans for veterans. Because of its independence and history as both an advocacy organization and a full service organization, VOC is known and trusted by the veteran community throughout the Greater Rochester area.

LawNY and VOC have a history of working together to provide access to legal services for veterans. In order to better address the needs of low-income and homeless veterans, LawNY met with VOC in 2010 to strategize how to deliver legal services in a targeted and more effective way than the traditional law office referral method. The key problem which was identified was the reluctance of veterans to seek legal or other help from organizations that were outside the recognizable veterans' community. To both organizations the obvious solution was to integrate legal services with the many training and counseling services available to veterans at VOC. Fortunately, in 2011 LawNY received unrestricted funding from OCA which provided the resources necessary to expand service delivery to veterans onsite at VOC, on a limited basis.

In January 2011, as a result of mutual planning and the prospect of funding from OCA, the LawNY Rochester Office began an onsite legal clinic at the VOC, setting up an appointment system for veterans on two afternoons per month. This non-traditional legal

service model allowed attorneys to meet with the veteran on neutral ground, in a place filled with supportive services and professionals they already knew and trusted. But it quickly became apparent that the demand for legal services through the onsite model outdistanced the resources LawNY was able to offer.

Subsequently, with LawNY and other agencies as partners, the VOC was able to successfully apply for a Department of Veterans Affairs Supportive Services for Veteran Families grant (SSVF). The project began in September of 2011. Along with other supportive services for homeless and at-risk veterans, the project incorporated a strong legal services component from the LawNY Rochester and Geneva offices. As a result, the LawNY Rochester office increased its onsite presence at VOC to three full days a week with an attorney assigned to work on the vetrans' project full-time in Rochester. The LawNY Geneva Office began providing legal services to the surrounding rural counties utilizing my time and part of an attorney's time.

With the added SSVF funding, LawNY through its Rochester and Geneva Offices has handled **358** cases for veterans and their families during the first year of the project. Of these cases, **158** were for homeless or at-risk veterans through SSVF funding; additionally, **202** cases were handled through OCA and other funding sources. These numbers indicate a significant need for veterans' legal services that are delivered in a non-traditional and culturally sensitive way.

The Rochester model offers a proven approach that provides legal services to veterans in an innovative, holistic manner providing one-stop shopping for services ranging from individual counseling and mentoring, to employment training and placement, to VA benefits advocacy – along with onsite legal services.

Looking forward, LawNY will expand legal services to the veteran community through the use of the Equal Justice Works Fellowship Program, which will provide an additional full-time attorney to assist with legal needs of veterans who do not qualify under the SSVF grant's homeless criteria. Also, LawNY will assign an AmeriCorps Vista volunteer who will address the need to better coordinate services among the many organizations which serve veterans in the area, as well as providing outreach to veterans in local homeless shelters. Finally, and most importantly, VOC and LawNY are working with a committee of interested lawyers from the Monroe County Bar Association to provide pro bono legal services for needs which cannot be met by legal services offices alone.

I greatly appreciate this opportunity to testify on behalf of fellow veterans in our service area. Thank you.

Hon. Craig J. Doran

Administrative Judge for the Seventh Judicial District

STATE OF NEW YORK

Seventh Judicial District
Administrative Judge

Ontario County Courts
Supreme
County
Family

CRAIG J. DORAN
JUDGE

TESTIMONY OF

HON. CRAIG J. DORAN, SEVENTH JUDICIAL DISTRICT ADMINISTRATIVE JUDGE

ROCHESTER - HALL OF JUSTICE - ACCESS TO JUSTICE PROGRAM HELP CENTER

Many thanks to Judge Lippman for his leadership; for "pushing the envelope" and for challenging all of us to never accept the status quo.

With thanks to Judge Scudder, as well, for his support and encouragement of collaboration which has led many existing initiatives in the 4th Department, like the one I am here to talk about today. AND

Much appreciation to Judge Fern Fisher for her perseverance on his important topic throughout our state!

- **Overview**

As you well know, over the last two decades, courts nationally have experienced a dramatic increase in the number of unrepresented litigants in need of access to basic legal information. Many states have developed self-help programs aimed at increasing meaningful access to justice. In New York State, there are Help Centers established in courts downstate and in Buffalo. In Rochester and the Seventh Judicial District, we wish to join in the effort to make "justice more just."

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The purpose of our testimony is to propose that an Access to Justice Program Help Center be established at the Hall of Justice in Rochester, Monroe County, in partnership with Volunteer Legal Services Project of Monroe County, utilizing a unique collaboration among court staff and facilities and pro bono attorneys, provided through our local Volunteer Legal Services Project.

It is proposed that the Help Center in the Hall of Justice offer on-site services with court staff trained to help unrepresented litigants move through the court system in partnership and collaboration with Volunteer Legal Services Project of Monroe County, pro bono volunteer members of the Monroe County Bar Association, and volunteers from our current court partner, the Center for Dispute Settlement.

In discussion with Judge Fisher, Judge Marks, Sheila Gaddis and other court staff, key issues of: Help Center location, staffing hours of operation, areas of law, service delivery, materials and furnishings, and the referral process among the courts, legal services programs, local bar associations, and other legal services agencies have been addressed.

The Help Center (or "Center") will be located in the Hall of Justice, Fifth Floor, 99 Exchange Boulevard, Rochester, NY 14614, in a very "customer friendly," easily accessible area.

The Help Center staff will answer questions and make referrals to appropriate court, government and legal services agencies.

- **Staffing and Hours of Operation**

Hours of Operation

The Help Center is proposed to open **Monday through Friday, from 10:00 a.m. to 4:00 p.m.**

Court Staff

The Help Center staff will include assigned court staff currently serving our Law Library, and a Volunteer Legal Service Project of Monroe County paralegal.

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To manage the volume of anticipated unrepresented litigants, it is further proposed that a part-time screening and intake employee be added to the 8th floor central reception area of the Telesca Center for Justice, 1 W. Main Street, Rochester, NY 14614. The Help Center may refer individuals to the Telesca Center for Justice at a line already dedicated by Judge Telesca for referrals to the Telesca Center (585) 295-5798.

Volunteer Legal Services Project Staff

In addition, it is proposed that Volunteer Legal Services Project (VLSP) attorney Hotline Program volunteers aid the Help Center by donating pro bono hours to assist unrepresented litigants over the telephone. The Hotline Program volunteers would provide brief advice. At present, Nixon Peabody LLP and Hiscock & Barclay LLP and the 4th Department Appellate Division attorneys provide volunteers for the VLSP Hotline Program.

It is also proposed that the part-time VLSP paralegal provide staff support to recruit, train and schedule the attorneys who volunteer at the Help Center.

Other Community Partners

The Center for Dispute Settlement in Rochester is a current and valued partner of the court and will place a volunteer in the Help Center to advise parties in Alternative Dispute Resolution.

- **Areas of Law**

The Help Center will not take the place of private counsel. Those seeking assistance from the Help Center are not clients of the Center, and there is no attorney-client relationship between those who seek assistance of the Help Center and the staff of the Help Center.

Established Help Centers provide legal information for an array of areas of law. However, we are proposing to initially focus on a few areas to determine the specific overwhelming need of unrepresented litigants.

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Currently, the New York Help Centers provide services for family law, civil law, criminal law, and alternative dispute resolution.

- Family law services: domestic violence, divorce and separation, child custody and visitation, child support and paternity.

- Civil law services: housing (landlord-tenant), small claims, name changes, cases over $5,000 in money damages, surrogate's court (estate, adoption and guardianship), and attorney-client fee disputes.

It is recommended that the Help Center in Monroe County initially offer services for areas of family law and landlord-tenant disputes, with the possibility of expansion to other areas.

- **Service Delivery Methods**

Courts use a variety of service delivery methods in their Help Centers.

- Court staff, who know and work in our system and are trained to help litigants navigate their way through the courts.
- Pro Bono Volunteer attorneys
- Attorney (phone) Hotline
- Alternative Dispute Resolution volunteers
- Simplified Sample legal forms
- Uncontested divorce packets
- Information
- Public access computer use
- Assistance with "Do It Yourself (DIY) forms
- Referral to Telesca Center for Justice

- **CLOSING**

Thanks to the Task Force for its anticipated support of this unique collaboration. We, in the Seventh Judicial District, have always been leaders in finding innovative collaborations with our "partners in justice," and we stand ready to be active participants in the important work of this Task Force.

October 2, 2012

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Sally Fisher Curran

Legal Director, Volunteer Lawyer Project of the Onondaga County Bar Association and Say Yes to Education, Syracuse

Sally Fisher Curran, Esq. is the Legal Director of the Volunteer Lawyer Project of the Onondaga County Bar Association and Say Yes to Education – Syracuse. Ms. Curran is licensed to practice law in New York and Maine. She is a member of the New York State Bar Association, Onondaga County Bar Association, and the Maine State Bar Association.

My name is Sally Fisher Curran and I am speaking to you today as the new Legal Director for the Onondaga County Bar Association's Volunteer Lawyer Project and Say Yes to Education. I come in front of this panel with immense gratitude to the Panel and Chief Judge Lippman, because without the OCA funds my position could not have been created. With the creation of the Legal Director position, which is jointly funded by the OCA grant and Say Yes to Education – Syracuse, the Bar Association's Volunteer Lawyer Project and Say Yes have formalized a collaboration that has been many years in development.

Both the VLP and Say Yes's Legal Taskforce work to address unmet civil legal services needs in Syracuse through the private bar, volunteer attorneys, and supervised law students. Attorney Wiles and Attorney Marshall have presented an overview of the services that both organizations currently provide. I will present the vision of where this collaboration is going in Sallythe next year and beyond.

Over the next few months, Say Yes and the VLP will be working to create a unified "Talk to a Lawyer Clinic" system throughout the city, with drop-in clinics available in all quadrants of the city for easy accessibility for all. All of the volunteer lawyers will be receiving specialized training to incorporate the SayYes holistic approach into all walk-in clinics. The attorneys will be trained to spot and address the legal needs of all clients, and for those clients with children in the Syracuse School District the lawyers will also screen for additional social service needs that are supported by Say Yes programing.

Currently, the Say Yes model aims to provide full legal representation to families in need in the Syracuse School District. As the Legal Director, I will be working to ensure this legal representation is provided, and I will work to expand this model of provision of pro bono legal representation to the wider community in need.

Families in Syracuse have significant need for legal assistance with family matters. Many of these families are eligible for court-appointed attorneys once they get into court, but they have difficulty getting to that point. It is in our plan to develop a limited-representation family matter drop-in clinic where parents will be able to receive assistance with filing original petitions and motions for modification of custody and support, to make the process easier for the families. Moreover, VLP and Say Yes volunteer attorneys are teaming up with Legal Services of Mid-New York to reworked our uncontested divorce clinic, with the goal of creating a more

streamlined process that will allow a greater number of people receive divorce assistance in Onondaga County.

Currently, the VLP works with several law firms, including some of the Say Yes law firms, to provide eviction defense five days per week in Syracuse City Court. By helping defend families against eviction, VLP and Say Yes attorneys work to ensure that students' education is not disrupted by homelessness. With this new formalized collaboration between VLP and Say Yes, this eviction defense clinic will also include screening to ensure that families with children in the Syracuse School District are being provided with ongoing legal representation if required.

Finally, VLP and Say Yes are working together to provide "know-your-rights" legal trainings to parents as part of Say Yes's Parent University. Using our experiences in the talk-to-a-lawyer clinics in the schools and community, we have identified areas of common legal need and interest. This fall, VLP and Say Yes will be providing trainings on consumer rights and housing rights, and will provide an opportunity at the end of each training for parents to ask questions one-on-one to attorneys that are present. In the spring, more subjects will be addressed such as family law and immigration. It is our hope that these clinics will not only help families become more aware of their legal rights and the remedies available to them, but will also help guide them to the legal assistance they need through the collaborative Say Yes and VLP programing.

This collaboration is already providing the opportunity for Say Yes and VLP to examine the best parts of their programing and work together to provide more effective and expansive legal services in Syracuse. We are grateful for having received the OCA funding, and through our collaborative efforts we expect great returns on the investment.

Irene Aurora Flores

Solo Practitioner, Syracuse, New York

I. Aurora Flores
Syracuse Attorney - sole practitioner
October 2, 2012 Hearing

Topic: How practicing attorneys would be able to provide consistent services to low-income New Yorkers.

I cannot attend the above hearing, because I am scheduled to appear in Immigration Court in Batavia, New York for a client whose family paid me a reduced fee.

Many people cannot afford to hire a lawyer for issues which impact on their basic needs like housing, food, and utilities. There are those who want a divorce, but find the do-it-yourself forms and the procedure required too complex. These people deserve quality legal services from experienced practitioners on a regular basis.

Most of my cases are criminal cases through the Assigned Counsel Program. Every now and then, I help someone with a divorce, or take on an immigration case for a reduced fee. I do not make enough money to justify hiring an assistant.

I would be able to help low-income New Yorkers in civil cases on a regular basis if:

1. I have access to support either through law schools, or organizations who can help me prepare and process court documents, follow-up on cases, and handle routine client matters. Funding and coordination among these various agencies would be efficient and cost-effective. Perhaps there could be a center to coordinate these efforts;
2. I could assist them with do-it-yourself court forms or self-help programs if there are facilities to meet with them and someone to schedule these sessions;
3. I have understanding and support from the judiciary when I am scheduled for more than one court at the same time;
4. I have access to all court calendars online;
5. I have access to reduced online research databases when I cannot go to the 5th Judicial District Law Library; and,
6. I am able to make certain appearances by telephone.

All of the above suggestions, as well as the use of non-lawyer advocates, alternative dispute resolution, pro bono services need to be coordinated in order to provide regular, quality legal services to New Yorkers. I am offering any assistance needed. Thank you very much for your consideration.

Respectfully,

Irene Aurora Flores

Sarah Heim

Law Student, Cornell Law School

Sarah Heim – Cornell University
Background Information

I graduated from Dickinson College in 2007 with a dual degree in German and Political Science. After graduation, I spent a year working as a researcher and tour guide at Dachau Concentration Camp Memorial Site in Dachau, Germany. I then moved to Burlington, Vermont, for two years and worked as an AmeriCorps VISTA volunteer with Vermont Campus Compact. I began my legal studies in 2010 and am currently a third year student at Cornell Law School. I am an active member of the Public Interest Law Union and the Women's Law Coalition. I am also the Executive Editor of Cornell International Law Journal. I spent my first year summer as an intern with the Office of the General Counsel at Lehigh University and my second year summer as a law clerk at Cleary, Gottlieb, Steen, and Hamilton.

Hello. Thank you for inviting me to speak today before this panel. As Dean Schwab mentioned earlier, my name is Sarah Heim and I am a third year student at Cornell Law School. Prior to starting law school, I spent two years serving as an AmeriCorps volunteer in Burlington, Vermont. I worked as a community service program coordinator at the University of Vermont and organized service programs for students in the local community.

To give you a better idea of the type of service work that Cornell students are engaged in, I would like to share some of my own experiences from the past two years.

- As a first and second year student, I volunteered with "Feed My Starving Children," a global nonprofit that sends much needed food to communities facing extreme economic hardship. Each year, the law school sends approximately 60 students, staff, and faculty members to assist in the packaging of these meals. Dozens of Ithaca schools, nonprofits, churches, and community groups participate in this event and it's a great way for law students to interact with other members of the Ithaca community.
- Between my first and second year of law school, I interned in the Office of the General Counsel at Lehigh University. I was able to support myself that summer through receiving work-study funds and through supplemental public service funding from the law school. At least half of all first year students complete a public service internship after their first year of school.
- As a second year student, I was the community service coordinator for the Public Interest Law Union. I worked with the Public Service office to advertise pro bono service opportunities to the law school community. We also organized direct service activities for students, including a day of assisting in flood clean-up efforts in Owego. A group of 18 students helped a local church to remove debris from its first floor. Students

worked alongside members of a local church and helped to remove large pieces of debris from the church's basement and first floor.

- I am currently participating in the U.S. Attorney's Clinic. This six-credit clinic gives students the opportunity to work closely with attorneys in the U.S. Attorney's Office for the Northern District of New York. It's a great opportunity for students who are interested in careers with the Department of Justice, or for students who have a more general interest in exploring career options in public service.

As a strong proponent of civic engagement and public service, I think that the new Public Service Guidelines will be a great way to raise law students' awareness of the need for pro bono representation in their communities. However, I also have a few concerns about this program. As you have heard, Cornell Law School encourages students to participate in a wide variety of public service opportunities, including non-legal volunteer projects. Many students see these projects as a welcome break from studying and a great way to give back to their adopted community. I would hope that requiring law students to complete 50 hours of strictly legal pro-bono service would not affect students' ability and availability to participate in other, equally important public service opportunities.

Dean Schwab already alluded to my second concern, which is the limited resources of many of the legal aid providers in Ithaca. Although encouraging increased student pro bono participation is a noble cause, we also need to keep in mind the organizations and people whom these students will ostensibly be helping. Many small legal non-profits have very limited financial and personnel resources. Hosting student volunteers may become more of a burden than a blessing for some of them. Although Cornell can surely work with these nonprofits to accommodate law school volunteers, it is important that the actual needs of the community are always considered in tandem with the needs of our students.

Thank you for taking the time today to allow me to share my experiences and some of my thoughts.

Andrew Kloc

President, New York State Unified Court Law Libraries Association; Automation Services Law Librarian, Appellate Division, Fourth Judicial Department Law Library

Request for Invitation to Provide Oral Testimony

Task Force to Expand Access to Civil Legal Services

Hearing of the Fourth Judicial Department – October 2, 2012

Respectfully Submitted by the New York State Unified Court Law Libraries Association

Proposed testimony to be given by Andrew Kloc, President, New York State Unified Court Law Libraries Association; Automation Services Law Librarian, Appellate Division, Fourth Judicial Department Law Library

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The New York State Unified Court Law Libraries Association is a professional organization within the state court system whose mission is to help ensure that our law libraries develop and evolve to meet the legal information needs of all persons accessing the libraries for essential resources, services and information. We truly thank Chief Judge Lippman and the Task Force to Expand Access to Civil Legal Services for conducting these hearings and appreciate the opportunity to offer input on this important subject.

The New York State Unified Court System (UCS) operates and maintains a network of law libraries that are unique and geographically diverse. In their traditional role, court libraries provide resources and reference services to the judiciary, the bar and the public. As such, we offer extensive library services to self-represented litigants on a daily basis. Often, public-access court libraries serve as the primary access point to the law for individuals who are unable to afford an attorney. In this role, court law libraries provide a wide range of services and resources, including:

- Internet access, including free access to LexisNexis and other premium legal databases;
- Access to a wide variety of state & federal legal resources, including primary law, treatises and forms in both digital and print formats;
- Access to printers, copiers and scanners;
- Legal research assistance by professionally trained law librarians and court library staff;
- Access to appellate-level records & briefs;
- Computer assistance, including the use of legal databases;
- 1-800-CourtNY, a toll free number answered daily by a team of librarians and court personnel, including interpreters when needed;
- Access to "do-it-yourself" legal resources, such as print treatises and websites like the UCS Do-It-Yourself forms library and LawHelp.org/NY; and
- Interlibrary loan services to provide access to materials held by other law libraries across the country.

Although the libraries and their staff cannot provide legal advice, the libraries can and do provide access to timely legal information in a variety of electronic and print formats. Library standards set forth from the *American Association of Law Libraries--State, Court and County Law Libraries Special Interest Section* state that "access to justice is a fundamental right of every citizen of the United States. Legal information is an essential element of this right. Law libraries are integral to the administration of justice as providers of legal resources."[1] Indeed,

[1] Standards for Appellate Court Libraries and State Law Libraries, American Association of Law Libraries, State, Court and County Law Libraries Special Interest Section, Approved by the AALL Executive Board, July 2005 http://www.aallnet.org/main-menu/Publications/llj/LLJ-Archives/Vol-98/pub_llj_v98n01/2006-08.pdf

law libraries can embrace the mission boldly outlined by Richard Zorza in the *"The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice"* report released earlier this year. "The law library's mission is to play a major role in enhancing access to justice for all, a critical component in a legitimate democratic society. It plays this role by providing legal information and tools to those engaged with the justice system, including litigants and those facing legal issues, attorneys, court staff, the judiciary and other governmental organizations, regardless of where they are physically. In order to do so, it partners broadly with courts, bar associations, access to justice organizations, community organizations, and government."[2]

The public access libraries of the Unified Court System provide reliable reference and resources to the courts and deliver legal information to the unrepresented, pro bono attorneys, and all seekers of legal resources. The New York State Unified Court Law Libraries Association looks forward to a renewed collaboration with all interested parties, including the Task Force to Expand Access to Civil Legal Services, the New York State Courts' Access to Justice Program, bar associations, and legal aid providers. By forging closer working relationships between court libraries and civil legal services providers, we hope to better serve those who have historically struggled to gain access to this vital aspect of the legal system.

[2] The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice. Prepared by Richard Zorza. Full report: http://www.zorza.net/LawLibrary.pdf

APPENDIX A

Publicly Accessible Law Libraries within the New York State Unified Court System (By County)

Albany County
Frances Bergan Law Library
Albany County
Albany, NY 12207
(518) 285-6183

Allegany County
Allegany County Law Library
Allegany County Courthouse
Belmont, NY 14813
(716) 268-5813

Bronx County
Bronx Supreme Court Law Library
Room 817
851 Grand Concourse
Bronx, NY 10451
(718) 618-3710

Broome County
Binghamton Supreme Court Law Library
Broome County Courthouse
92 Court Street Room 107
Binghamton, NY 13901
(607) 778-2119

Cattaraugus County
Cattaraugus County Law Library
Little Valley, NY 14755-1028
(716) 938-9111 Ext. 326

Cayuga County
New York State Supreme Court Law Library
Cayuga County Courthouse
152 Genesee Street
Auburn, NY 13021-3476
(315) 255-4310

Chautauqua County
Chautauqua County Law Library
Chautauqua County Courthouse
Mayville, NY 14757-0292
(716) 753-7111

Chemung County
Charles B. Swartwood Supreme Court Library
Hazlett Building
203-205 Lake Street
Elmira, NY 14901
(607) 737-2983

Chenango County
David L. Follett Supreme Court Library
5-9 West Main Street, 2nd Floor
Norwich, NY 13815
(607) 334-9463

Clinton County
NYS Supreme Court Law Library
72 Clinton Street
Plattsburgh, NY 12901
Tel: (518) 565-4808
Fax: (518) 562-1193

Columbia County
Supreme Court Law Library
Courthouse
Hudson, NY 12534
(518) 828-3206

Cortland County
Louis H. Folmer Supreme Court Library
Cortland County Courthouse
Cortland, NY 13045
(607) 753-5011

Delaware County
Delaware County Courthouse
Delhi, NY 13753
(607) 746-3959

Dutchess County
Supreme Court Law Library
50 Market Street
Poughkeepsie, NY 12601
(845) 431-1859

Erie County
Supreme Court Library at Buffalo
Erie County Hall
77 West Eagle Street
Buffalo, NY 14202-3991
(716) 845-9400

Essex County
Essex County Law Library
Essex County Government Center
7559 Court Street
Elizabethtown, NY 12932
Tel: (518) 873-3377
Fax: (518) 873-3789

Franklin County
NYS Supreme Court Law Library
Franklin County Courthouse
355 West Main Street
Malone, NY 12953
Tel: (518) 481-1564
Fax: (518) 481-6704

Fulton County
Fulton County Law Library
County Office Building
223 West Main Street
Johnstown, NY 12095
Tel: (518) 736-5685
Fax: (518) 762-6372

Genesee County
Genesee County Law Library
Genesee County Court Facility
1 West Main Street
Batavia, NY 14021
(585) 344-2550 ext 2224

Greene County
Emory A. Chase Memorial Library
320 Main Street
Greene County Courthouse
Catskill, NY 12414
(518) 444-8797

Hamilton County
Hamilton County Law Library
Hamilton County Courthouse
102 County View Drive
Lake Pleasant, NY 12108
Tel: (518) 451-8777
Fax: (518) 648-6286

Herkimer County
Herkimer County Law Library
Herkimer County Courthouse
320 North Main Street
Herkimer, NY 13350
(315) 867-1172

Jefferson County
Supreme Court Law Library
195 Arsenal Street
Watertown, NY 13601
(315) 785-3064

Kings County
Kings County Supreme Court Law Library
3rd Floor
360 Adams Street
Brooklyn, NY 11201
(347) 296-1144

Lewis County
Lewis County Law Library
Courthouse
Lowville, NY 13367-1396
(315) 376-5381

Livingston County
Wadsworth Public Library
24 Center Street
Geneseo, NY 14454
(585) 243-0440

Madison County
Oneida Public Library
220 Broad Street
Oneida, NY 13421
(315) 363-3050

Monroe County
Appellate Division Fourth Dept. Law Library
M. Delores Denman Courthouse
50 East Ave, Suite 100
Rochester, NY 14604
(585) 530-3250

Seventh Judicial District Law Library
525 Hall of Justice
99 Exchange Blvd.
Rochester, NY 14614
(585) 428-1854

Montgomery County
Montgomery County Law Library
Montgomery County Courthouse
58 Broadway
Fonda, NY 12068
Tel: (518) 285-8518
Fax: (518) 377-5909

Nassau County
Supreme Court Law Library
100 Supreme Court Drive
Mineola, NY 11501
(516) 442-8580

New York County
NY County Courts Public Access Law Library
80 Centre Street
Room 468
New York, NY 10013
(646) 386-3715

Niagara County
Supreme Court Library
Niagara County Courthouse
175 Hawley Street
Lockport, NY 14090
(716) 439-7145

Oneida County
Oneida County Supreme Court Law Library
235 Elizabeth Street
Utica, NY 13501
(315) 798-5703

Onondaga County
Supreme Court Law Library
Onondaga County Courthouse
Syracuse, NY 13202
(315) 671-1150

Ontario County
Charles J. Meder Library
Finger Lakes Community College
3325 Marvin Sands Drive
Canandaigua, NY 14424
(585) 394-3500, Ext. 7432

Orange County
Supreme Court Law Library
Orange County Government Center
285 Main Street
Goshen, NY 10924
845-476-3473

Orleans County
Orleans County Law Library
Orleans County Court
County Building
Albion, NY 14411
(716) 589-4457

Oswego County
Supreme Court Law Library
Oswego County Courthouse
Oswego, NY 13126
(315) 349-3297

Otsego County
Joseph P. Molinari Supreme Court Law Library
Otsego County Courthouse
197 Main Street
Cooperstown, NY 13326
(607) 547-5425

Putnam County
20 County Center
Carmel, NY 10512
(845) 208-7804

Queens County
Queens Supreme Court Law Library
Queens County General Courthouse
88-11 Sutphin Blvd.
Jamaica, NY 11435
(718) 298-1206

Rensselaer County
Supreme Court Library
Courthouse
Second Street Annex
Troy, NY 12180
(518) 285-6183

Richmond County
25 Hyatt Street, Room 515
Staten Island, NY 10301
(718) 675-8711

Rockland County
Rockland County Courthouse,
1 South Main Street, Suite 235,
New City, NY 10956
(845) 483-8399

St. Lawrence County
NYS Supreme Court Law Library
St. Lawrence County Courthouse
48 Court Street
Canton, NY 13617
Tel: (315) 379-2279
Fax: (315) 379-2424

Saratoga County
NYS Supreme Court Law Library
City Hall
474 Broadway
Saratoga Springs, NY 12866
Tel: (518) 451-8777

Schenectady County
NYS Supreme Court Law Library
Schenectady County Judicial Building
612 State Street, 3rd fl.
Schenectady, NY 12305
Tel: (518) 285-8518
Fax: (518) 377-5909

Schuyler County
Watkins Glen Public Library
610 South Decatur Street
Watkins Glen, NY 14891
(607) 535-2346

Schoharie County
.F. Walter Bliss Memorial Library
The Court House
Schoharie, NY 12157-0447
(518) 295-7900

Seneca County
Seneca Falls Library
47 Cayuga Street
Seneca Falls, NY 13148
(315) 568-8265

Steuben County
Steuben County Supreme Court Library
3 East Pulteney Square
Bath, NY 14810-1557
(607) 664-2099

Suffolk County
Suffolk County Supreme Court
Law Library
Cohalan Court Complex
400 Carleton Avenue
Central Islip, NY 11702
(631) 853-7530

Supreme Court Law Library
Criminal Courts Building
220 Center Street
Riverhead, NY 11901-3312
(631) 852-2419

Sullivan County
Hamilton O'Dell Library
New York State Supreme Court
Library
Sullivan County Courthouse
Monticello, NY 12701
(845) 794-1547

Tioga County
Waverly Free Public Library
18 East Street
Waverly, NY 14892
(607) 565-9341

Tompkins County
Ernest Warren Supreme Court
Library
Tompkins County Courthouse
320 North Tioga Street
Ithaca, NY 14850
(607) 272-0045

Ulster County
New York State Supreme Court
Library
285 Wall Street
Kingston, NY 12401
(845) 340-3053

Warren County
NYS Supreme Court Law Library
Warren County Municipal Center
1340 State Route 9
Lake George, NY 12845
Tel: (518) 761-6442
Fax: (518) 761-6586

Washington County
Washington County Law Library
Washington County Courthouse
383 Broadway
Fort Edward, NY 12828
Tel: (518) 285-8518
Fax: (518) 377-5909

Wayne County
Lyons Public Library
122 Broad Street
Lyons, NY 14489
(315) 946-9262

Westchester County
Supreme Court Law Library
Westchester County
111 Dr. Martin Luther King, Jr.,
Blvd 9th Floor
White Plains, NY 10601
(914) 824-5660

Wyoming County
Wyoming County Law Library
Wyoming County Courthouse
143 North Main Street
Warsaw, NY 14569-1199
(585) 786-3148

Yates County
Penn Yan Public Library
214 Main Street
Penn Yan, NY 14527
(315) 536-6114

C. Kenneth Perri

Executive Director, Legal Assistance of Western New York, Inc.

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Fax: (315)781-2565 Website: www.lawny.org

TESTIMONY:

THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

September 27, 2012

By: C. Kenneth Perri
Executive Director

LSC

I. **Introduction:**

On behalf of Legal Assistance of Western New York, Inc.® (hereinafter LawNY®), I thank you for conducting the hearings on civil legal services in the Third Department on September 27, 2012, in the First Department on October 1, 2012, in the Fourth Department on October 2, 2012 and in the Second Department on October 4, 2012. I thank you as well for the opportunity to share these very brief comments with regard to the crisis facing the civil legal services infrastructure in New York State, how that impacts those unable to access the justice system because of their inability to pay for an attorney and the impact in LawNY®'s service area of Judiciary Civil Legal Services funding for the completed fiscal year from 4/1/11 – 3/31/12 and in the current fiscal year from 4/1/12 – 3/31/13.

I extend my thanks in particular to the Chief Judge of the State of New York, Honorable Jonathan Lippman, as well as the other members of the hearing panels, Chief Administrative Judge A. Gail Prudenti, New York State Bar Association President Seymour W. James, Jr. and Presiding Justices Luis A. Gonzalez, William F. Mastro, Karen K. Peters and Henry J. Scudder. I also extend my thanks to Helaine M. Barnett, the chair of the Task Force To Expand Access To Civil Legal Services In New York, as well as the other distinguished members of the Task Force.

II. **LawNY®:**

My name is C. Kenneth Perri and I am the executive director of LawNY®. LawNY® is a 501(c)(3) not-for-profit law firm whose mission is to provide access to the justice system to low-income New Yorkers and other vulnerable populations in our 14 county service area. I have been a civil legal services practitioner for 30 years.

LawNY® has seven staffed offices which provide services to low-income people in 14 counties. Our office in Bath serves the residents of Allegany and Steuben Counties. Our office in Elmira serves the residents of Chemung and Schuyler Counties. Our office in Geneva serves the residents of Livingston, Ontario, Seneca, Wayne and Yates Counties. Our office in Ithaca serves the residents of Tioga and Tompkins Counties. Our office in Jamestown serves the residents of Chautauqua County. Our office in Olean serves the residents of Cattaraugus County. Our office in Rochester serves the residents of Monroe County.

With the exception of the urban center in Rochester and the small cities of Canandaigua, Elmira, Geneva, Ithaca, Jamestown, Olean and Salamanca, the nearly 10,000 square mile, 14 county area served by LawNY® is primarily rural. In the counties in which we do not have staffed offices, we have sites where we can meet with and interview clients located in Belmont, Lyons, Montour Falls, Mt. Morris, Ovid, Owego and Penn Yan.

III. **Continued Need for Funding**:

On September 29, 2010 I submitted written testimony and had the honor of providing oral testimony at the Chief Judge's hearing held in Rochester, New York. I also submitted written testimony on October 7, 2011 in connection with the Chief Judge's 2011 hearings on civil legal services. Both times I provided detailed information regarding the extremely high demand for services from LawNY® by the members of our low-income communities. The sum and substance of my September 2010 and October 2011 testimony in this regard remains unchanged, and is briefly able to be summarized as follows:

- The number of persons living in poverty in the 14 counties served by LawNY® continues to grow, from 189,000 persons according to the 2000 census to over 239,500 persons according to the small area income and poverty estimates for 2010, an increase of nearly 27%;

- Recent economic conditions have dramatically affected the demand for civil legal services among low-income people, including those who, because of loss of jobs, have fallen below the federal poverty level;

- The unemployment rate remains high;

- Employers continue to downsize, relocate or close;

- The number of people participating in the poverty programs of last resort – public assistance, food stamps and medicaid – remains exceptionally high;

- LawNY® continues to struggle to meet gaps in our service delivery system which we have identified, including in the areas of mobile home owners' rights, services for domestic violence victims, services for seniors and services in the areas of employment law, education law and land sale contracts; and

- LawNY® also continues to grapple with other barriers which we have identified to providing civil legal services, including our large geographic expanse; low starting salaries for our professional staff of attorneys ($38,500 at the entry level); the difficulty of recruiting and retaining volunteer lawyers to provide pro bono services in the rural counties in our service area; and steep reductions in federal funding from the Legal Services Corporation, amounting to 4% of our basic field grant in 2011 followed by another 15% reduction to our basic field grant in 2012.

In addition, at the present time, we are awaiting a Congressional decision regarding the manner in which LSC funding will be reallocated among geographic areas in the United States based on updated poverty population determinations. Based on information presently available to us, the seven LSC grantees in New York State estimate that we will collectively lose nearly 21% of our LSC basic field funds, a loss of over $4,925,000 based on present federal fiscal year 2012 basic field funding levels.

IV. **LawNY®'s Use of Oversight Board Judiciary Civil Legal Services Funds**:

In the state fiscal year which ran from 4/1/11 – 3/31/12, Chief Judge Lippman was able to secure funding for civil legal services in the sum of $12.5 million allocated by the Oversight Board for Judiciary Civil Legal Services. Following a competitive RFP process, LawNY® was awarded $656,175 to serve our four counties located in the Third Department and our ten counties located in the Fourth Department.

These funds allowed LawNY® to retain approximately 6.23 FTE attorney staff members, 1.18 FTE paralegal staff members and .26 FTE support staff members.

This provided LawNY® with the capacity to serve 1,063 additional households, including households with problems with subsistence income such as wages, disability, other benefits and consumer debts (42%); housing, such as evictions, foreclosures and homelessness (32%); family matters, such as domestic violence, children and family stability (20%) and access to health care and education (3%).

Other legal assistance was provided to 998 additional individuals in the form of presentations to groups of low-income people; dissemination of legal education brochures; the provision of printed and web-based materials; referrals to the private bar, other civil legal services providers and other human service providers; and outreach regarding program services.

In the current state fiscal year, which runs from April 1, 2012 – March 31, 2013, Chief Judge Lippman was able to secure funding for civil legal services in the sum of $25 million, again allocated by the Oversight Board for Judiciary Civil Legal Services. Again, following a competitive RFP process, LawNY® was awarded $1,312,350 to serve our four counties in the Third Department and our ten counties in the Fourth Department.

This funding supports 11.151 FTE attorney positions, 3.29 FTE paralegal positions and 1.02 FTE support staff positions. We project that by the end of the present state fiscal year, Judiciary Civil Legal Services funds will have allowed us to provide representation in court and/or administrative proceedings to 330 families; representation in appeals or other complex matters to 20 families; other legal assistance to 765 families, including negotiating settlements with and without litigation, short term services beyond brief advice and/or information, assisted referrals and housing and other hotline calls; direct brief advice and/or information to 935 families; direct assistance in completing forms or applications for 300 families; and community legal education for 2,000 individuals.

V. **Conclusion**:

For the period from January 1, 2011 – December 31, 2011, LawNY® staff in all seven offices, with all of our funding streams, cumulatively closed a total of 7,292 cases benefiting 16,860 people. The three highest substantive law areas in which cases were closed were in those in which clients presented with legal problems affecting the essentials of life – government benefits (39%), housing (32%) and family law (14%). LawNY® used a variety of strategies to meet these critical legal needs of our clients,

including representation in judicial and administrative forums, preventive legal education, pro se information, short-term services such as counsel and advice and holistic community partnerships.

In 2013, absent renewed funding from the Oversight Board for Judiciary Civil Legal Services, LawNY®'s ability to continue to try to address the unmet needs of the low-income families in our service area with civil legal problems affecting the essentials of life will be irrevocably destabilized.

I am grateful for the efforts of the Chief Judge and the Task Force and extend my thanks on behalf of myself, the LawNY® board of directors and staff and, most importantly, the families that we are able to help as a result of this funding.

I fervently urge that the Task Force recommend that funding from New York State for the provision of civil legal services to low-income people be enhanced in the state fiscal year which begins on April 1, 2013 so that LawNY® and the entire community of civil legal services providers can continue to respond as effectively as possible to the ever growing need for our services. The continuing demand by our low-income neighbors for assistance from the legal services provider community in turn demands ongoing and stable funding for the providers from the State of New York.

LawNY® and the other civil legal services providers throughout New York State welcome the opportunity to work with the Chief Judge and with the Task Force To Expand Access To Civil Legal Services In New York to achieve this result.

Thank you for your time and your consideration.

Dennis A. Kaufman

Executive Director, Legal Services of
Central New York, Inc.

LEGAL SERVICES OF CENTRAL NEW YORK
MAKING JUSTICE ACCESSIBLE

Testimony of Dennis A. Kaufman, Esq.
Executive Director

Legal Services of Central New York, Inc.

Submitted to

The Task Force to Expand Access to Civil Legal Services

Syracuse, New York
October 2, 2012

My name is Dennis Kaufman. I am the executive director of Legal Services of Central New York, Inc. (LSCNY). We serve clients in a 13-county area with about one-half of our funding, sixteen counties with the remaining, except one grant to serve persons with traumatic brain injury throughout the state. When New York's federally funded programs realigned in 2004, the central region created a unique structure. The Boards of Directors of LSCNY and the Legal Aid Society of Mid New York, Inc. (LASMNY) saw an opportunity to create a comprehensive delivery system in the region by allocating all federal funding to LASMNY, thus leaving LSCNY with the ability represent clients in the 13-county region unfettered by restrictions on who we could represent and what legal strategies we could use to create favorable outcomes.

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WWW.LSCNY.ORG

LSCNY and LASMNY share offices in Syracuse, Utica, Binghamton, Cortland, and Oswego. Potential clients access services at each office and through a single point of entry – the Legal Helpline of Central New York. The Helpline is staffed by four lawyers, two from LSCNY and two from LASMNY. The Helpline attorneys identify the caller's legal issue and either refers it to LSCNY or LASMNY for extended service or gives advice on matters where full service is not available. The HelpLine has resulted in: (1) additional brief service for clients by the experienced staff attorneys on the line and (2) more efficient diagnosis of a caller's legal issues and transfer of callers to advocates engaging in extended legal services.

The New Capacity to Serve Critical Needs

The Judiciary CLS funds received by LSCNY have expanded our capacity to engage in extended service. During the first year advocates who are fully or substantially funded by the Judiciary CLS grant closed 1379 cases, with 342 cases now open. The largest legal category closed (38%) was housing – a critical need throughout the service area.

Our housing work is an example of how Judiciary CLS funds allows us to respond to critical needs in the service area. Two full-time Judiciary CLS funded staff attorneys work out of offices in Utica and two in Binghamton. The staff attorneys have substantial housing caseloads. Prior to the availability of Judiciary CLS funds, housing caseloads were dropping because adequate funding was less available. That trend has been reversed.

Housing representation in the counties surrounding Utica and Binghamton has helped not only our clients, but many people who appear in city and justice

courts. We challenged local court procedures giving preferential treatment to landlords and stopped the unauthorized practice of law by non-lawyer management companies. Our lawyers have successfully raised defenses in summary proceedings that non-lawyer judges had previously ignored or never encountered. We have helped to level the playing field.

Judiciary CLS funds all or part of the salaries for eleven lawyers, a paralegal, four administrative staff, and the director of technology. LSCNY is organized by practice groups, with ten of the lawyers participating in The Advocacy Group (TAG). The other attorney works on the Helpline. TAG is funded by Judiciary CLS and IOLA. TAG's work is critical to LSCNY's mission: to represent clients in matters where LASMNY is prohibited by funding restrictions and respond to gaps in service available in the region.

TAG Priorities

For 2012-13, LSCNY TAG priorities in gap areas include the following.

Housing. TAG lawyers engage in housing advocacy to close gaps caused by funding loss. TAG reviews cases involving: accessing subsidized housing, systemic code enforcement problems, water and utility shut-offs due to landlord failure to pay, privatized municipal foreclosure on taxes, property flipping schemes, foreclosures, tax foreclosures, predatory mortgages, mortgage scams, housing discrimination, and equity stripping schemes. In some counties where decreasing LSC funding has left communities without representation in evictions, TAG lawyers fill that need as well.

Income Security/Benefits. TAG represents clients in individual and systemic problems with public benefits. TAG lawyers settled class action litigation challenging a county Department of Social Services policy that imposed unlawful and arbitrary delays to thousands of applicants for benefits, denying applicants even the opportunity to apply for public assistance, food stamps and Medicaid. Applicants would stand in line outside the department starting at 6:00 a.m. in order to obtain one of the limited number of appointments made available each day. Those turned away had to return repeatedly to just file an application. Applicants who had to get their children off to school or go to work often arrived too late to obtain an appointment. The settlement agreement removes barriers to application and holds the department to mandated time periods for decisions on applications. Monitoring conducted since the settlement shows steady improvement by the department.

Access to Health Care. TAG will monitor the impact of the Patient Protection and Affordable Care Act of 2010 on residents of Central New York as portions of the ACA become effective.

Consumer/Debt Problems. Specific issues for TAG representation include: collection practices, deceptive sales, predatory lending, gutter service in consumer collection cases, payday loans, and debt rescue scams.

Wage Theft Project. Jim Williams, an LSCNY staff attorney and former the executive director of the National Employment Law Project, has initiated the Wage Theft Project. Issues include: failure to pay minimum wage, failure to pay for overtime, miss-classifying workers as independent contractors, miss-classifying

workers as exempt, and abuse of vulnerable workers, including domestic and farm workers. The Project also represents unemployment insurance claimants.

Language Access. LSCNY represents people who have language issues with law enforcement agencies, access to health services, and access to government benefits and services. LSCNY prevailed in a challenge to the Utica City School District voter qualification policy mandating the ability to read and write English. We settled an action against a local jail for failing to provide adequate interpretation services. The failure to have interpreting services resulted in serious physical injury to our client, followed by denial of medical care. When one of our attorneys helped a client who speaks Maay Maay to obtain a referral from the New York State Bar Association for a tort case. We learned that the service was not language accessible. After a few phone calls discussing the Bar's obligation, we recently learned that a telephone interpreting service will now be used.

Education. TAG will represent students subjected to disciplinary proceedings threatening their ability to stay in school, language access issue for parents and students, and difficulties in enrolling students in the proper school district. Matters that relate to students with disabilities are referred to the disability practice group.

Access to Justice. New Yorkers have a right to counsel in criminal and many Family Court cases, but our system of assigning competent lawyers is broken in many of the counties we serve. We have successfully challenged county policies that prevent low-income individuals from obtaining assigned counsel. For example,

one county stopped its policy of denying assigned lawyers to Family Court litigants who resided in another county.

Representation in Matters Prohibited under LSC Law and Regulation

The following are examples of how LSCNY can and does represent clients in circumstances prohibited to LASMNY, the LSC grantee.

Legislative, Public, and Administrative Advocacy. LSCNY lobbies at the state and local level on issues impacting our clients. We comment on proposed legislation and regulations without restriction. We join coalitions to advocate for law changes in the state legislature. A new policy advocacy effort will focus on unique problems persons with cognitive and other disabilities encounter in state administrative proceedings, especially where the lack of an attorney or advocate is a barrier to success.

Class Actions. LSCNY brings class actions. In the past year, lawyers worked on five class actions. In addition to the class action described above, we settled a class action against a county sheriff and several employers for violating state law prohibiting the use of arrest records during the pre-employment screening process. Another action ended in the NYS Department of Health granting Fair Hearing rights to when housing subsidies were terminate. We anticipate a recent federal action will become a class. We have challenged the NYS Department of Health's dumping a person with traumatic brain injury in a locked facility in Massachusetts. We believe most, if not all, of the facility residents are from New York.

Citizenship. LSCNY represents clients without regard to their citizenship. For example, Utica has a large refugee population. During our housing and public benefit work, we have identified increasing tension between the Somali community and city, county and school officials. We have begun exploring ways in which we might facilitate better community relations.

Prisoners. LSCNY can represent persons incarcerated in local, state and federal correctional facilities on most civil matters within our case priorities. We recently initiated a project on the rights of persons with disabilities in local jails. For many, especially young minority men, jails have become a substitute for mental health care and treatment.

On behalf of LSCNY's Board, staff, and clients, I commend the Task Force for it's continuing efforts to fund civil legal services and thank you for helping us make justice more accessible to the residents of Central New York.

Hon. Patricia D. Marks, Ret.

Monroe County Court Judge and Presiding Judge of Veterans Treatment Court; Interim Director and Board Member, Veteran Outreach Center; NDCI Faculty Training For Veterans Treatment Courts

Legal Services for Indigent Military Veterans

It is a privilege to present testimony on behalf of our military veterans and their need for legal services. My testimony is based on multiple perspectives including as presiding judge of the veterans court in Monroe County from 2009 to 2011, as previous interim CEO and current board member of Veterans Outreach Center in Rochester, NY, as a continuing faculty member for NDCI in facilitating the training of Veteran Court teams across the nation and as auxiliary member of Veterans of Foreign War post 8495.

I want to describe some of the unique collaborations occurring in Monroe County addressing the legal needs of veterans, describe my observations as previous presiding judge of Veterans Treatment Court and present information from personal conversations with veterans and persons who work with veterans as to veteran specific needs for civil legal services and conclude with recommendations based on that information.

Background

The Rochester area has a veteran population of approximately 72,000. Nationally and locally one in four veterans is homeless. From World War II veterans to the current veterans of Afghanistan and Iraq conflicts the need for legal services for our veterans is important. The legal community needs to step up for those needs of those who fought to provide a fair and just rule of law in foreign communities should be able to easily access legal counsel when they are home.

Recently the U.S. Army Reserve 98th training division has moved out of the Rochester area. At that division there was a full time JAG officer available to veterans and active duty military. Free legal services provided to hundreds of veterans will no longer be available.

Rochester Area 1 : I Team 1 Fight

The Rochester area as a community has done an incredible job of networking with other veteran services providers to have a full breadth of services to cover almost every problem they may discover when transitioning from the military. Rochester is and will continue to be the national best practice for doing this at a community level.

The returning veterans from this area will provide a solid base of people to educate, employ and have become our areas next leaders. In an effort to become attractive to people who are not from here and would otherwise have never come here , we have formed Rochester Area 1 Team (One team One Fight").

This organization will use a small amount of our resources to recruit active duty military from places like Ft. Drum, Fort Bragg and Ft. Hood - to come to Rochester to live, work and be educated. Members of this collaborative organization could go out- not as individual organizations - but as the Greater Rochester Area - to bring the best and brightest of them here.

This organization has united a number of agencies from the area to provide a collaborative approach to veterans' issues and have organized in the following subject areas: Education, Housing, Employment, Legal, Counseling, Medical and Business.

Veterans Outreach Center and Law NY Legal Services Project for Veterans

Veterans Outreach Center is local, independent service agency. The Center serves all veterans regardless of discharge status and their immediate family members as well. The Center provide referral services to the US Department of Veterans Affairs and other service agencies as appropriate to ensure all needs of our veterans are being met in a timely and responsible manner. The Center recognized the need for legal services for veterans. One of the key problems which was identified was the reluctance of veterans to seek legal or other help from organizations that were outside the recognizable veterans' community. To both organizations the obvious solution was to integrate legal services with the many training and counseling services available to veterans at VOC.

Now the Center collaborates with Law NY – Legal Assistance of Western New York through a federal grant program, and also utilizes the Volunteer Legal Services Program and Lawyer Referral Service. As each veteran is seen at the Center their needs are assessed including financial , housing , legal and employment needs . Law NY conducts an on site legal clinic covering a broad range of legal services including employment, child support, housing , wills and trusts. The income eligibility for legal services is set at two hundred per cent (200%) above poverty level.

I have attached the data provided and copies of stories of specific veterans who have benefitted from the services provided by the Veterans Administration's grant for Supportive Services for Veterans and their Families. It is through this program we have identified specific unmet needs for our veterans.

Unmet Needs

In considering unmet needs of veterans it is difficult to fully assess since veterans by training are reluctant to seek help. We know that preventive services are cost effective and sometimes life saving. The need to serve our veterans is long term. Research indicates that combat veterans reach a peak need for services at twenty years and projected needs for up to forty years after discharge. Recently the Veterans Outreach Center housed a World War II Veteran at its homeless shelter, Richards house. So we know the need is long term.

Status at discharge: Veterans who have experienced combat may have been discharged at a dishonorable level when the very behaviors that led to discharge are the product of multiple deployments and multiple combat experiences A review by a lawyer trained to advocate for a change in discharge status could resulting a veteran receiving a fair result. That fair result could result in opening doors that are foreclosed to him or her due to a dishonorable discharge.

Benefit advocacy: As one veteran stated "Every Veteran is at the mercy of the person who gets their benefit application" Effective advocacy at the outset and in the event of denial of benefits can make all

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the difference in the veterans' return to civilian life. There is a need for advocacy where there is a wrongful denial of benefits

Veterans in Recovery: Some veterans come home with serious substance abuse issues and have criminal law involvement as a result. Once they have engaged in recovery the battle just begins. Often criminal records preclude access to benefits, education and licenses. Bankruptcy is often critical to the recovery process as the recovering veterans feel the pressure of overwhelming debt and pressure from collection agencies. Many veterans returning home face divorce issues, criminal charges and answering for traffic violations. They need advice on starting a business, child support , clarifying licensure issues, loan and credit issues. While some of these issues may seem minor they according to one veteran "the nature of recovery requires lawyers because of the collateral issues that have been part of their addiction"

Family law: Divorce, child custody and child support issues are obvious as an unmet need. Divorce may follow a return by a veteran who has been away during multiple employments. The emotional and financial issues related to his or her marital situation clearly require the services of experienced lawyers.

Minor criminal infractions can create a future issue for veterans seeking licensing or going into business and simple traffic violations can and will result in loss of license and a downward spiral leading to job loss.

Civil proceedings related to seeking certificate of relief from civil disabilities after an adjudication for a criminal offense and advice on whether prior criminal record would preclude certain jobs.

Employment issues including proceedings to challenge decisions to not hire or to fire based on military related disability or conduct.

Bankruptcy : Some returning veterans have extraordinary debts sometimes incurred by absence during deployment and others incurred on return when issues such as PTSD and TBI affect income earning and spending.

Credit issues: One veteran returned home, went to buy a home and a bad credit report prevented a closing. The nature of the report included a purported debt to the military that had been satisfied and delayed the closing for six months. Others report a frustration at credit issues that arose during their absence.

Eviction: This need is met by the current Supportive Services for Veterans and their Families (SSVF) grant program in collaboration with Law NY but this grant is not eternal and the current legal service may not be available to some who are unable to seek it due to illness such as PTSD and TBI.

Foreclosure: Similar to eviction a veteran may return home and experience financial issues that lead to foreclosure action.

Loan denial: Veterans may be denied loans for a myriad of reasons related to service. They are eligible for special loan programs and may require advice about eligibility and challenges when the loan is denied.

Education benefit denial : The post 911 GI bill is complicated and veterans may benefit from reliable information that would allow them to advance their education and receive education and training to earn a living

Surrogate issues: will, trusts, inheritance powers of attorney especially for the aging veteran population

Veterans' Advocacy in Context

If the legal issues facing veterans are viewed in context our obligation to returning veterans is stronger. Dr. Eric Kuhn from the National Center for PTSD describes behaviors in context as it relates veterans with PTSD. Take for example a person who drives at an excess speed of 120 miles per hour and receives a ticket and could face loss of license and often loss of job. If the person driving at that speed is a veteran who experienced combat the explanation may be combat driving, post combat invincibility or adrenaline seeking. It may mitigate the issues and prevent the consequences that might accrue for example with the loss of a license. The "behavior in context "model could serve to provide a basis for advocacy in all arenas.

Veterans and Suicide Rates

We cannot ignore in this discussion the extraordinarily high suicide rates among veterans nor can we disavow the duty to help every veteran. As the New York Time recently observed "Suicide rates of military personnel and combat veterans have risen sharply since 2005 as the wars in Iraq and Aghanistan have intensified. " (June 8, 2012: Suicides Outpacing War Deaths for Troops") Though no study links unmet legal needs to the suicides, logic would compel us to believe that if we can alleviate a desperate need for housing, employment, or legal counsel for family matters or even connect the veteran to needed benefits that we can have an impact on the suicide rate. Veterans returning from the current conflicts have legal needs that affect their quality of life and their ability to recover and be restored to a sense of normalcy.

Recommendations: These are offered in random order and in recognition that to effectively deliver legal services to veterans there needs to be a single point of entry. Many of these ideas require some organization such as Veterans Outreach Center or a Law center like the Telesca Law Center. Ideally, whenever you touch a veteran there should be no handoffs. It should be a smooth system to navigate with as few stops as possible.

1 Expand Veterans courts throughout New York State and provide on site civil legal services to address civil legal needs in all veterans courts.

2. Provide approved CLE Training programs for attorneys willing to represent veterans and their families with specific areas: Military culture, eligibility for veteran benefits including disability benefits , discharge status upgrades, suicidality and PTSD and TBI. The program should be a comprehensive how to program and provided free of charge in exchange for a specified number of volunteer hours of pro

bono representation of veterans. There may be some benefit to provide training in concentrated areas such as veterans' benefits.

3. Lawyer volunteers such as attorneys emeritus to offer Veteran specific clinics, information sessions and legal representation for veterans and their immediate families

4. Continued funding of legal services for veterans who meet financial criteria and address creation of a modest means program for veterans whose income is too high for free legal services, but too low to pay an attorney's standard rate.

5. Create a "Lawyer of the Day " program where a volunteer lawyer is available on a regular basis at a veterans homeless shelter or other location where veterans may be. The lawyer would field questions and make appropriate referrals if further legal advice or action is required.

Judge Lippman, in your state of the state address you spoke of your wish to provide meaningful representation to those who have experienced the breakup of families, or have had their very livelihood threatened. We know that they cannot meaningfully pursue their rights in the courts of New York without legal counsel. I would advocate that we be intentional in providing justice for all and that we include all of our veterans especially those who have fought for the very freedoms and rule of law that you oversee. Let us together take major steps forward in providing meaningful representation for our veterans, making equal justice for all not just an ideal, but truly a reality in our great State.

Respectfully submitted,
Patricia D. Marks
Judge, Retired
Pdmconsulting28@aol.com
585-781-0023

3 attachments

Clinic January 2011 – September 1, 2011 Prefunding

93 Appointments Set
19 No Shows

54 Referrals
29 Intakes

Referrals by Category

8 Employment
2 Child Support
7 Custody / Visitation
6 Bankruptcy
15 Divorce
4 Debt Issues
1 Wills/Trusts
2 Housing
2 SSD/SSI
7 Misc. (Traffic/Criminal/Business)

Cases by Category

9 Employment
5 Child Support
4 Debt Issues
3 Wills/Trust
4 Public Benefit U
3 Housing
1 License Issue

Since Special Services for Veterans and their Families Funding: 1st Year #s

Appointments: 242
No shows: 55

Issues intaked: 140 onsite + (25 email referrals)

19	Employment
17	Child Support
2	Custody/Visitation (advice only)
11	Debt
1	Divorce (advice only)
51	Housing
8	Wills/Trusts
28	Public Benefit U
3	SSI/SSDI

Referrals: 52

3	Employment
3	Child Support
6	Custody/Visitation
8	Debt Issues
13	Divorce
4	Housing
2	Wills/Trusts
2	PI
1	PBU
6	SSI/SSDI
1	Taxes
1	VA DIS
2	Criminal

156 Cases opened under SSVF funding since 9/15/11 in LawNY

358 Total Veteran cases opened since 9/15/11 in Rochester & Geneva

Needs not currently being met:

1) Wills/POA/HCP for veterans under 60 or of modest means
2) Family Law: divorces, custody, support difficult because of jurisdictional issues
3) Bankruptcy: too time consuming for traditional legal services model when there are so many other needs

Behavior in Context

Behavior	Veteran	Typical Antisocial or other
Driving 120mph	Combat driving	showing off
In a 35mph zone	Post combat invincibility	disrespect for law and society
	Post combat adrenaline seeking	
Possession of a	safety: training and familiarity	show of force or
Weapon		intimidation/ Robbery/ Assault /Disregard for public safety
Non Compliant	Overwhelmed by thoughts	does not care about anything
Behavior	and feelings related to trauma	anti authority life style
	Or combat; impaired by TBI	status; hates police;
	Suicide; sleep deprivation	not enough love from mommy
Substance abuse	self medicating ; escape	lifestyle; lack of motivation responsibility
	Slow suicide	
Domestic Violence	anger (ptsd)	poor impulse control
	Family stress	history of violence
	Readjustment difficulty	violence as power/manipulation
	Impulse control (ptsd/tbi)	

Client Stories:

Client was a 66 year old, Vietnam Vet who was in the end stages of cancer. Client had an adult son who was stealing his social security from his bank account, but client was too weak to make it to the bank to do anything about it. We made a home visit to execute a POA. We execute that and other end of life documents. The client passed away three weeks later, with everything in order the way he wished.

Client was a Gulf War Vet who works full-time on minimum wage. He has shared custody of his daughter, but it was in jeopardy because of the condition of his apartment. The client deposited his rent in our escrow account and when he was brought to court for non-payment, the judge adjourned the case and order repairs to be made. The client had previously withheld rent and been brought to court twice before; he appeared pro se those two times and no repairs were ordered. Our advocacy brought the seriousness of the needed repairs to the court's attention.

Client is an OIF/OEF veteran and initially presented an issue with unemployment insurance benefits. He had been denied UIB by the DOL for misconduct, specifically driving down a one-way street the wrong way. The employer contended that his supervisor observed the vehicle facing the wrong way on a one way street. The judge found the client credibly testified that he had park his medical transport vehicle facing the wrong way on a one-way street to allow the wheelchair ramp to lower, not that he had driven the wrong way. The client was found eligible for benefits, leading to a payment of more than $4,500 in back benefits and $980/month ongoing. This allowed the client to avoid eviction and public assistance. The same client then returned several months later with an eviction proceeding for non-payment. The client presented receipts that indicated payment to the landlord for nearly all the rent, but the landlord was claiming that no rent had been paid in more than a year. We argued defective service on his behalf and won dismissal, giving the client time to get the amount of money owed. We then negotiated with the landlord's attorney, showing the receipts for rent paid, preventing them from filing another eviction action.

Client was an OIF/OEF era veteran who initially presented as needing a child support modification because of recent changes in income. However, after speaking with the client, he stated that he was also searching for a new, more affordable apartment. The advocate asked him how that was going and he stated it was difficult. He stated that he had applied at one apartment complex that would be perfect because it was near public transportation, near his doctors, and in a good school district, but that he had been denied. He stated that the apartment was initially presented as available, but when he completed the application, which showed his income as VA disability, the apartment manager said she had to double check the availability. He stated "something just felt off". There is a pending federal fair housing case as a result of this conversation that started off about child support.

Anthony P. Marshall

Chair, Say Yes to Education: Legal Support Task Force; Partner, Harris Beach PLLC

Anthony P. Marshall is a partner in the law firm Harris Beach PLLC and practices in Tax Law, Corporate, Public Finance and Economic Development and Life and Asset Planning Practice Groups and serves on the Real Estate Developers Industry Team. Mr. Marshall is licensed to practice law in New York and Pennsylvania, and is a Certified Public Accountant, licensed in New York. He served as an adjunct professor of Tax Law (LLM program) at Syracuse University College of Law from 1993-1996. A member of the New York State and Onondaga County Bar Associations, he also serves as Chair of the Board of Directors of Home Aides of Central New York, Inc., and Chair its Executive Committee, as well as serving as Chair of the Say Yes Legal Support Task Force.

My name is Anthony P. Marshall, and am a partner in the law firm Harris Beach PLLC. I primarily work in the areas of corporate, tax and economic development. I am here to speak about the Syracuse Say Yes to Education Program and my involvement in the design and implementation of its Legal Support Program.

The Say Yes to Education Program is a national urban education reform initiative designed to remove the primary socioeconomic obstacles that most often prevent inner-city kids from graduating high school and attending college. The Program recognizes that many students do not go to college, and may not even consider college a possibility, not solely because of academic reasons, but also because of crippling social and emotional, legal, health and wellness and financial difficulties that they and their families experience. Say Yes brings educational professionals, research capacity, social workers, counselors, health care providers, lawyers, and an entire community of other professional volunteers to inner-city schools to address the impediments faced by inner-city students and their families. The Legal Support Services component to this "whole child and family" approach is critical to the success of the overall Say Yes Program.

My work has been engaged in organizing the Say Yes Legal Support Program, which in part involved establishing pro bono legal clinics for students and families in the Syracuse City School District community, and gathering the support of lawyers and law firms throughout community, as well as collaborations with local non-profit legal service provider organizations. The Legal Support Program of Say Yes, and with its other support programs, was implemented to provide greater assurance of students achieving the academic success needed to attain the free tuition promise of Say Yes by mitigating legal issues that impact a student's focus on academic achievement.

My involvement began in early 2008 with my commitment, with my firm's full support, to take on the charge of designing, implementing and achieving the Legal Support Services aspect of the Say Yes Program. We did this through legal clinics and other legal based programs. During the summer of 2008, the scope, delivery and criteria for delivery of legal services were defined, to include housing (landlord-tenant), debtor rights, certain domestic relations, certain criminal matters and certain education rights issues, among other legal issues. The delivery of legal services was defined as essentially based on a clinic approach staffed by lawyers or paraprofessionals at SCSD schools at least once per week for family conferences, and referrals to appropriate service providers or pro bono providers. Criteria for the delivery of services was defined as having a relationship with a SCSD student, and for those being referred to a non-profit service provider, on established income and eligibility requirements of those providers.

In implementing the Legal Support Program during 2008, I met with various service providers to solicit participation and insight into the design of the "Legal Support" program. These groups included Legal Services of Central New York, Syracuse University Law Clinic, Syracuse University Family Law & Social Policy Center, Onondaga County Bar Association Volunteer Law Project, Hiscock Legal Aid Society, and Onondaga County Social Services. I also canvassed many local law firms for participation, and with the assistance and participation of the OCBA-VLP made a "call-to-arms" to these local law firms. This effort resulted in 5 law firms

committing to participate at clinics and accept pro bono work, and the local non-profit service providers accepting referrals.

We rolled-out the program in 4 phases throughout the school district, dividing the district into its four high schools as quadrants. The initial clinics opened in Spring semester 2009 and now incorporates the entire school district.

The Say Yes legal clinics serve the 22,000 students enrolled in SCSD schools and their family members. The legal clinics both support the mission of Say Yes and provide more direct access to pro bono services given it is a school-based program and its commitment to providing pro bono services. Our success with the legal clinics could not have been possible without the support of Say Yes, Syracuse University and its Chancellor, all of the local non-profit legal service providers mentioned above, the Onondaga County Bar Association Volunteer Law Project and the commitment of my law firm and the number of local law firms which stepped up and participated and continue to do so. Special recognition is given to Jim Williams, staff attorney at Legal Services of Central New York.

Since the rollout of the legal clinics, our continuing efforts included the assembly of a Legal Task Force group charged with oversight and management of the Legal Support Service program meeting at least six times per year, continued solicitation of law firm and lawyer participation, continued examination of program design and process with modifications made as needed, and participation in school-based activities to build relationships with the school communities beyond the provision of legal services. We are currently undertaking additional programmatic services initiatives, initially directed at presenting legal educational topics to the school district community and collaborating with other community based organizations in creating synergies for our legal services within their programs. More importantly, as we move forward, the collaboration recently established between Say Yes Legal Support Program and the Onondaga County Bar Association Volunteer Law Project will enable both organizations to more effectively and efficiently serve the legal needs of those seeking such services. This will be discussed in further detail through testimony form Sally Curran, the Legal Director for the new joint VLP-Say Yes Legal Support Program.

Our experience has shown that enthusiasm for the Say Yes Legal Support project became infectious, as leaders in the pro bono legal community and practicing lawyers were inspired to step forward and take ownership of significant segments of the program. We believe this has raised the consciousness of the value of pro bono legal service. The Say Yes Legal Support Program has been a proud accomplishment for Say Yes and the local legal community, showcasing the legal community's commitment to professional responsibility to its community, while at the same time providing school district students the opportunity to remain focused on academic achievement free of legal issues that could otherwise impact that focus.

John C. Powers

Director, Veterans' and Military Service Members' Pro Bono Clinic of the Onondaga County Bar Association;
Partner, Hancock Estabrook, LLP

Written Statement of John G. Powers

regarding pro bono legal services for veterans

September 23, 2011

My name is John G. Powers. I am a private practicing attorney in Syracuse, New York and I also volunteer as the director of the Veterans' and Military Service Members' Pro Bono Legal Clinic sponsored by the Onondaga County Bar Association.

The clinic has been operating for over two years, located at the "Vet Center," an outpatient veteran's counseling center that is part of the Syracuse Veterans Administration ("VA") Hospital. The clinic is held on the first Wednesday of every month at 6:00 p.m. and provides intake, advice and referral to veterans on a "walk in" basis. Veterans who are ineligible for referral to existing pro bono legal services in the community are often represented by the attorneys staffing the clinic or are referred to other attorneys in the community who have shown a willingness in the past to take on veteran clientele on a *pro bono* or discounted basis. The clinic is staffed by myself and several other local attorneys, each of which is also a veteran themselves.

I. Legal Issues Facing Veterans

As a prior combat-arms service member, I originally thought at the outset of this project that I would be well suited to understand the perspective and problems of the newer generation of veterans returning from service in Iraq and Afghanistan, and that nothing would surprise me. I could not have been more wrong in this assumption. What I discovered was more than surprising, it was both shocking and heartbreaking.

A significant number of our younger veterans suffer from what appears to be profound damage to their emotional and mental health that affects their demeanor, personality, outlook, ability to communicate, and emotional health. The similarity and pattern of these characteristics in multiple young veterans is alarming. Often, a young veteran will appear in the clinic with a parent, the veteran sullen and uncommunicative, the parent desperate and heartbroken, forced to again care and advocate for their adult child. The story told by the parent or spouse of these veterans is repeated like a broken record – the son/daughter/spouse who has returned from sometimes multiple combat tours is not the same person as the one who left.

Ultimately, the residual effects of these young veterans' combat service are the root cause of a host of derivative dysfunctional civilian problems, of which legal issues are only the tip of the iceberg. For

example, the ubiquitous diagnoses of Post Traumatic Stress Disorder ("PTSD") and Traumatic Brain Injury ("TBI") cause, in addition to physical limitations, depression, moodiness, and difficulties with communication and interpersonal relationships, often rendering its victims irritable and prone to angry outbursts. These conditions often lead to efforts to self medicate through the use and abuse of alcohol and/or drugs. As you might imagine, this is a potent mixture that can lead to a host of difficulties re-acclimating to a civilian environment.

Indeed, these conditions also lead to frequent legal problems including minor criminal conduct often occasioned by an inappropriate and/or violent reaction to stressful or adversarial situations, or illegal conduct caused directly by the abuse of drugs or alcohol. Also implicated are civil legal issues, including, most significantly, matrimonial issues. Specifically, in addition to the typical domestic problems that arise when one spouse is away from the marital home for a long period of time, returning veterans often face marital disputes upon their return home from a combat theatre, because they are simply not same person they were when they left. Of the assorted legal problems we've encountered at the veteran's pro bono clinic, the vast majority relate to divorce, separation, and related child custody and visitation issues. In fact, in family court, some spouses have raised the fact that their veteran spouse has been diagnosed with PTSD as support for applications for one-sided custody, limited visitation arrangements, and orders of protection, on the misguided theory that this diagnosis may make the veteran an unfit parent.

In these situations, the veterans feel blind-sided by their spouses and the legal system – that they have made these tremendous sacrifices for their country and upon their return they lose everything that is important to them. The perspective of the civilian spouse, on the other hand, is that they do not know the person who has returned from combat – that this isn't the person they married. The sullenness, lack of communication and anger scare them.

Other legal issues also emerge from these combat-related conditions related to the inability of veterans to stay focused on the management of their day-to-day affairs. Issues such as debt and credit problems are common, as well as other related issues such as landlord/tenant and eviction disputes. In severe cases, homelessness is sometimes the result.

And so it is often the case that helping veterans with their legal problems is frustratingly inadequate because left untreated, their underlying medical/mental health issues invariably lead to serial repetition of such legal problems. I've been able to witness firsthand the tremendous efforts of the Veterans Administration staff in treating these conditions in these veterans. But it is also true that there is no easy or short-term fix for these medical conditions; we may be living with the effects of these severe combat-related conditions with this generation of veterans for many years to come.

II. The Need for Veteran's Pro Bono Legal Services

Through the auspices of the Veterans Administration, veterans are provided with an array of medical and mental health treatment for their service-related injuries and medical conditions. But while these veterans had legal assistance while they were in the military from the various military branches' Judge Advocate General Corps, there is no equivalent legal service offered to veterans through the VA or any other federal or state agency. Indeed, for many years there was no legal service to which local VA professionals could refer veterans with legal problems, and those professionals had a poor understanding of how to access the existing pro bono legal services for the indigent. This created a dilemma and some degree of frustration for these professionals as their patients' mental health treatment and recovery is often intertwined, and interdependent upon, the ability to provide these veterans the tools to cope with the various personal challenges they face.

Locally, with the commencement of our local veteran pro bono clinic, as meager as this effort is, the gratitude expressed by the staff of the Vet Center has been overwhelming. The feedback has been uniformly positive, often as an expression of relief that this need is now being addressed, at least in some small part. In my opinion, this reaction by veteran service providers underscores the severity of the lack of legal resources for veterans. The OCBA effort is mere blip on the national map.

Veteran's courts and veteran's criminal diversion programs are an extremely positive development in that they attempt to ensure that our local criminal justice system accommodates the unique situation of returning veterans, including the link between combat conditioned behavior and sometimes inappropriate or illegal civilian behavior. But the veteran's courts are only meant to address the criminal manifestations of

these conditions. There are little resources available to help veterans who encounter civil legal difficulties linked to their service or service-related disabilities.

There are, of course, existing pro bono legal services which veterans may draw upon. In Syracuse, we have the Volunteer Lawyer Project, the Hiscock Legal Aid Society, Legal Services of Central New York, Legal Aid Society of Mid-New York, and various clinics associated with Syracuse University College of Law. As the Court is aware, however, these services are already severely taxed. Moreover, it is often the case that the eligibility criteria for these services may exempt certain veterans who would otherwise be worthy candidates for pro bono services. For example, a veteran receiving a 100% VA disability rating, who is unable to work, but receives disability payments based on this rating often falls just above the financial eligibility threshold for these organizations. This category of veteran is nonetheless often unable to afford a private attorney and/or may not be physically or mentally able to secure private representation on his or her own behalf.

At bottom, it is respectfully submitted that we are at a unique point in time where the number of young and middle-aged combat veterans is a larger percentage of our population than it has been in our recent past. While advancements in military technology and military equipment have increased our ability to protect the bodies of our soldiers, we are currently dealing with, and will continue to deal with, the effects of the mental and emotional injuries resulting from, in many cases, violent, stressful and successive combat tours. Unfortunately, society, while paying lip service to support for this class of individual, sometimes falls short in actually following through on that commitment. Based on what I have personally observed the past two years, <u>any</u> outside commitment of resources or effort to the provision of pro bono legal services to veterans, no matter how small, will have a dramatically positive impact on improving conditions for these individuals and will, at the very least, be a step in the right direction.

Respectfully submitted,

John G. Powers

Dean Stewart J. Schwab

Allan R. Tessler Dean and Professor of Law,
Cornell Law School

Task Force Testimony
October 2, 2012

- Good afternoon. I am Stewart J. Schwab, the Allan R. Tessler Dean and Professor Law at the Cornell Law School. Thank you for the opportunity to speak on this panel on Upstate Law School and Student Pro Bono Efforts. With me is a third-year Cornell Law student, Sarah Heim, who has been very active in our pro bono efforts. She will speak in a few minutes.

- The overall mission of Cornell Law School is to provide a world-class center for the study of law, which promotes cutting-edge legal scholarship and trains "lawyers in the best sense," to quote the Law School tagline.

- We produce graduates who are profession-ready. We hope to install in all of our students the sense that service is a defining characteristic of a member of the legal profession.

- That being said, in this day of legitimate concern about the cost of legal education, law schools must be careful about undue mission creep, and we cannot do all things for all people. Our graduates will do that, but not the law school itself.

- Outreach and access to justice is an important part of the Cornell Law School's overall mission. At Cornell, we have many activities that are geared towards pro bono service. These include:
    - A variety of clinics, including our LGBT Clinic, Labor Law Clinic, Securities Law Clinic, Death Penalty Clinic, International Human Rights Clinic, and more.
    - Summer internships funded by Public Interest Fellowship grants.
    - Externships, where students are imbedded for a semester in a public-service organization.
    - Faculty Pro Bono Representation is another example, using our students to assist. Faculty pro bono projects range from representing local residents in land-use cases, to amicus briefs in the Court of Appeals or Supreme

Court, to assisting emerging countries like Southern Sudan in writing their constitution.

- Dreamer Pro Bono Project is our latest example. Cornell Law Students are volunteering to assist undocumented youth file the paperwork necessary for them to work or go to school without fear of deportation.
- To recognize and celebrate the many pro bono efforts of our students, for several years we have a Pro Bono certificate program, awarded to each student who logs at least 25 hours of Pro Bono service (legal and non-legal) during the academic year. Last year, 32 students logged at total of 1,249 pro bono hours.

- As we all know, the NY Bar Examiners at the direction of Judge Lippman have established a 50-hour pro bono requirement for applicants to the Bar.
  - I am grateful to the Committee that worked hard to make a workable set of rules.
  - The May 22 Access to Justice Meeting in NYC was important to this process.
  - We had three representatives attend from the Cornell Law School. Professor John Blume, Director of our Clinical, Skills, and Advocacy Program and Director of our Death Penalty Project; Assistant Clinical Professor Susan Hazeldean, Director of our LGBT Clinic; and Karen Comstock, Assistant Dean for Public Service.
  - They found the meeting to be a very beneficial gathering together of key stakeholders and were able to discuss a number of topics including:
    - How to implement the 50 hour pro bono requirement
    - What programs work
    - How to share resources and work collaboratively
    - How to best work with providers
  - In addition, they enjoyed hearing about the judges views on pro bono.
  - I believe the Cornell Law School can provide adequate options for our students to meet the requirement.
  - Currently, most students satisfy 50 hours of pro bono service in their normal activities.

- Many students use PIF grants in the summer after their first year to work in public service.
- The new requirement will validate the service they already commit to pro bono work and will make them think differently about its impact on their future careers.
- Further, it will allow us to stress the importance of pro bono work.

- However, we do have some challenges and concerns
  - First, our location can hamper our ability to provide students with multiple pro bono options
    - Unlike New York City, we do not have large agencies or bar associations that can offer volunteer opportunities to our students.
    - Finding qualified lawyers to supervise our students is an issue. Most are too busy with their workloads to take on volunteers.
    - Some law schools in New York City have offered to network with us and allow our students to join projects there during winter break, etc. We will see how that develops.
  - Second, the Legal Services in our area have increasing difficulty in finding funding
    - For example, Legal Services received federal funding from AMERICO to fund an attorney in their office.
    - This attorney provided volunteer opportunities for our students, including a Divorce Clinic.
    - The attorney served as an intermediary between the students and lawyers involved in cases.
    - Unfortunately, the funding has ended and the Divorce Clinic has shut down.
  - In short, we have willing students and poor clients who need pro bono service, but lack of funds means lawyers don't have time to supervise students.

- In conclusion, we are actively engaged in pro bono and intend to remain so in the coming years.

Catherine Sinnwell Gerlach

Pro Bono Fellow, Syracuse University College of Law

September 26, 2012

By email to CivilLegalServices@nycourts.gov

Helaine M. Barnett
Chair, Task Force to Expand
Access to Civil Legal
Services in New York

Dear Ms. Barnett:

Thank you very much for the invitation to testify at the Fourth Judicial Department hearing on access to civil legal services in New York on October 2, 2012 at the Onondaga County Courthouse. I am honored to attend and present testimony to the Chief Judge and hearing panel. In this letter, you will find my brief background, as requested, and a copy of my written planned testimony in Microsoft Word format. I appreciate you taking the time to read this information and pass it along to the appropriate parties. Please let me know if I can provide any further information.

I grew up in Greeley, Colorado, and attended Ripon College in Ripon, Wisconsin, where I graduated with a double major in Political Science and Peace and Conflict Studies. After graduation, I packed a UHaul with everything I owned and drove to Washington, DC hoping to land on my feet. I did just that, and worked for two years as the Assistant to the President and CEO of the American Petroleum Institute. During those two years in DC, I had the honor of working with Rebuilding Together and Everybody Wins, two local community organizations.

After two years of learning the ins and outs of lobbying and advocacy on Capitol Hill, my husband and I joined the United States Peace Corps, where we served for twenty seven months as Peace Corps Volunteers. I worked as a Community Economic Development Volunteer in Darkhan, Mongolia at a USAID funded project, helping nomadic herders and wool cooperatives develop business and marketing plans for bringing their products to market.

My two years in Mongolia taught me the importance of giving back, and after returning, I chose to develop a career path in public service. I applied to the Syracuse University Maxwell School of Citizenship and Public Affairs for my Master of Public Administration and the Syracuse University College of Law, where I am currently enrolled in the joint degree program and will graduate with a JD and MPA in May of 2013.

At Syracuse I have found a welcoming community that has allowed me to grow and thrive as I begin my legal career. I am currently the Pro Bono Fellow for the College of Law, an Associate Editor for the Journal of International Law and Commerce, and the Executive Director of the Moot Court Honor Society. After graduation I am seeking employment in the public sector, judiciary, advocacy, education, or a community based organization. My work with the Pro Bono Advisory Board is a strong point of pride in my legal education as we continue to develop the College of Law's Pro Bono Program with the Office of Student Life, and improve overall student participation in securing equal access to justice for our communities.

Please let me know if there is anything further I can provide, and please find my planned testimony below.

Best,
Cady

Catherine Sinnwell Gerlach
Pro Bono Fellow, College of Law
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TESTIMONY FOR CATHERINE SINNWELL GERLACH

October 2, 2012: Hearing Panel on Access to Civil Legal Services

Syracuse, New York

Your Honors and Distinguished Guests. It is my honor to present testimony before you today about access to civil legal services and pro bono work in my experience as a law student at the Syracuse University College of Law. I am a third year student at the College of Law and will graduate in May of 2013 with a JD and MPA. I am the Pro Bono Fellow at the College of Law, and have been given an amazing opportunity to serve the local Syracuse community in my work with the Pro Bono Advisory Board and Onondaga County Bar Association's Volunteer Lawyer Project.

While applying to law school, I became well aware of the responsibility that society has placed on attorneys when they are given the privilege to practice law. When beginning legal studies and a legal career, we should accept this responsibility with sincerity to promote justice as equally accessible to our communities. When considering schools to apply to, the pro bono program was always on my list to evaluate whether they would be able to provide the necessary foundation and instill the importance of developing a practice of pro bono while a law student. Syracuse provided that opportunity and support through its Pro Bono Program, Clinical Legal Education programs, and connections with the local community.

I am lucky to attend a law school that has a designated pro bono program staffed by an Associate Director for Student Life who promotes pro bono programming and administrative support for student groups engaged in pro bono work. One of these student groups and support systems is the Pro Bono Advisory Board, who received the honor last year of the New York State Bar Association's President's Pro Bono Service Award. As the Pro Bono Fellow, my responsibility is to Chair the Pro Bono Advisory Board, engage with students and student groups to promote pro bono service activities, connect students with local and national organizations who do pro bono work, and develop programming for students to learn more about pro bono in their legal careers. Pro bono programs like ours at Syracuse help law students develop professional skills and the understanding of the lawyer's responsibility to the communities they serve, while involving students in the local community and increasing their awareness of the needs for equal access to justice. While I have served as the Pro Bono Fellow, I have learned a great deal about

pro bono work and the importance of developing this "habit" of pro bono early on in a legal career. While I enjoy the administration aspects of the Pro Bono Advisory Board, and connecting students with opportunities ranging from Prisoner's Legal Services to LawHelp.org, I have most enjoyed and grown as a future attorney from my participation as the Pro Bono Fellow during my work with the Onondaga County Bar Association's Volunteer Lawyer Project.

For the past eighteen months I have been given the privilege to work with the local Syracuse community in Landlord Tenant Court, a Pro Se Divorce Clinic, East Syracuse Justice Court Eviction Defense Program, and Talk to a Lawyer Clinics. I have spent more than two hundred mornings in Landlord Tenant Court doing intake for volunteer attorneys and been hugged by women who were able to resolve a dispute with a landlord and kept a roof over their children's heads. I've gotten to sit with attorneys in a local church rectory while we help a man sort his electric bills to see where he had overpayed, helping him figure out the right words to say to the power company, allowing him to keep his heat turned on during cold winter months. I've walked with Pro Se Divorce Clinic participants to file their uncontested divorce packets here in this courthouse, explaining where the courthouse is, even just keeping them company, just standing by their sides while they navigate a complicated legal system as a pro se and indigent applicant. I've heard stories from around the community, from every neighborhood, and hopefully given those whom I've been given the pleasure to work even just a little bit—because I know that they have given me a tremendous gift as a law student. Not only have I been able to get to know the Syracuse community, improve my knowledge and skills and gained practical experience as a future attorney, I have been exposed to new opportunities for engagement with the community and the importance of securing access to justice for everyone.

These skills will carry forward in my career as an attorney, and I know that it all began in law school. Developing pro bono opportunities as a student and working with the local agencies and organizations that serve populations that need it the most not only facilitate the availability of legal services to these populations, it instills the sense of obligation and responsibility in tomorrow's attorneys. Thank you for your time today, and I appreciate the opportunity to share my experience with you today.

Jeffrey Unaitis

Executive Director, Onondaga County Bar Association

Testimony of Jeff Unaitis
Executive Director, Onondaga County Bar Association
October 2, 2012

Good afternoon. I'm Jeff Unaitis, Executive Director of the Onondaga County Bar Association, and I'm pleased to represent our Syracuse-area legal associations and legal service providers as I update you on our plans and progress for uniting our legal service agencies, the Bar Association and other related entities "under one roof" – similar to the successful efforts in Rochester where, five years after its opening, the Telesca Center for Justice has proven to be a tremendous asset to the legal and legal assistance community. We believe we can achieve the same outcomes here in Central New York – some would say it's long overdue!

The Hon. George H. Lowe, retired United States Magistrate Judge and now of counsel to Bond, Schoeneck & King, regrets that he can't be here today as he is out of the country. But it was Judge Lowe who formed a committee in 2009 composed of representatives from **LEGAL SERVICES OF CENTRAL NEW YORK, LEGAL AID SOCIETY OF MID-NEW YORK, FRANK H. HISCOCK LEGAL AID SOCIETY, THE ONONDAGA COUNTY BAR ASSOCIATION, and the Bar Association's VOLUNTEER LAWYER PROJECT,** to explore opportunities for our not-for-profit organizations to unite under one roof to provide legal services to the community. Representatives of the Northern District of New York Federal Court Bar Association and the Syracuse University College of Law also joined the "One Roof" committee as we continued to explore emerging opportunities to streamline service provision and share best ideas.

The offices of Legal Services and the Legal Aid Society are now located in the same building but all of the remaining organizations are scattered around downtown Syracuse. For decades, some leaders of the private bar shared a vision of all of these organizations under "one roof" but it took the remarkable success of the Telesca Center and the reenergized focus of ***your*** Task Force on the benefits of collaboration and sharing costs, to galvanize our current "One Roof" Committee. The Boards of Directors of these organizations have now each passed a resolution supporting the concept of sharing space and our ad hoc steering committee has moved forward with this project through a space study and needs analysis, an RFP recently sent to local

developers and financial contributions from each organization to fund the preliminary work of an architectural/engineering firm.

The existing leases represented by these organizations cover approximately 37,000 square feet of space and represent around 120 staff employees. The project would constitute a very substantial tenancy, which we believe would be very attractive to landlords in the downtown Syracuse real estate market. Our initial objective is to have the project completed by January 1, 2015; we have proposed that date because, with the encouragement and guidance of the One Roof Committee but with one exception, all of the organizations' leases have been renegotiated and now expire on December 31, 2014. The exception is Hiscock Legal Aid whose lease expires September 30, 2019; this presents a significant, but in our view not insurmountable, challenge.

The Committee has recently distributed a request for proposal to a dozen owners of commercial properties in downtown Syracuse. When proposals are received by our early-December deadline, we will confront what we believe to be the primary obstacle to the "One Roof" concept, and that is (of course) raising the necessary funding to cover moving costs for each organization and the build-out costs for the "One Roof" building. Members of the committee met previously with Justin Vigdor and his son Rob, who were instrumental to the success of the Monroe County project, and they have been most accommodating and shared their fundraising strategies. We are cautiously optimistic that our lawyers and community leaders in Onondaga County will likewise step up to the challenge here.

The primary incentive of the "One Roof" concept of course is to provide "one-stop shopping" for the constituents of these organizations. Differences between our organizations are obscure to persons outside the legal community and a collaborative, shared facility would help in delivering a growing menu of legal services. I should share that as a relatively new member of the legal community – I joined the Bar staff just last November – I was unacquainted with the legal service agencies in Onondaga County and the numerous programs and clinics they offer. And since I'm not an attorney, it was confusing to me as I tried to understand who best can provide services to clients in need, based on their circumstances. As you well know, a client

may present with several different issues at once, and therefore he or she can be served simultaneously by our different agencies – but wouldn't it be great if we could tailor a legal service plan for that client and maximize their office visits through an integrated meeting calendar, commitment to consolidated case management and sharing -- with adherence to attorney-client privilege of course -- information about that client. A streamlined intake process – "triage," if you well – will vastly improve referrals, information provision and ultimately, client satisfaction, we believe.

Selfishly, the Bar Association and its Volunteer Lawyer Project would also benefit greatly by sharing space with these dedicated legal-service providers. Our role is somewhat different: we work to recruit, train and retain hundreds of pro bono attorneys who serve our many VLP programs like our "Talk to a Lawyer" sites, our pro se divorce clinic and other programs you'll hear about later from our new Legal Director, Sally Curran. We're also a significant provider of Continuing Legal Education for the staff attorneys at these agencies, through an annual agreement which delivers no-cost CLE programming to their staffs. A large classroom in a shared facility would simplify the provision of our CLE programming and ensure timely, topical and top-notch CLE programs for legal service providers as well as our legal community at large, and we would certainly seek to tap into the experiences and expertise of these lawyers to provide some of that CLE programming and volunteer, as their busy schedules allow, for our own pro bono community programs.

Other operational and administrative advantages would follow, of course, such as efficiencies and economies of scale, collaborative opportunities, sharing of conference rooms, and ultimately an enhanced work environment for the lawyers and staffs at these organizations, creating a sense of community and collegiality that would help us in the recruitment and retention of these dedicated legal services professionals.

While the Syracuse University College of Law is supportive of this project and can see advantages to its students if the project comes to fruition, the Law School has not yet made a firm commitment to join us on-site but with the new 50-hour pro bono requirement, we

believe there are new and persuasive opportunities to develop a College presence at this location to facilitate those volunteer requirements.

Finally, I want to mention that I recently discovered that in 2000, a series of interviews were conducted by the Bar Association with leaders of the legal community in Syracuse to learn their perceptions then about the potential for establishing a collaborative annual fundraising campaign on behalf of these very same agencies which are now looking to share facilities. I think some of those responses from a dozen years ago are equally relevant today, though we're talking about a different matter entirely.

Back then, most of the community's legal leadership said that a joint collaborative campaign made sense; that the leaders of the large firms would need to be involved if a campaign was to be successful; that the organizations are very distinct, and therefore it was very important to allow them to maintain their independence; that there was a conscious appeal to a collaborative campaign; there was much support from law firms for our organizations working collaboratively; and that the mindset of the non-profit sector was then, and is now, toward consolidation and collaboration.

I believe this collaborative effort to unite under one roof makes sense and makes good ***business*** sense. The clock is ticking, and we have just a little more than 24 months to make this project a reality. We believe the time is right and with the continued commitment of the staffs and volunteer leadership of the participating organizations, with the guidance and commitment of the community's legal leadership, and with the generosity of the private bar and other funding opportunities, we can welcome you in 2015 to a new, shared home for Onondaga County's legal service organizations.

Christopher Wiles

Assistant Attorney General, Syracuse Regional Office

Written Statement Unavailable

APPENDIX 13:

Written Statements Submitted at the Second Department Hearing Held on October 4, 2012

Appendix 13

Written Statements Submitted at the Second Department Hearing Held on October 4, 2012

Hon. Steven Bellone *(Suffolk County Executive)*

Brennan Center *(Mark Ladov and Meghna Philip)*

Tenzin Choezom *(Client of Queens Legal Services, accompanied by Jennifer Ching)*

Mamie Copeland *(Client of The Legal Aid Society, accompanied by Diane Lutwak)*

Hon. Arthur M. Diamond *(Justice, Nassau County Supreme Court; Member, NYS Judicial Advisory Council)*

Felicia Essix *(Client of Empire Justice Center, accompanied by Linda R. Hassberg)*

Hon. Scott Fairgrieve *(Judge, Nassau County District Court)*

Hon. C. Randall Hinrichs *(District Administrative Judge, Suffolk County)*

Rose Leandre *(Executive Director, Haitian American Cultural and Social Organization, Inc.)*

Legal Services for the Hudson Valley *(Submitted by Barbara Finkelstein)*

Martha Maffei *(Executive Director, Services for the Advancement of Women, SEPA Mujer Inc.)*

John P. McEntee, Esq. *(First Vice President and Member of Board of Directors, Nassau County Bar Association; Partner, Farrell Fritz, P.C.)*

Nassau County Coalition Against Domestic Violence *(Submitted by Lois Schwaeber)*

Alizabeth Newman *(Director of Immigrant Initiatives and Clinical Professor of Law at CUNY School of Law)*

Edwin Pearson *(Retired Administrative Law Judge)*

Hon. Andrea Phoenix *(Nassau County District Court Judge and Acting Nassau County Court Judge)*

Hon. Kathleen M. Rice *(Nassau County District Attorney)*

Dean Patricia E. Salkin *(Touro College Jacob D. Fuchsberg Law Center)*

Pamela Sandousky *(Client of Nassau/Suffolk Law Services Committee, Inc., accompanied by Hannah Abrams)*

William C. Silverman, Esq. *(Greenberg, Traurig, LLP, Shareholder and Head of Pro Bono Program)*

Max Valerio, Esq.

Hon. Steven Bellone

Suffolk County Executive

Suffolk County Executive Steven Bellone Biography

Suffolk County Executive Steven Bellone took office on January 1, 2012. Previously, he served since 2001 as Babylon Town Supervisor.

In Babylon, County Executive Bellone kept that town in excellent fiscal standing even as the recession put governments at all levels in deep financial trouble. He reduced the town's debt every year he was in office, eliminated red tape to attract new businesses to Long Island, and delivered a $4.3 million dollar tax cut to residents.

Bellone is committed to using that same approach to reduce Suffolk's debt, improve Suffolk's business environment and keep taxes low. Bellone is serious about property tax reforms to reduce the burden on homeowners which is why he supports Governor Cuomo's property tax cap. And Bellone thinks it's a shame that young people are leaving Long Island at record rates due the high cost of housing and the lack of good-paying jobs. That's why he will incentivize businesses to move to Suffolk County and help young people stay by creating good jobs and making it less expensive to live here.

An Army Veteran, Steven Bellone feels strongly that we have an important obligation to our returning veterans. He has helped to raise nearly half a million dollars for wounded soldiers by sponsoring annual Soldier Rides with the Wounded Warrior Project and Run for the Warriors in partnership with RWDSU Local 338 to benefit Hope for the Warriors. He placed a banner across the pillars of Town Hall that reads "Thank you to our Veterans, God Bless America" at the start of the war in Iraq. He rejected efforts by two different organizations to force the town to remove the banner and pledged to keep it in place until all of our troops have returned home. Bellone also led a campaign in the Town of Babylon to support the building of the National World War II Memorial that raised more than $25,000. He organized and escorted three busloads of WWII veterans down to Washington, DC for the dedication of the memorial in 2004.

Bellone’s environmental and community revitalization initiatives have been nationally recognized for their pioneering and innovative approaches. In 2006, Babylon was the first Town on Long Island to adopt Energy Star standards for new home construction, saving residents money on their energy bills. Later that same year, Babylon adopted the most comprehensive green building code in the nation. In 2008, Bellone created the first property assessed clean energy (PACE) efficiency program in the country, Long Island Green Homes. He has lectured around the country and in Canada about this groundbreaking program that has been featured on CNN and in the NY Times and Washington Post.

In 2002, he launched Wyandanch Rising, a comprehensive, community based approach to revitalizing the most economically distressed community on Long Island. In 2009, the NYS Department of State named Wyandanch one of just three "Spotlight Communities" in the state. Wyandanch Rising was also selected in 2010 by the United States Green Building Council as one of ten projects in the nation to showcase the new LEED for Neighborhood Development standard.

Quality of Life issues have been a major focus of Bellone's career. In Babylon, he targeted serial code offenders and slumlords by creating the Quality of Life Taskforce and naming a special prosecutor for quality of life cases. He created the first Suburban Community Court in New York State in an historic partnership with the Office of Court Administration and the Suffolk County District Court. These two programs have had dramatic results: illegal businesses that were opened in residential communities have been closed, illegal rooming houses have been shut down and abandoned buildings that have sat vacant for years have been leveled.

Bellone has been a leader in using innovative solutions to solve challenges. As a father of two young daughters, Bellone believes that the foremost obligation of government is to protect the most vulnerable members of our society and so, using GIS mapping technology, Bellone implemented a first-of-its-kind system to enforce residency restrictions on sex offenders. Five years ago, Bellone was the first leader in the region to use GPS technology to increase efficiency in the town's snow plows and car fleet and later he successfully implemented free Wi-Fi internet access in all parks for Babylon residents.

Steven Bellone is a graduate of North Babylon High School and he earned a BA degree at Queens College in 1991. Enlisting in the US Army in 1992, County Executive Bellone served as a Communications Specialist stationed at Fort Leonard Wood, Missouri. During his service in the Army, he was awarded commendations for meritorious service and earned a Masters Degree in Public Administration by attending night classes at Webster University. Bellone earned his Law degree from Fordham University and was admitted to the New York Bar in 1999.

He has received numerous awards for his leadership. In 2010, Bellone was named "Government Official of the Year" by the Association for a Better Long Island, one of the region's largest business groups. In 2009, he was named "Environmentalist of the Year" by the Sierra Club on Long Island and Government Official of the Year by the USGBC LI Chapter. Babylon was also selected as one of 15 international cities - a list that includes New York, London, Copenhagen, San Francisco and Vancouver - to participate in the

Carbon War RoomThat same year, Babylon was the recipient of a NYS Department of Environmental Conservation Environmental Excellence Award.

County Executive Bellone resides in West Babylon with his wife, Tracey and their two daughters, Katherine Ann and Mollie Elizabeth.

October 4, 2012

Task Force to Expand Access to Civil Legal Services in New York
Appellate Division, Second Department

Statement of Steven Bellone, Suffolk County Executive

Thank you for the invitation to join you this morning and present testimony on this very important subject. It is an honor to be here.

Meaningful access to justice, which includes being represented by qualified and effective counsel, the ability to understand court proceedings, and the opportunity to have claims heard, is of paramount importance to everyone for several reasons. Access to legal representation can be the difference between losing a home or keeping it, succumbing to an illness or obtaining a cure, remaining in an abusive marriage or finding refuge, or remaining hungry or securing food.[1]

In most civil cases, a person is not entitled to an attorney, notwithstanding that civil actions can result in the loss of custody of a child, the loss of a home, or the loss of some benefit that puts food on the table -- the "essentials of life." Many low income persons are not even aware that they have legal rights or that an attorney can help them. Lawyers are necessary to advise clients of their rights that they may not know they have and help them navigate their way through the judicial system. Lawyers can also help clients solve problems before they turn into court cases, saving money and time. Everyday legal services are provided to individuals who can afford them, and low income people deserve them as well.

Having unmet legal needs can impose substantial financial burdens on the local, state and federal governments, and society as a whole. For example, a low income person who is abused and unable to get a divorce and continues to live with the abuser may need emergency medical care at an emergency room that he or she cannot afford, with the taxpayers ultimately absorbing the

[1] Udell, David S. & Rebekah Diller, ACCESS TO THE COURTS: AN ESSAY FOR THE GEORGETOWN UNIVERSITY LAW CENTER CONFERENCE ON THE INDEPENDENCE OF THE COURTS, Georgetown Law Journal, Vol. 25, p. 1129 (2007).

medical expenses associated with such medical care. Moreover, the County and/or State may have to pay for emergency shelter for a low income person who is wrongfully evicted from his or her home as a result of having no legal representation and being unaware of his or her legal rights.

Providing legal services to the low income community not only benefits the low income community, but also benefits the courts and society as a whole. Such services help to do the following:

a) lower the incidence of domestic violence;
b) assist survivors of domestic violence to obtain protective orders, regain custody of children and obtain child support;[2]
c) decrease the amount of pro se litigation in the courts which is very time consuming for an adversary's attorney and judge on the case;
d) help pro bono cases flow through the court system faster;
e) save taxpayer money by lessening the reliance of low income persons on government assistance as a result of wrongful evictions, improper foreclosures, domestic violence, and the like;
f) lessen the financial strain on health care, the criminal justice system and social welfare systems;[3]and
g) lessen the strain on employers who experience decreased productivity and increased absenteeism due to employees' inadequate access to the courts.[4]

With the 2008 collapse of the stock market, the economic decline in Suffolk County has been severe, affecting all residents, both wealthy and poor. However, the poor, being hit the hardest, are left with, among other things, being evicted from their homes, having their homes foreclosed upon, having to go on public assistance, and/or being forced to discontinue health insurance.

Suffolk County has been one of the hardest hit counties in the state from the foreclosure crisis and, according to Federal Reserve Bank of New York's *Regional Mortgage Briefs*, as of March 2011, 12.5% of Suffolk homes were seriously delinquent or in foreclosure. The situation is worse in poorer communities, where the rate of homes with a mortgage that was seriously delinquent or in foreclosure was as high as 20%. The impact upon these neighborhoods is severe, and overall property values suffer as a result. The Neighborhood Economic Development Advocacy Project analyzed Department of Financial Services data on 90-day pre-foreclosure notices issued in 2011 and, in its January 2012 report, found that with 52,378 notices issued, Suffolk County had by far the highest number of notices issued in the downstate area including Brooklyn, Queens, Manhattan, Staten Island, the Bronx, Nassau, Suffolk, and Westchester (15% of the statewide total). The foreclosure crisis hits the low income population of Long Island in two ways. Those who purchased homes with unconventional or predatory mortgages during the mortgage "boom" are losing their homes in record numbers, at the same time that non-delinquent tenants are being evicted from their homes because the landlord's mortgage has been foreclosed.

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[2] Id, at p. 1135.
[3] Id. at p. 1136.
[4] Id.

According to the NYS Unified Court System 2010 Annual Report, the Suffolk County District Courts handled 10,160 evictions in 2010, the highest of any county or city outside New York City. This statistic does not even include the caseloads of the Justice Courts, which handle all of the evictions in the 5 easternmost towns. My County Attorney, who served as a District Court Judge in Suffolk County and handled landlord/tenant matters, informed me that tenants who were represented were much more likely to settle their cases allowing them to remain in their homes for at least a small period of time or prevail at trial.

In addition, as a result of the economic downturn, County government is experiencing financial issues that are unprecedented. Sales tax revenues and mortgage tax revenues are down as people are not spending money or purchasing real estate as they would be doing in a good economy, while government health care expenses and pension costs continue to rise. In light of this fiscal dilemma, it is more difficult for the County to provide the needed funding to support its legal services programs.

Notwithstanding the economic challenges that we are facing, the County of Suffolk is and has been committed to providing the necessary funding to ensure access to legal representation and the court system. I am keenly aware that the cost to run County government is lowered, and, therefore, the cost to taxpayers is lowered, by providing attorneys to those in need. The following services are funded by the County of Suffolk in order to provide low income persons access to lawyers and the court system:

Pro Bono Foreclosure Settlement Conference Project. The County committed $45,000 in 2010 and 2011 to the Suffolk County Pro Bono Foundation to provide assistance for people facing foreclosure.

Elder Law Assistance. The County has a contract with Touro Law School, enabling a clinical program for students, under the direction of a Staff Attorney, to provide legal services for the elderly. Over the past two years, the County has provided funding for this project in excess of $432,000 per year.

Child Support Services Programs. The County has budgeted over $45,000 for 2012 for paralegal services, under the guidance of a panel of volunteer attorneys, for all residents on matters of child support, enforcement of court orders for child support, maintenance issues, and paternity issues. The group also provides information concerning divorce and separation issues.

The County Attorney's Office, pursuant to NYS Social Services Law §111-c, represents the interests of DSS by establishing paternity, and establishing, modifying, and enforcing child support orders, beneficial to the person receiving money from the owing parent. To apply for representation by an attorney, a member of the public visits DSS and signs an application for legal services. An hourly fee may be charged for these services in the amount of $91.00 per hour.

Other Criminal and Civil Legal Services. The County contracted with the Suffolk County Legal Aid Society in 2011 and 2012 for services for the needy at a cost in excess of $11 million dollars each year. In addition, since 2011, the County has contracted with the Legal Aid Society

to provide legal services for the poor through its defender advocacy program for a total County commitment of $361,588. Additionally, the County, on average, commits approximately $4 million each year towards the 18-B program for the retention of prior attorneys on those cases where Legal Aid has a conflict.

For the period from 2012 to 2015, the County has contracted with the Office of Indigent Legal Services to provide services to Suffolk's Spanish-speaking population in Family Court referee parts. It is expected that more than $700,000 each year will be spent on this program.

The County has a contract with Nassau-Suffolk Legal Services covering the period from 2012 to 2014 to provide services for social security, housing, accessing medical care, Medicaid, food stamps, TANF, mental health advocacy and Family Court representation where 18-B services and Legal Aid are not available. Nearly $200,000 was budgeted for fiscal year 2012.

I want to commend Judge Lippman for requiring prospective lawyers to perform at least 50 hours of law related pro-bono services before being admitted to the New York State Bar. I believe this requirement could go a long way in providing low income persons with the representation they need in civil matters.

In conjunction with this requirement, I wonder whether we can convince the local law schools to create clinical programs which would represent low income persons in civil matters and require all students to participate, while of course receiving credits. I am a lawyer but do not practice. I would have welcomed a requirement in law school that I participate in a clinic that would have provided me with real legal experience, while helping those less fortunate navigate the legal system.

Thank you for giving me the opportunity to participate at this hearing and to express my views on this very important topic.

Mark Ladov

Counsel, The Brennan Center for Justice at NYU School of Law

and

Meghna Philip

Research Associate, The Brennan Center for Justice at NYU School of Law

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Written Testimony of
Mark Ladov and Meghna Philip
The Brennan Center for Justice at NYU School of Law
to the
Task Force to Expand Access to Civil Legal Services in New York

October 4, 2012

Thank you to Chief Judge Jonathan Lippman and the Task Force to Expand Access to Civil Legal Services in New York for the opportunity to submit this testimony in support of expanding access to justice for all New Yorkers. We write on behalf of the Brennan Center for Justice, a non-partisan public policy institute that works to secure our nation's promise of "equal justice for all." The Brennan Center's Justice Program works to achieve a justice system in which each person is treated fairly by the courts, its agencies, and actors regardless of wealth, race, ethnicity, gender, immigration status, or the community in which they live. Our mission is to provide data-driven, innovative, and practical recommendations to support legal reform that is economically, rationally, and morally sound.

This Task Force has asked witnesses to evaluate "[t]he costs and benefits, to the courts and to communities, from the provision of civil legal services in matters involving the 'essentials of life.'"[1] A strong record of evidence illustrates the substantial economic benefits that civil legal aid brings to the state of New York. We will focus in particular on how legal representation assists New Yorkers facing the loss of their homes to foreclosure – and the economic benefits that foreclosure prevention brings to New York State as a whole.

As Laura Abel of the National Center for Access to Justice at Cardozo Law School summarized in a recent fact sheet,[2] civil legal aid saves public money in a variety of ways, including:

- Reducing domestic violence and helping victims get the support they need – thereby saving public healthcare costs, reducing the need for police assistance and protective orders, and helping victims of domestic violence avoid lost jobs and wages.[3]

[1] Notice of Public Hearings, New York Courts (July 17, 2012), available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/PublicHearing_CivilLegalSrvcs2012.pdf
[2] Laura Abel, *Economic Benefits of Civil Legal Aid*, National Center for Access to Justice at Cardozo Law School (Sept. 4, 2012), available at http://ncforaj.files.wordpress.com/2012/09/final-economic-benefits-of-legal-aid-9-5-2012.pdf

- Helping children leave publicly-subsidized foster care more quickly.[4]
- Preventing evictions, saving $116 million in shelter costs in 2009-2010 in New York State alone.[5]
- Improving clients' health, thereby reducing public spending on healthcare.[6]
- Helping low-income clients participate in federal safety-net programs.[7]

These economic benefits are similarly true for foreclosure prevention. By helping families avoid the loss of their homes to foreclosure, civil legal aid saves money for states and communities.

The Costs of the Foreclosure Crisis – and the Benefits of Foreclosure Prevention

The ongoing foreclosure crisis hurts us all.[8] Nobel prize-winning economist and columnist Paul Krugman recently explained that the "continued weakness of the American housing market combined with a vast overhang of household debt" is the primary reason for the persistent sluggishness of the national economic recovery.[9] The Neighborhood Economic Development Advocacy Project (NEDAP) estimates that over 345,000 homes were at risk of foreclosure in 2011 in New York State alone.[10]

A number of studies have begun to quantify the costs generated by this foreclosure crisis – and the substantial economic returns from foreclosure prevention.

- Foreclosures lower property values. A study of foreclosures in New York City found that homes within 250 feet of a foreclosure filing lost 1.4% of their value.[11] A home within 300 feet of three or more foreclosed properties loses approximately 3% of its value.[12] This means that a foreclosed home is not only losing its own value – it's also dragging down neighborhood values by thousands of dollars.
- Lost property value leads directly to lost tax revenues and other public costs. Using data from the Federal Reserve Bank of New York, the Empire Justice Center

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[3] *Id*. (citing Laura Abel & Susan Vignola, *Economic and Other Benefits Associated with the Provision of Civil Legal Aid*, 9 Seattle J. for Soc. Justice 139, 147-148 (2011))
[4] *Id.* (citing Mark E. Courtney & Jennifer L. Hook, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing Of Permanency Outcomes for Children in Foster Care*, 34 Children & Youth Servs. Rev. 1337 (2012); Abel & Vignola, *supra*, at 150-54; Laura K. Abel, *Keeping Families Together, Saving Money, and Other Motivations Behind New Civil Right to Counsel Laws*, 42 Loy. of L.A. L. Rev. 1087, 1110 (2009))
[5] *Id*. (citing Geeta Singh Ph.D., Testimony at the NY Chief Judge's Hearing on Civil Legal Services (Oct. 18, 2011), available at http://www.nlada.org/DMS/Documents/1328113081.49/NY%20report%202011%20Appendices.pdf.)
[6] *Id*. (citing Ariel Modrykamien et al., *A Retrospective Analysis of the Effect of Environmental Improvement Brought About by Legal Interventions in Poorly Controlled Inner-City Asthmatics*, CHEST (2006); Randye Retkin et al., Impact of Legal Interventions on Cancer Survivors (2007), pp. 2, 7)
[7] *Id*. (citing Russell Engler, *Connecting Self-Representation to Civil* Gideon*: What Existing Data Reveal About When Counsel Is Most Needed*, 37 Fordham Urb. L.J. 37, 58-66 (2010))
[8] The Center for Responsible Lending has estimated that the foreclosure crisis is only halfway over. *See* Center for Responsible Lending, *Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosure,* (2011) available at http://www.responsiblelending.org/mortgage-lending/research-analysis/Lost-Ground-2011.pdf.
[9] Paul Krugman, "The Optimism Cure", *The New York Times*, (Sept. 23, 2012), available at http://www.nytimes.com/2012/09/24/opinion/krugman-the-optimism-cure.html
[10] Neighborhood Economic Development Advocacy Project, *Foreclosures in New York: What's Really Going On*, (January 2012), available at http://www.nedap.org/resources/documents/NEDAPForeclosuresinNYS_WhatsGoingOn.pdf
[11] Jenny Schuetz, Vicki Been and Ingrid Gould Ellen, *Neighborhood effects on concentrated mortgage foreclosure*, 17 J. OF HOUSING ECON. 306, 314 (2008)
[12] John. P. Harding et. al, *The Contagion Effect of Foreclosed Properties,* Social Science Research Network Working Paper 1160354, (2008)

estimates that total losses in wealth for homeowners and losses in tax revenue for municipalities in New York State since 2008 add up to a staggering $61 billion.[13]

- Crime rates increase in neighborhood blocks with vacant, bank□owned properties. Just one vacant foreclosed home on a block can lead to a startling 5.7 percent increase in violent crime.[14]
- Foreclosure prevention protects against costly disruptions in education that occur when families are dislocated. In many cases, these moves force children to enroll in lower performing schools.[15]

All of these costs are having a particularly devastating impact on communities of color. Homeowners in communities of color were more likely to be targeted for subprime loans through a process known as "reverse redlining." A 2006 report found that, within the subprime market, minority borrowers were over 30 percent more likely to get higher-rate loans than whites, even after credit risk differences were accounted for.[16] By 2010, African Americans and Latinos were 47 percent and 45 percent more likely than whites to face foreclosure.[17] And discrimination persists even after foreclosure; the National Fair Housing Alliance has documented that bank-owned (REO) foreclosure properties are less likely to be maintained or marketed properly in communities of color.[18]

Legal assistance is needed to help communities address these problems and avoid these costs. Unfortunately, too many families facing foreclosure lack legal counsel. Since 2009, the Brennan Center has been documenting the national crisis in foreclosure legal representation.[19] Over the past few years, we have gathered data from court systems across the country and found that overwhelmingly, homeowners in foreclosure face complex legal proceedings without an attorney at their side. To ensure that these homeowners have a fair shot at justice – and every possible opportunity to avoid foreclosure – dedicated state funding for foreclosure assistance is critical.

Civil Legal Aid and Foreclosure Prevention Counseling is a Cost-Effective Investment for New York

New York's Foreclosure Prevention Services Program exemplifies the value of civil legal assistance. Between 2008 and 2011, the Program assisted more than 80,000 homeowners and saved at least 14,000 homes from foreclosure. The Empire Justice Center estimates this

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[13] *Empire Justice Testimony on Foreclosure Funding and Process: Hearing on Mortgage Foreclosures in New York Before the State Assembly Standing Comm. on Housing, Assembly Standing Comm. on Judiciary, Assembly Standing Comm. on Banks,* 2011 Leg. 235th Sess. (Nov. 7, 2011) (statement of Rebecca Case- Grammatico)

[14] Ingrid Gould Ellen, Johanna Lacoe, and Claudia Ayanna Sharygin, *Do Foreclosures Cause Crime?*, Furman Center for Real Estate & Urban Policy (2011), available at http://furmancenter.org/files/publications/Ellen_Lacoe_Sharygin_ForeclosuresCrime_June27_1.pdf

[15] Kathryn L.S. Pettit and Jennifer Comey, *The Foreclosure Crisis and Children: A Three City Study,* Urban Institute, (2009), available at http://www.urban.org/UploadedPDF/412517-The-Foreclosure-Crisis-and-Children-A-Three-City-Study.pdf

[16] Debbie Gruenstein Bocian, Keith S. Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages,* Center for Responsible Lending, (May 31, 2006), available at http://www.responsiblelending.org/mortgage-lending/tools-resources/rr011-Unfair_Lending-0506.pdf

[17] Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, *Foreclosures by Race and Ethnicity: The Demographics of a Crisis*, Center for Responsible Lending, (June 18, 2010), available at http://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.pdf

[18] National Fair Housing Alliance, *The Banks Are Back – Our Neighborhoods Are Not: Discrimination in the Maintenance and Marketing of REO Properties* (2012), available at http://www.mvfairhousing.com/pdfs/2012-04-04%20The%20Banks%20Are%20Back.PDF

[19] Melanca Clark with Maggie Baron, *Foreclosures: A Crisis In Legal Representation*, Brennan Center for Justice (2009); Nabanita Pal, *Facing Foreclosure Alone: The Continuing Crisis in Legal Representation*, Brennan Center for Justice (2011)

investment saved New Yorkers at least $3.4 billion by preventing families from slipping into homelessness, shoring up property values in struggling communities and preserving our state's property tax base.[20] This amounts to an estimated $68 return for every dollar spent on housing counseling and legal services.[21]

Legal services attorneys and housing counselors funded by this program help homeowners to defend their rights and negotiate more effectively with their lenders. Research shows that skilled counseling makes a significant difference. A 2010 study by the Urban Institute found that homeowners in a federal loan counseling program were 1.7 times more likely to avoid foreclosure than those who were not.[22] Homeowners with a counselor also secured better results in negotiating a loan modification with their lender. The study found that, on average, clients with a housing counselor lowered their monthly payments by $267 more than those who did not have a counselor.[23] Documented errors and abuses in the HAMP modification process further illustrate why homeowners need effective advocates at their side pressing for results from lenders.[24]

When homeowners are represented, their attorneys can make a significant difference in their individual cases – and by doing so, reform the process more broadly, even for homeowners without legal counsel. In *Foreclosures: A Crisis in Legal Representation*, a national report documenting the importance of legal assistance, the Brennan Center identified several ways in which lawyers assist homeowners:

- Raising claims that protect homeowners from lenders and servicers who broke the law;
- Helping homeowners renegotiate their loans;
- Helping ensure that the legal process is followed properly;
- Helping homeowners obtain protection of the bankruptcy law;
- Helping tenants when a landlord's property is foreclosed; and
- Giving those affected by foreclosure a voice in policy reform.[25]

Since that report, we have seen continued evidence of the need to protect homeowners' rights, and the opportunities for abuse that arise when homeowners lack legal counsel. Government oversight agencies, judges, and attorneys general across the country have issued harsh criticism of the practices of lenders and foreclosure law firms. Perhaps most widely publicized was the nationwide "robo-signing" scandal, which revealed that many foreclosure actions have been brought on the basis of false affidavits and misleading legal documentation.[26] The right to adequate counsel is important in every litigation; it is only amplified in foreclosure cases by

[20] *Empire Justice Testimony on Foreclosure Funding and Process: Hearing on Mortgage Foreclosures in New York Before the State Assembly Standing Comm. on Housing, Assembly Standing Comm. on Judiciary, Assembly Standing Comm. on Banks,* 2011 Leg. 235th Sess. (Nov. 7, 2011) (statement of Rebecca Case- Grammatico)
[21] *Id.*
[22] Neil Mayer et al., *National Foreclosure Mitigation Counseling Program Evaluation: Preliminary Analysis of Program Effects September 2010 Update*, The Urban Institute (2010), available at http://www.nw.org/network/nfmcp/documents/2010.12.14FINALModelingReport.pdf
[23] *Id.* at 3
[24] Office of the Special Inspector General for the Troubled Asset Relief Program, Quarterly Report to Congress, (Oct. 26, 2010), pp 172-75, available at http://www.sigtarp.gov/reports/congress/2010/October2010_Quarterly_Report_to_Congress.pdf
[25] Melanca Clark and Maggie Baron, *Foreclosures: A Crisis in Legal Representation*, Brennan Center for Justice (2009) PP 17-25, available at http://brennan.3cdn.net/a5bf8a685cd0885f72_s8m6bevkx.pdf
[26] Federal Housing Finance Agency Office of Inspector General, FHFA Oversight of Fannie Mae's Default-Related Legal Services (Sept. 30, 2011), available at http://mattweidnerlaw.com/blog/wp-content/uploads/2011/10/FHFAAUDIT.pdf

lenders' attorneys who often file cases in bulk and pay inadequate attention to the particular facts and needs of each individual case. The infamy surrounding Steven J. Baum, P.C. – New York's largest foreclosure plaintiffs' firm, which shut down last year after a string of complaints and controversies including state and federal investigations and a class action suit brought by MFY Legal Services – illustrates the problems that can go unchecked for unrepresented homeowners.[27]

Moreover, the problems with the foreclosure process are deeply rooted in the risky and predatory practices that led to our nation's financial crisis—problems exemplified by the lawsuit recently brought by Attorney General Schneiderman alleging fraudulent securitization of subprime mortgages by Bear Stearns.[28] Amid the frenzy to repackage mortgages into securitized assets that could be sold to investors, many mortgages were bought and sold multiple times.[29] The paperwork surrounding those sales is often faulty.[30] Further problems are raised by the use of MERS, an opaque database set up by the mortgage industry to avoid registration requirements and filing fees. As a result, it is not always clear that the party who claims to own a homeowner's loan really does; in legal parlance, this means that the lender may lack "standing" to bring the foreclosure. Legal services are needed to ensure that only a party who actually owns a mortgage and note may bring a foreclosure action to take away a family's home.

As Attorney General Schneiderman testified to this task force, half of the people who were facing foreclosure in New York when he was sworn in were forced to do so without speaking to a lawyer at any stage of the process. Without a lawyer, a homeowner may not be able to defend his or her rights adequately. As a New York judge stated in one case:

> "It was only because this was one of the rare foreclosure cases where the defendant was represented by counsel that the fact that the Plaintiff did not own the note came to light. The Court can only speculate in how many other cases plaintiffs with no interest in mortgages wrongfully foreclose on them and collect proceeds to which they are not entitled."[31]

Lenders have also acknowledged the ways in which representation improves the mediation process. One bank representative, Michael Helfer, the General Counsel of Citigroup, testified before this Task Force in 2010:

> "We believe there is an important role for lawyers to assist borrowers in avoiding foreclosure in New York, especially in the context of the mandatory mediation programs that have been instituted in New York…lawyers can help facilitate

[27] Peer Lattman, "Foreclosure Firm Steven J. Baum to Close Down", *New York Times* (Nov. 21, 2011), available at http://dealbook.nytimes.com/2011/11/21/foreclosure-firm-steven-j-baum-to-close-down/ ; Andrew Keshner, "Suit Targets Lenders' Firm Over Foreclosure Filing Requirements", *New York Law Journal*, (Aug. 11, 2011), available at http://www.law.com/jsp/law/LawArticleFriendly.jsp?id=1202510824239

[28] Gretchen Morgenson, "JPMorgan Unit Is Sued Over Mortgage Securities Pools," *New York Times* (Oct. 1, 2012), available at http://www.nytimes.com/2012/10/02/business/suit-accuses-jpmorgan-unit-of-broad-misconduct-on-mortgage-securities.html

[29] Thomas J. Miller, Att'y Gen, Iowa, Hearing Before the S. Comm. On Banking, Housing and Urban Affairs, 111th Cong. 3 (Nov. 16, 2010) (transcript available at http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=1feca776-9009-4d40-87d4-bd8f679061b1)

[30] Diane E. Thompson, National Consumer Law Center., Before the S. Comm. On Banking, Housing and Urban Affairs, 111th Cong. 16 (Nov. 16, 2010) (transcript available at http://www.nclc.org/images/pdf/foreclosure_mortgage/mortgage_servicing/testimony-senate-banking.pdf)

[31] U.S. Bank v. Gonzalez., No. 4137/2009, slip op. at 7 (Sup. Ct. Kings Cnty. June 8, 2010)

> communication and guide borrowers through the process to work out solutions more quickly and without the need for repeated sessions."[32]

Helfer noted that Citigroup's lawyers often have to reschedule mediation sessions because unrepresented homeowners are unaware of the documents they need or the procedure for modifying loans. Lawyers for homeowners not only benefit homeowners, they also ensure the entire mediation process works effectively, Helfer explained: "[I]f we could get lawyers, to a greater extent, to be involved in this mediation or settlement conference process…collectively, the system would work a lot better."[33]

And as noted above, foreclosure prevention services are a good investment for the State of New York. Every individual homeowner should have a fair shot at saving her home, as a matter of basic justice. But this foreclosure crisis remains an enormous barrier to our state and nation's economic recovery. Financial analysts have suggested that only a program of widespread mortgage modifications, including principal write-downs where appropriate, will stabilize our struggling housing market.[34] Although the nation's five largest mortgage servicers have promised to offer billions of dollars in principal reductions as part of a February 2012 national settlement agreement, it is unclear whether that relief is reaching the homeowners most in need of it – further evidence of the need for lawyers on the ground to monitor this situation.[35]

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Attorney General Schneiderman has dedicated $15 million from the national mortgage settlement to save foreclosure prevention services this year, and has committed another $60 million from the settlement over the next three years to housing counseling and civil legal services to help families stay in their homes. New York must ensure that this commitment persists even after the national mortgage settlement funds are spent down, so that homeowners facing foreclosure continue to receive adequate counsel. **We endorse the Attorney General's call to separate the issue of access to justice from the annual budget battles in Albany by identifying a dedicated stream of revenue for all legal services.**

Foreclosure prevention is an important investment for the State of New York. It saves families the extraordinary financial and emotional costs of losing their home. It saves communities from declining housing values and rising crime. And it saves our state money at a time of fiscal austerity.

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[32] Michael Helfer, Gen. Counsel of Citigroup, First Dep't Civil Legal Servs. Hearing 27, 28 (Sept. 28, 2010) (transcript available at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/1st-Dept-Hearing-Transcript.pdf)
[33] *Id.* at 29
[34] Recent data suggests that 1 in 5 borrowers are at risk of foreclosure without an ambitious policy response, including principle write-downs for underwater mortgages. *See* Laurie Goodman et. al, Amherst Securities Group LP, *Housing Crisis: Sizing the Problem, Proposing Solutions* (2010)
[35] "Still No Justice for Mortgage Abuses", *New York Times* editorial, (September 1, 2012) available at http://www.nytimes.com/2012/09/02/opinion/sunday/still-no-justice-for-mortgage-abuses.html

Tenzin Choezom

Client of Queens Legal Services, accompanied by Jennifer Ching

Testimony of **Tenzin Choezom**
Presented to the
Task Force to Expand Access to Civil Legal Services in New York
October 4, 2012
Nassau County

Background:

Ms. Choezom came to the Queens Legal Services Domestic Violence Law & Advocacy Project in late summer 2011. She had been recently beaten by her husband—he had abused her numerous times over the course of their relationship—and had sought police protection, but language barriers resulted in the police siding with her husband and sending the couple to Family Court. Like many abusers, her husband tried to use his knowledge and comfort with the American legal system to threaten Ms. Choezom. Her husband filed a number of proceedings against Ms. Choezom, seeking an order of protection, custody of the couple's young daughter and child support. Ms. Choezom and her daughter faced eviction, were unable to meet their basic needs, and were incredibly fearful for their safety.

With support from statewide civil legal services funding, QLS attorneys and social workers worked with Ms. Choezom to secure her safety and to stabilize her living situation. QLS attorney Debra Sambataro, with assistance from QLS Social Worker Tobi Erner, represented Ms. Choezom in numerous Family Court proceedings and together they succeeded in obtaining for Ms. Choezom full custody of her daughter and child support. Less than a year later, Ms. Choezom and her daughter are living a stable, violence-free life. (*This section was prepared by QLS. Ms. Choezom's testimony follows, below.*)

Testimony of Ms. Choezom:

My name is Tenzin Choezom. I live in Queens, New York City. I am the mother of a wonderful 4-year old girl. I work as a housekeeper in a Manhattan hotel. I am here today because I was very lucky to find a lawyer and social worker at Queens Legal Services, and I believe the services I received should be available to everyone who needs them.

For many years, I was married to a very abusive man. He did terrible things to me. I stayed with him because I thought this is what my responsibility is as a wife. He did not let me work, and he would not let me talk with other people. He did not

help me with my daughter, but I didn't know I had other choices. I was very afraid of him.

In 2011, after my husband beat me, I tried to call the police. The police did not understand me, and my husband spoke to them in English. My husband left our home, and then I received a lot of papers from the Family Court. I could not read or understand the papers, but my neighbor told me he was trying to get an order of protection against me. I could not believe this. For so many years, he did terrible things to me. Now he was using the American courts against me.

My neighbor found Queens Legal Services for me. Queens Legal Services helped me to learn everything that was happening in the court. When I did not understand something, they would stop and explain. They brought a Tibetan interpreter to our meeting so I could understand everything in my own language. When I met Tobi and Debra, I was very afraid of losing my daughter to my husband. I was very afraid of my husband. I had no money and my landlord was telling me he was going to kick me out.

I am very grateful for the work Queens Legal Services did for me. We went to court together and we won. They helped me find my way so I could plan for a future, and be truly independent. With their help, I was able to get Food Stamps and to find stable housing. They helped me get immigration services and also got me into ESL classes.

Before last year, my daughter would not speak. I was very worried about her. Since I separated from my husband, my daughter has started speaking and has become a very happy girl. She and I are now free, and can do whatever we want to do. I have choices now, and I am very grateful to Queens Legal Services for helping me.

I did not know anything about the American courts before coming to Queens Legal Services. I thought I had to pay for a lawyer, and I had no money. I did not think lawyers would understand me, my culture, or everything that happened to me. I know there are many other women suffering. I hope we can make the services like Queens Legal Services more available to these women, and to anyone who is living in fear.

Thank you.

Mamie Copeland

Client of The Legal Aid Society, accompanied by Diane Lutwak

Chief Judge Jonathan Lippman and the Task Force to Expand Access to Civil Legal Services in New York

Introduction by Diane Lutwak

Good morning Chief Judge Lippman and members of the Hearing Panel, and thank you for this opportunity to appear here today. My name is Diane Lutwak, and I am the Attorney-in-Charge of The Legal Aid Society's Brooklyn Office for the Aging. I am here today with my client, Mamie Copeland, a 68-year-old widowed retiree, who has lived in the Williamsburg section of Brooklyn for over 25 years. Ms. Copeland was referred to The Legal Aid Society for assistance by a caseworker at the New York City Department of Social Services, who had been assigned to review Ms. Copeland's application for a grant to assist her in paying certain rent arrears which had accrued for her affordable, Rent Stabilized apartment. Because representing tenants like Ms. Copeland who are facing eviction from long-term, affordable housing is a high priority for The Legal Aid Society, I accepted Ms. Copeland's case and was able to secure a favorable resolution of the case for her. However, because of limited funding, my office has to turn away eight seniors like Ms. Copeland for every one whose case we accept for representation.

Testimony of Mamie Copeland

Good morning. My name is Mamie Copeland and I am a 68-year-old widow. I live alone in an apartment at 774 Driggs Avenue in Brooklyn. I don't know where I would go if I lost this apartment, which has been my home for over 25 years.

I retired last year after working full-time for many years at different jobs, first as an office file clerk and then, more recently as a home health aide. When I turned 60 I started receiving a widow's pension from Social Security. From 2010 until last year I was only working part-time, just 4 hours a day. Now I receive Social Security Retirement Benefits and two small pension checks every month. I have been a widow since 1990, the same year my youngest son sadly passed away after suffering a massive stroke at the age of 17.

In 2010 I fell behind in my rent because I was only working part-time and I suddenly had a problem with my Social Security benefits. My checks stopped coming for over a year, and by the time I sorted out that problem and started getting my checks again, I was very far behind in my rent. The only way I was able to eat and survive during this time was because of my little check from my part-time work as a home health aide.

At the same time that I was having problems with my Social Security checks, there were lots of problems in my building. The ownership of the building changed hands, but there was a disagreement between the new owner and the old owner that made it hard for us tenants to know who was the real owner that we should pay our rent to. In August 2010 I received letters from two different companies, each telling me to pay rent

to them. Meanwhile, there were terrible conditions in my apartment and neither the old landlord nor the new landlord would fix them.

In April of this year, the new landlord sued me for non-payment of rent in the amount of $15,555.50, dating all the way back to November 2009. I knew that I owed the landlord back rent, but I did not agree with how much the landlord said I owed. I went to court by myself to file an Answer to the Non-payment Petition. In my Answer I disputed the amount owed and also mentioned that I needed repairs in my apartment. I was given a court date of April 16, 2012. On that day I went to Housing Court, again by myself. The landlord was not there, but his lawyer was. He now claimed that I owed $17,251.80. I gave the landlord's lawyer 3 months of rent on the spot and also signed an agreement to pay the rest of the money the landlord said I owed by the end of May. The agreement I signed gave the landlord a Final Judgment and a Warrant of Eviction, with execution of the Warrant of Eviction stayed through the end of May as long as I paid my May rent by May 18; paid an additional $3000 by May 25; and paid the rest that the landlord said I owed - $11,975.85 – by May 30.

Even though I had mentioned in my Answer to the landlord's Petition that I needed repairs, the agreement we signed said nothing about this.

I did pay my rent for May on time. I also did pay $2500 of the next payment of $3000 on time. But I could not pay the rest so I applied for help from the City. After that, I received a call from a lady at the Department of Social Services named Ms. Greenaway. She gave me the name and phone number for a lawyer at Legal Aid and said, "If she can't help you, nobody can." By this time, I had almost reached the payment deadline. If I did not pay all of the money soon, I would be evicted. Because it was an emergency, the Legal Aid lawyer agreed to meet with me right away, but because she was so busy the only time she could give me was on the afternoon of Sunday, May 27. The lawyer listened to my story, looked at all of my papers, and told me she would start to write an Order to Show Cause to present to the judge. She gave me an appointment to come back to sign an affidavit later that week. On June 12, I went back to court for a hearing on my Order to Show Cause, this time with my Legal Aid lawyer. This time, I walked out of court with a much more fair agreement. The amount of back rent I owed was reduced, and the agreement included dates when the landlord had to send someone to make repairs in my apartment.

After that, the landlord did make the repairs and I paid my June and July rent myself. On July 18 my lawyer paid the back rent to my landlord and the case was discontinued.

Not only that, but my Legal Aid lawyer also contacted the New York City Department of Finance for me, where I had applied, in 2009, for a SCRIE - a Senior Citizen Rent Increase Exemption. I knew I was eligible for SCRIE because I am a senior citizen, I pay more than one-third of my income for rent, and I live in a Rent Stabilized apartment. But I had received no answer to my application. I was very happy when my Legal Aid lawyer

called me in the middle of August to tell me that my SCRIE application had been approved and my share of the rent was frozen at the amount in my old lease, all the way back to 2009 when I applied.

I am so grateful that Ms. Greenaway sent me to Legal Aid, and that Legal Aid agreed to take my case. Without Legal Aid, I am sure I would have lost my apartment. I know that I am very lucky, because now I can pay my rent in full and on time. I have no more fear of eviction and all of the repairs I needed were done. But I know that there are many other New Yorkers like me who also need the same type of legal help I was fortunate enough to get. I am here today to ask you to support civil legal services in New York, and to increase the funding for organizations like The Legal Aid Society.

Thank you.

Hon. Arthur M. Diamond

Justice, Nassau County Supreme Court; Member,
NYS Judicial Advisory Council

HON. ARTHUR M. DIAMOND

BIOGRAPHICAL DATA

Arthur M. Diamond has been a Supreme Court Justice since January 1, 2004. For the first five years of his career he was assigned to matrimonial matters. Presently he presides over all types of civil cases including Article 81 guardianships.

Justice Diamond began his legal career in the Office of the Nassau County District Attorney Denis Dillon where he spent eight years, eventually rising to the position of Deputy Chief of the Trial Bureau. In 1992 he became of counsel to the Garden City law firm of *Fishkin & Pugach*, concentrating in the areas of criminal and personal injury law. In 1999 and 2000 he was appointed to the County Court by Gov. George Pataki.

His column, *Evidentially Speaking*, appears regularly in the Nassau Lawyer, the official publication of the Nassau County Bar Association and he has lectured on evidence at the Nassau County Bar Association, New York County Lawyers Association, the Statewide Judicial Seminars and at the New York State Judicial Institute in White Plaints, New York

In 2011 he was appointed by Chief Judge Lippman to the statewide Judicial Advisory Council, a committee of Justices dedicated to improving trial practices in New York courts. He is co-editor of the Evidence chapter of the pending 2012 revision of the Bench Book for Judges.

Justice Diamond lives in New Hyde Park with his wife, Jody Pugach, Esq.and son Spencer.

Outline of Testimony of Hon. Arthur M. Diamond

Thank you for inviting me to speak this morning.

Just a minute about my background before I begin. I am in

- my 9th year on Supreme Court bench
- handled matrimonials for 5 years
- done a little bit of everything – Article 9; bad faith hearings, now IAS and Article 81.

I read the testimony of previous hearings and concur wholeheartedly with those who spoke of the difficulties in dealing with pro se litigants. Judges with experience in matrimonials, family court, housing court and consumer debt spoke eloquently about those courts and cases and how each creates its own set of challenges for the court room judge.

As a member of Chief Judge Lippman's trial advisory council, I sit on the self-represented subcommittee, and we have tried to address some of these same concerns. But to my knowledge no one has spoken of the need to have legal services for what I consider the neediest and most neglected population of people we serve and that are those who are subjects of Article 81 proceedings.

If there is anyone here who is unfamiliar with mechanics of Article 81 hearings, I would like to take a moment to briefly explain that process. It is important to know that we here in Nassau do have a public guardian program that handles some of those who I will speak about but it has limitations which I will discuss in a few minutes.

We have three scenarios that will I hope highlight the great need for and the significant problems created by the unrepresented in guardianship cases and I am going to run through them quickly.

1. No money for evaluator at the outset
    - MHLS chooses counsel or evaluator
    - If counsel, we then lack access to medical records and doctors
    - Family member
    - Assets
2. Have personal needs guardian but no assets
    - can't do property powers
    - public guardian won't be co-guardian
    - can't get AIP on Medicaid, etc.
    - have begun to appoint the facility as PPTY guardian even though they are a creditor
3. Most difficult, and becoming more common – no money, no one available, in a hospital or nursing home with no real prospects of getting out
    - public guardian won't take the case; says if in facility doesn't need guardian because Family Medical Decisions Act allows the facility to make decisions
    - problems with that – we disagree that is purpose; wrote decision Sept. 7, 2012 law journal (Matter of Restaino)
    - conflict over care, conflict over lawsuits, over moving

Other issues with public guardian:

- Establishing resident of Nassau County
- Establishing citizenship

Conclusion

Most respectfully I submit that the only long-term solution to this issue, as in the other areas that you have been hearing about for two years now, is to have legal services available to all who truly qualify and need it. Guardianship cases are a good example but one of many.

Felicia Essix

Client of Empire Justice Center, accompanied by
Linda R. Hassberg

Testimony of Felicia Essix
Public Hearing on Access to Civil Legal Service
October 4, 2012

My name is Felicia Essix. I live in Freeport, New York. When my daughter was 9 and my son was 6 years old, I applied to the Department of Social Services (DSS) for child care services for the summer. I needed child care while they were not in school so I could look for a job.

My son and daughter have 2 different fathers. My son's father has always contributed financially for his care. My daughter's father has never paid child support even though I have a court order against him.

When I applied to DSS, I was told that I could not get child care services for my daughter unless I took my son's father to court for child support. I did not believe that I should have to sue my son's father to get care for my daughter. I also did not want to jeopardize the support and relationship that my son has with his father by suing him when he was already contributing.

I first contacted Nassau Suffolk Law Services, and a representative agreed to request a fair hearing for me and represent me at the hearing. I lost the hearing, but the representative referred me to the Empire Justice Center. The Empire Justice Center wanted to take my case because they believed that people in my position should be able to get child care benefits without having to go to court against the children's fathers. Susan Antos and Linda Hassberg filed an appeal on my behalf.

The Empire Justice Center also worked on changing the law that required me to sue my daughter's father, and while my appeal was pending the law was changed, This led to the resolution of my appeal and I started receiving child care services and was reimbursed for some of the child care I had paid out of pocket.. As a result, I found a job and was able to work. I also obtained justice and fairness for other parents in similar situations. I was glad that Nassau Suffolk Law Services and the Empire Justice Center could help me win my case and proud that I was able to contribute to obtaining justice for other parents.

Hon. Scott Fairgrieve

Judge, Nassau County District Court

Written Statement Unavailable

Hon. C. Randall Hinrichs

District Administrative Judge, Suffolk County

Suffolk County Supreme Court Justice and District Administrative Judge C. Randall Hinrichs
Curriculum Vitae

The Honorable C. Randall Hinrichs was appointed to the position of Suffolk County District Administrative Judge by Chief Administrative Judge Ann Pfau on March 14, 2011. As District Administrative Judge, he is responsible for the operation of a court system serving the needs of 1.5 million Suffolk County citizens. In that capacity, Justice Hinrichs oversees approximately 1,000 non-judicial employees and works collaboratively with 70 judges and justices in several locations throughout the county. In addition to his administrative responsibilities, Justice Hinrichs continues to preside over both criminal and civil matters. He was elected to the Supreme Court bench in 2009, and began his present term on January 1, 2010.

As Administrative Judge, Justice Hinrichs, in 2011, convened a countywide Task Force under the auspices of New York State Chief Judge Jonathan Lippman to explore innovative ways to improve court operations. In that regard he tapped resources from court personnel, both judicial and non-judicial, as well as members of the bar. Through that initiative a number of recommendations have been implemented resulting in improved efficiencies despite ongoing budget constraints. Justice Hinrichs also undertook an inaugural Suffolk County Law Day event in 2012 in cooperation with the New York State Access to Justice Program Director, Justice Fern Fisher, in which numerous participants from various bar associations, agencies which assist the courts, and other community organizations provided information to the public on matters of interest.

Prior to his appointment as District Administrative Judge, Justice Hinrichs served as the Supervising Judge of the Suffolk County Court. He was elected to the County Court bench in

2001, and began his term on January 1, 2002. During his tenure as Supervising Judge, which commenced in April 2008, his duties included overseeing trial operations for ten judges presiding over felony criminal matters. In addition to his duties as Supervisor, Justice Hinrichs maintained an inventory of felony criminal cases. As a County Court judge, he presided over those matters from arraignment through trial or disposition, and sentencing. The cases included many high profile murder indictments. From January 2002 to December 2002 Justice Hinrichs served as an Acting Family Court Judge presiding over abuse, neglect, and custody matters.

Before joining the Suffolk County bench, Justice Hinrichs served in the Suffolk County District Attorney's office from March 1982 to December 2001. During his career in the District Attorney's office, Justice Hinrichs served as Chief of the Case Advisory Bureau and Deputy Chief of the Major Crime Bureau, and, in 1987, was one of five attorneys selected to prosecute major murder cases when the Homicide Bureau was created. He was the recipient of the District Attorney Distinguished Service Award and the Certificate of Appreciation from the Parents of Murdered Children organization. Justice Hinrichs successfully prosecuted numerous high profile murder cases. In 1996 he, along with other bureau chiefs in the District Attorney's office, received a Distinguished Service award for the creation and implementation of the Felony Early Disposition System which fostered early resolution of criminal matters which fit a clearly defined set of criteria. In addition, he was twice awarded the highly coveted District Attorney Distinguished Trial Advocacy Award - in 1997 for his prosecution of Kerry Kotler and, in 2001, for his prosecution of Nicholson McCoy, a capital murder case.

Justice Hinrichs serves as an Adjunct Professor in the Criminal Justice System program at Suffolk County Community College. He has also lectured at the Suffolk County Bar

Association, the Suffolk County Criminal Bar Association, and has been a speaker at various forums at the Touro Law Center.

Justice Hinrichs is a graduate of Bucknell University and the State University of New York at Buffalo Law School. He is a member of the New York State and Suffolk County Bar associations. He is also a member of the Suffolk County Criminal Bar association which honored him as Judge of the Year in 2007. Justice Hinrichs has also been honored by the Suffolk County Bar Association at its Judiciary Night and at the Bar Association's Lawyers Assistance Foundation Dinner. Justice Hinrichs is grateful for the recognition he has received throughout his career from his colleagues and is especially appreciative to have had the opportunity to serve the citizens of Suffolk County for the past 30 years.

Testimony of Hon. C. Randall Hinrichs, Suffolk County District Administrative Judge
at
Chief Judge Jonathan Lippman's
Hearing on Civil Legal Services in New York

Good morning. My name is C. Randall Hinrichs. I am the District Administrative Judge for Suffolk County. Thank you for the opportunity to present testimony concerning unmet civil legal services needs in my County. Suffolk, the eastern county on Long Island, has a population of 1.5 million. As reported in a New York Times article this past summer titled "Struggling in the Suburbs" we, along with Nassau and Queens counties, have the highest foreclosure rates in New York State. On Long Island, 468,000 people live in households earning up to 200 percent of the poverty line - or about $45,000 for a family of four. Clearly the need for services of all types, particularly legal services, is acute. Fortunately, as I will detail over the next few minutes, Suffolk County has worked collaboratively with a number of legal services providers in an intelligent and coordinated way to ensure that, to the best of our ability, the needs of our citizens are met. There are, however, gaps in the framework which has been established. Those concerns will be described more fully as well.

This past May, Justice Fern Fisher and I worked together on a Suffolk County Law Day event which was done in conjunction with the New York State Access to Justice Program. That event highlighted both the strengths and deficits of the systems designed to provide legal services in Suffolk. Many agencies which work with the courts were represented. Among them was one of the long-standing institutions which has been on the vanguard in addressing the needs of the unrepresented in our county - the Suffolk County Bar Association. The Bar Association, in partnership with the Suffolk Pro Bono Foundation and Nassau Suffolk Law Services, jointly

sponsors the Suffolk County Pro Bono Project to address the needs of the unrepresented in our courts. Law Services, as you know, is a poverty law program which offers a variety of legal services to those of modest means. It also administers the Pro Bono Project by bridging the gap in services through recruitment of private attorneys to represent those who could not otherwise afford legal counsel. Among the areas of practice in which the greatest need has been seen are matrimonial and bankruptcy matters as well as foreclosure and consumer debt.

Additionally, under the auspices of the Touro Law Center, a number of advocacy groups target specific areas of need. I will briefly mention several. The Center for Restorative Practice which strives, through its work, to reduce the disproportionate representation of minorities in the juvenile justice system. The Long Island Advocacy Center provides referrals for students seeking to receive appropriate services which they have deemed to be entitled to under the law. Its Housing Services division works to eliminate housing discrimination and counsels prospective home buyers on their legal options in this area. The Suffolk Chapter of the New York Civil Liberties Union has, as does its parent chapter, the mission of protecting the constitutional rights of the clients it serves.

As I mentioned earlier, Suffolk County is in the midst of a foreclosure crisis. In recognition of this issue, the Suffolk County Bar Association has established the Foreclosure Settlement Project which provides limited legal assistance for individuals navigating the foreclosure settlement process. This project illustrates both the support from the legal community in addressing a systemic issue facing all courts throughout our State, and the limitations on our ability to fully respond to the needs of those who seek assistance. There are, frankly, just not enough lawyers with the knowledge necessary to help families who may lose

their homes or to explain to them the options which may be available. During the Law Day event I mentioned earlier, a van was on-site, staffed by attorneys available to speak to individuals about foreclosure and consumer debt issues. Many citizens showed up and were able to get information. It was clear that there are a great number of individuals in our community who are anxious to find out what their rights are and what resources might be available to pursue those rights.

Similarly, the Bar Association and Law Services have made herculean efforts to address the needs of those facing issues in connection with matrimonial actions. However, despite the implementation of a comprehensive organizational structure and the participation by many volunteer attorneys, existing resources are insufficient to provide services for all who need them.

Within our Court we also have a Library Resources for the Public Program. It is designed to provide unrepresented individuals with information about resources in one central location. Suffice it to say, it is highly utilized. Every day there are lines of families seeking help, worried about how they will feed, clothe, house and educate their children.

Let me now - for the next few minutes - provide a bit more detail about the ways the Suffolk County Courts together with our partners in the legal field are addressing the issues facing us.

As I mentioned one of the largest providers of legal services to the indigent in Suffolk, as well as other areas across the State, is Nassau/Suffolk Law Services. I know you are well aware of the tremendous work done by the attorneys and staff of Law Services. I also know that representatives from that organization can provide you with specific information concerning funding for the various projects with which it is involved. My input here is on the impact those

projects have on our courts. There are many groups within Suffolk facing multiple obstacles in attempting to navigate an often complex and intimidating system. Individuals who are poor, ill, facing homelessness, or have an intellectual or physical impairment, are understandably often frustrated in their efforts to do so. So too, do individuals for whom English is not their first language. Law Services has, over many years, provided much needed assistance to those citizens. The Mental Health Project, for example, helps those who are mentally ill and living in the community, with issues related to housing discrimination, SSI and Medicaid benefits to name a few. The David Project helps individuals facing HIV and AIDS with advice about health care benefits and housing issues. The Foreclosure Settlement Project, which Law Services recently took over, is an extremely important resource for the citizens of Suffolk. It utilizes volunteer attorneys from the Pro Bono Project at foreclosure settlement conferences. Law Services also has a staffed Foreclosure Settlement Project for which funding has recently been restored and the two projects work in tandem.

The Domestic Violence Project is the only legal organization working with victims in Suffolk faced with potentially life threatening circumstances specifically related to that vulnerable group. It is presently staffed with one attorney who works closely with support organizations. Despite its limited resources, Law Services continues the operation of this project with the hope that, at some point, increased funding will allow greater access to justice for those victims. Such victims also often need housing advocacy and there is a coordinated approach with appropriate agencies in dealing with those concerns.

As Administrative Judge, I am well aware of the daunting number of calls which are made every day to the Law Services office in Islandia. Many of those callers are extremely

worried about consumer debt and housing issues. Bankruptcy and divorce are other areas of great concern. There are no legal providers addressing those needs at present. We rely on volunteer attorneys who are, frankly, swamped. In fact, Law Services has been forced to stop accepting plaintiffs in matrimonial actions because there are simply not enough resources to go around and to put a name on a waiting list would offer only false hope.

I also know that Law Services does a tremendous job of outreach to let people know through community advocates and notices on forms sent from our foreclosure parts of their work. Hotlines also offer assistance on more immediate needs. It is my understanding that Law Services has about 35 attorneys on staff right now - a significantly reduced number from the past. Due to staff reductions and the present issues facing all of us there are important needs which are not being met. Those include, among other issues, eviction prevention, working with our increasing homeless population, and Medicaid and Social Services access. In addressing landlord tenant matters, attorneys from Law Services essentially ride the circuit of our outlying District Courts representing clients, giving priority to those courts with the busiest calendars.

Other areas include prevention of Domestic Violence - helping those who need to do so, gain access to the courts. This need is particularly acute in Suffolk because the agencies which assist those individuals do not have attorneys on staff. Another area which is of mounting concern is consumer debt. No one is providing free legal service for those facing this issue and - again, we rely exclusively on Pro Bono attorneys. It is anticipated that new grant funding to the Touro Law Center will provide some assistance in this regard in a clinical setting.

One of the many benefits about Legal Services' approach is that it considers its clients' issues holistically. For example, if an individual has cancer, it helps with the myriad concerns

facing that client.

A real and perhaps understated need is for representation on child support issues, particularly for those not receiving public assistance. In the past, our County Attorney's office has been able to provide free legal counsel on such matters but that is no longer the case.

There are other organizations which provide assistance within Suffolk County. Let me give a brief run down on several. The Legal Aid Society provides civil legal assistance in Family Court as do the clinics run under the auspices of the Touro Law Center. The Center also sponsors the Elder Law Clinic which assists older citizens with issues unique to that rising population and the Empire Justice Center which is involved in several types of actions including those concerning public benefits.

It is important to underscore the point that there is very little overlap among the various entities I have mentioned which provide civil legal services in Suffolk County. As I noted earlier, there is strong coordination which ensures that the resources allocated to the organizations are properly directed and that no dollar is wasted.

In closing I would like to again thank the Chief Judge for convening this hearing and for providing me and others with the opportunity to present our thoughts. I know I speak for both my colleagues on the bench and the bar as well as the citizens of Suffolk in expressing our deep appreciation for your efforts.

Rose Leandre

Executive Director, Haitian American Cultural and Social Organization, Inc. [HACSO]



Rose Leandre

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Rose Leandre is the Executive Director for HACSO Community Center (Haitian American Cultural and Social Organization Inc.) where she works in partnerships with different organizations and government agencies to create equal access for immigrant families to community services. HACSO Community Center, Inc. is a non-profit grass-root community organization established in Rockland since 1974 to create a community where immigrants can achieve self-sufficiency, ultimately enabling them to become active contributors to the economic and cultural development of their community. To accomplish this mission, HACSO empowers and provides immigrants with the tools needed to build such self-sufficiency, by reducing the language and cultural barriers that challenge their access to existing community resources and programs. The Haitian Community is Rockland County, served by HACSO, is estimated to be at least 11,000, according to the U.S. Census -- in Rockland County, one of New York City's northern suburbs in the lower Hudson Valley.

As an immigrant herself, she remembers the struggle her mother went through migrating to the United States as a single mom. Rose spearheaded Haitian earthquake relief in Rockland County, and has work in collaboration many legal, social service and community based groups to help achieve the mission of HACSO. Rose has the Orange and Rockland County Women of Distinction Award. She attended SUNY Buffalo and Fordham University Graduate School of Social Work

The HAITIAN AMERICAN CULTURAL AND SOCIAL ORGANIZATION (HACSO) was founded in 1974 to serve the immigrant community of Rockland County. With an increase in Rockland's diversity over the past ten years, the agency's initial mission, to orient newly arriving Haitian individuals to the United States, has been extended to all of Rockland's underserved immigrant communities. By creating partnerships with existing organizations, HASCO improves access to services and assists its clients in improving their quality of life. HACSO currently serves a significant number of Haitian and Hispanic/Latino individuals, many immigrants from Sri Lanka and other Asian nations and low-income African Americans in Rockland County. The mission of HACSO is to create an environment in which people become empowered, ultimately enabling them to become active contributors to the economic, social and cultural development of their community. HASCO provides tools and information needed to build self-sufficiency; it advocates and partners with existing health and social service systems and reduces language and cultural barriers that challenge access to resources. HACSO has served approximately 30,000 immigrants; its current programs include assistance with immigration, citizenship and naturalization; social, housing, financial and health education information and advocacy; referrals to legal services; small business development and employment support services.

Rockland is New York State's smallest county geographically, consisting of only 174 square miles, but it is the 13th largest in population outside of the boroughs of New York City, according to the 2010 census. In 2009, 11.4% of Rockland County residents (33,330) lived below the poverty level, up from 9.5% in 1999. According to the 2010 American Community Survey, 23% (70,479) of Rockland's population was foreign born with more than 31% of those people entering the United States in the year 2000 or later. It was also reported that 44% (30,848) are not yet naturalized United State citizens. People from Latin America comprised 50% of Rockland's foreign-born people; 26%

from Caribbean nations and 14% from areas in Central America. The change in the number of people speaking a language other than English and the top three languages spoken from the 2000 Census and the 2008-2010 ACS 3 Year Estimates, include Spanish or Spanish Creole (+53.5%); Yiddish (+44.4%); French Creole (+31%). The five major non-European ethnic groups in Rockland reported in 2010 include Haitian Ancestry (13,144), Dominican Republic (9,105), Mexican (5,358), Guatemalan (5,356), and Ecuadorian (4,926). In the village of Spring Valley, where HACSO is located, this diversity is even more compelling. According to the 2008-2010 American Community Survey, 48% (15,190) of the village's population are foreign-born; more than 44% of those people entered the US in 2000 or later. Those data also indicate that 70.9% (10,767) are not yet naturalized US citizens. People from Latin America comprised 84% (12,780) of Spring Valley's foreign-born people; 42% from Caribbean nations; 25% from Central America and 17% from areas in South America. Between 2000 and 2010 there was an increase of 145% (5,700) Hispanic people in the village. In 2009, 36% of Rockland's population age 5 and over spoke a language other than English at home, ranking highest of all New York counties outside of Manhattan. The county's linguistically isolated households grew 99% from 3,785 in 1990 to 7,524 households in 2009. In the 2009 ACS, 36.3% of Rockland's households reported speaking a language other than English as the primary language. Additionally, 21.8% of those households speaking primarily another language were considered linguistically isolated. The percentage of linguistically isolated households in the towns of Ramapo (12.1%) and Haverstraw (12.7%) exceeded the rate of the whole county (7.5%).

Continued funding for civil legal service providers is critical to the immigrant community. For many immigrants government systems and resources in their homeland have created a profound lack of trust in government and programs. With language and cultural barriers, they have multiple part-time jobs, and they make up a large number of

the unemployment pool and are often hit the most by the current economic conditions leaving them unable to afford private attorneys.

It is critically important for non-English speaking people to have attorneys to represent them in civil matters. Immigrants are often victims and are prayed upon by unethical attorneys making false promises, especially in consumer cases, bankruptcies, and foreclosures. They are charged extensive fees, often are not given copies of their records and associated legal correspondences, and they are not even provided with receipts or copies of legal agreements that they sign. We have seen this with numerous cases. For example, in a bankruptcy proceeding—we had a woman who gave an attorney $1500.00 as down-payment to assist her in filing for bankruptcy. She did not even understand which chapter, the process etc. Her debt was less than $20,000.00 and she handed up paying over $5,000.00 for the service. After over a year of her not being able to get a hold of the attorney, she came to our office and we had to intervene. Thank god that she had the initial documents that we were able to get a number and after numerous calls, we had to send a letter to the attorney and he responded and began to work with the woman. The case is still being worked on but we have been involved in the process by making her bring every document to our office before she signs them—they are in English and she doesn't know what she is signing, they tried to blame their lack of action on her not providing documents which she did, so we had to educate her on sending things via certified mail for tracking purposes.

Town and Village Justice Court representation for eviction proceedings —this is a perfect example on the value of having quality civil legal services so when you have lawyers who understands the language and cultural needs of the community. We refer out clients to Legal Aid for housing assistance. They have prevented evictions of 100s of our clients over the years, stopped illegal evictions, worked on subsidized housing issues and Rent Stabilization rights, and helped large families keep their homes.

Rockland County Legal Aid was able to hire a Creole Speaking attorney, and we saw a tremendous difference in how people came forward requesting legal assistance, as an agency, we were very comfortable to refer our clients for services because we knew that they were receiving quality and effective representation. They were able to communicate fully their needs and the attorney was able to explain their rights clearly to them, in a manner that they understood. Often when we make referrals to agencies that did not have similar set up as legal aid; the clients would come back to us and could not provide a summary of what was going on with their case. We often find ourselves having to call the attorney with the client.

We also see the benefit of having civil legal services that culturally represents the diverse immigrant community though our partnership with John Jay Legal Services at Pace University Law School as well as Empire Justice for disability benefits and foreclosure assistance where as a result struggling families receives free high quality culturally appropriate civil legal services and at the same time are protected from being re-victimized. We also worked in collaboration to assist families after the earthquake in Haiti, which created devastation for so many families.

Foreclosures - Last year 6 homeowners almost lost their homes in an attempt to get loan modifications with unscrupulous agencies, after they paid an average of at least $4500 each for services that were not rendered. In immigrant communities, you often see multi-service centers advertising legal services (modification, bankruptcies, real-estate transactions etc.) and these services are claimed to be provided by attorneys and that's not necessarily the case. We had one such case in Rockland County that our agency reported to the Attorney General Office. With greater access to civil legal services these types of matters would be better resolved for our community.

Consequences of not having effective and culturally appropriate legal civil representation:

- Immigrants are preyed upon by unethical private lawyers, who often charge outrageous fees and do not deliver the service.
- Immigrants have no recourse in terms of knowing where to go to file complaints of unethical behaviors
- Ineffective counsel because they are not able to communicate clearly or understand their rights
- Severe Financial burden to already struggling individuals and families where struggling families hand up paying more for the service of an attorney that speaks their language
- Often you have families with small children are being evicted from their homes and unable to effectively speak with their attorneys.
- The best solution and what has worked for the community we serve, is civil legal service providers who are sensitive to our clients' needs, understand the law and whose services are provided with integrity and ethical accountability.

Respectfully submitted,

Rose Leandre

Barbara Finkelstein

Executive Director, Legal Services of the Hudson Valley

~ Since 1967 ~
Legal Services
of the Hudson Valley
Protecting Rights Promoting Justice

TESTIMONY OF LEGAL SERVICES OF THE HUDSON VALLEY

On

THE UNMET NEED FOR CIVIL LEGAL SERVICES IN NEW YORK STATE

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. William F. Mastro, Acting Presiding Justice of the Second Department
Hon. A. Gal Prudenti, Chief Administrative Judge
Kenneth Standard, Former President of the New York State Bar Association

Second Department Hearing
October 4, 2012

Legal Services of the Hudson Valley (LSHV) submits written testimony for the third round of hearings convened to evaluate the continuing unmet need for civil legal services in New York State, and to assess the level of resources necessary to meet the need. We greatly appreciate the funding secured for this urgent problem by the Chief Judge, and can report on the positive impact last year's funding has already had on the lives of low- income residents of the Hudson Valley.

LSHV is the largest provider of free, comprehensive civil legal services in the Hudson Valley, the only provider in Westchester, Putnam, Dutchess, Orange, Ulster and Sullivan Counties, and one of two providers in Rockland County. LSHV provides assistance to households who need civil legal services to maintain the basic necessities of life involving housing, family stability, personal safety, access to health care, or education, or subsistence income and benefits.

Although some economists believe the economy is improving, the desperate need for free civil legal help for people who have been displaced by foreclosures, job loss, lack of health care and loss of housing has increased. Many Hudson Valley residents continue to fall into poverty and those already in poverty cannot escape. The civil legal problems facing these hundreds of thousands of residents arise in the first instance due to their poverty and one civil legal problem usually multiplies.

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As the only provider of comprehensive essential services in all of the Hudson Valley, LSHV has been meeting the daunting challenge of representing low income households since 1967, when it first incorporated as Westchester Legal Services. The first year of Judiciary OCA funding has allowed us to provide assistance in all of the essential of life areas, but primarily for eviction prevention, income stability, domestic violence, family law, health and consumer law issues. Happily while we increased direct services to households with court or administrative hearing cases, we also expanded the provision of preventive and early intervention legal assistance, community legal education initiatives, and access to services by increasing the size of our intake unit..

According to the U.S. Census Bureau Table showing poverty status in the past 12 months, 2006-2010 American Community Survey 5-year Estimates, there are 484,055 individuals living below 200% of poverty in the seven second and third department counties served by LSHV. In late 2010, the U.S. Census Bureau reported that the percentage of Americans struggling below the poverty line was the highest it had been in 15 years. Clearly, the Hudson Valley has not been immune from this growth in poverty. LSHV generally provides legal assistance to households at or below 200% of poverty. Overall, the clients we serve are the most vulnerable among us and are as diverse as our state, encompassing all races, ethnic groups and ages, including the working poor, veterans, homeowners and renters facing foreclosure or evictions, women as single parents, families with children, people with disabilities, victims of domestic violence, the elderly, children and persons with chronic diseases.

LSHV has six offices located in White Plains, Yonkers, Mt. Vernon, Poughkeepsie, Newburgh and Kingston, some of the poorest cities hard hit by the bad economy. Year after year nearly 45% of all our services go to households threatened with eviction, foreclosure, or some other threat of homelessness. Over 20% or our cases involve income maintenance including disability benefits, unemployment and public assistance/food stamps. And approximately 20% of our cases are dedicated to domestic violence issues in family court. Consumer cases make up about 8% of our caseload.

In 2011, LSHV handled 11,350 cases, which impacted roughly 35,000 people. These cases came into our specialized substantive legal units largely from our centralized intake system, which increased in size due to Judiciary OCA funding.

In August, 2011, LSHV was notified that it would receive $728,000 in funding from the Oversight Board for Judiciary Civil Legal Services Funds in New York for the period August, 2011 through March, 2012. With that funding LSHV accomplished the following:

A new supervising attorney was added to oversee the centralized intake unit to ensure coordination throughout the program with existing staff and provide oversight to enable paralegals to give legal advice. This is a tremendous addition since clients who only seek or need advice need not be channeled to the local branch, thus saving the client time and anxiety and allowing branch attorneys to focus on more extended service cases.

An analysis of new cases open versus prior year period, justifies the choice as correct inasmuch as we saw a 17% increase in number of cases opened, and clients gaining access to our assistance. With funding from the first award LSHV was able to hire additional staff attorneys to provide representation to 1,029 clients in the 2nd department, and the 173 in the 3rd department. Of the cases handled 565 were in the area of housing, 577 in subsistence income, 82 in family law, 45 in health issues and 33 in consumer law matters. Over 3,000 individuals benefitted from the assistance. Housing and benefits are always listed as highest on the list of priorities for service by clients, and the hardest to get local and private funding for, thus funding from OCA is a life saver for these clients. Approximately 185 individuals were helped through community legal education.

On a daily basis, civil legal services programs save counties and the state money by averting costly "crisis" services such as emergency and homeless shelter stays. It offsets costs by helping families and individuals secure federally funded benefits such as Social Security and Food Stamps. It helps stabilize families and thus avoid foster care costs and increases economic security by maximizing child support benefits for low income parents and children. It leverages private and federal funds that bring dollars and jobs into communities.

As documented by the IOLA Fund and the Civil Legal Services Task Force, County and State dollars are saved by eviction prevention and through a myriad of programs serving the disabled, the elderly, victims of domestic violence, and children. Clearly in addition to the "moral imperative" Judge Lippman frequently speaks about, there are powerful economic incentives to fund legal services. Outlays for civil legal services are budgetary pennies that save many dollars. A foreclosure prevented is an eviction avoided, a family kept from homelessness — and a considerable burden lifted from the government's social-service safety net. With legal help, poor people can avoid litigation, easing the load on judges and courtrooms. They can get food stamps, leveraging federal dollars in an underused program. Most importantly, they can avoid poverty and have money to spend in the local economy.

In sum, without the Judiciary funding awarded in 2011, LSHV would have had to continue to reduce services to low income households. The funding has allowed us to stabilize and increase our services. Nonetheless, we still can only help approximately 20% of those needing our help. While we thank the legislature and executive branches for supporting Chief Judge Lippman's OCA budget request, we urge them to continue to increase permanent state funding so the provision of civil legal services can be increased to the most vulnerable New Yorkers throughout the state.

Thank you once again for taking the time to solicit our input and taking the initiative to address the lack of civil legal help for individuals and families who desperately need assistance to keep or obtain the basic necessities of life in New York State.

Submitted by Barbara Finkelstein, Executive Director

Martha Maffei

Executive Director, Services for the Advancement of Women, SEPA Mujer Inc.

Martha Maffei is a Social Worker from Peru who attained her degree from the Pontific Catholic University of Peru in 1993. Martha has extensive experience working with families, women, teenagers, and children in a variety of areas. Her experience includes defending the human rights of factory workers and educating them on safe work practices. Martha also worked in the development of educational health services and social benefits programs for the community and specialized in the implementation of programs that benefit the workforce. Martha delivers programs that are bilingual (Spanish/English) and bicultural.

One of her most important achievements was to design a National Program of Social Emergency to increase urban employment in Peru. This model was adopted in the entire country because of the positive social impact it had.

As the Executive Director of SEPA Mujer since 2008, Martha has embraced the opportunity to work with Latina immigrant women in the United States. She applies her vast social work experience into this work. She currently works with women at the grass roots level to develop their leadership skills through the design of social programs and community organizing, etc. She designed and conducted a statistical study of the needs of Latina Immigrant Women on Long Island, which resulted in the implementation at SEPA Mujer of a model program of leadership skills development though education and empowerment. "Our goal is to empower women who have been discriminated against and abused to become their own advocate" is Martha's personal and professional mission.

Martha Maffei is the creator of the leadership development program at SEPA Mujer, which works with community members for the improvement of the community. The formation of this wonderful group has as its main objective bringing together the Latina immigrant community to create a common force and to advocate for human/civil rights and social justice.

Martha Maffei and the group of leaders at SEPA Mujer received the 2010 Samuel J. Duboff Memorial Award from the Fund for Modern Courts in recognition for their outstanding community work. In 2011, Martha was selected as the “Mujer del Mes” (Woman of the Month) by the Mujer Actual USA Magazine for her contributions to the Latino community on Long Island. Martha was also nominated for the 2011 Suffolk County Hispanic Heritage Month Celebration. In 2012, Martha was recognized by the Hispanic Coalition, NY as one of New York's 2012 40 Under 40 Rising Latino Stars.

"As a Latina immigrant, I feel motivated to work for Latina women and encourage personal and social development"

Publications:
J. Phys. Chem. A **2006,** *110,* 1060-1064, **Energy Correctors for Accurate Prediction of Molecular Energies, Martha Maffei**

J. Phys. Chem. A **2006,** *110,* 4260-4265, **Performance of Multiplicity-Based Energy Correctors for Molecules Containing Second-Row Elements, Martha Maffei**

My name is Martha Maffei, I am Executive Director at Services for the Advancement of Women, SEPA Mujer. We are a Latina Immigrant Rights Organization located at Touro Law College in Central Islip- Suffolk County.

In addition to community education and empowerment to immigrant women, we also provide legal assistance for survivors of domestic violence through immigration relief like self-petition under the Violence Against Women Act and U Visas. I would say that 99.9% of my clients have Limited English Proficiency. About 40% of them have minimum education and have problems even writing in their own language.

Every day in SEPA Mujer I hear the complaints, frustrations and confusions of my clients after they go to Family Court. As we, all know, understanding the court system is hard for anyone, but it is worse for someone who is suffering domestic violence because many times, they are still intimidated by the abusers and threatened with deportation. The lack of sufficient number of attorneys, advocates and interpreters means that women can't express themselves, don't understand the process, and often give up because of continues threats from the abuser. These pressures combined, often mean that those who most need assistance are not getting served.

The lacks of communication for those with limited English proficiency make an already difficult task harder. When victims go to Court, they are seeking protection and safety is in the forefront of their minds. They are worried if they can keep their children with them and how they will be able to raise them. They are not thinking about how to explain their situation in a foreign language because their emotional state does not allow it. When they are unable to communicate what happened in their homes leading to the need for protection, many cannot utilize the process. If these women had an attorney in court with them, this kind of situation would not happen. And, because there are not enough bilingual advocates to go around, sometimes Judges try to work in English with those who are willing to try. This is often a bad idea. Even if a woman can speak some English, her communication is not likely to be fluent and much will get lost. She will have to limit her information to the parts of her story that she does have vocabulary for, which many times means that the judge will hear a very distorted, partial and often toned-down version of the facts.

Judges can also be frustrated by the lack of communication and may think a woman is uncooperative. I remember a case in which a mother was seeking an order of protection. Her children had been taken away because of the domestic violence inflicted on her by her husband. The Judge asked where the children were and the mother answered "DAY CARE". The Judge got very angry until the Advocate said, "I think she means FOSTER CARE". The mother was trying to participate, but was unable to come up with the RIGHT word because of the language barrier.

Women with limited English proficiency cannot fully protect their rights in court without the assistance of an attorney, interpreter and bilingual advocate. And certainly when the abuser is also present and is profficient in English, he is hugely advantaged in the process. His story may often seem more plausible, not necessarily because it is true, but because he can express himself more clearly and has a stronger grasp on the process.

In addition to the difficulty of expressing herself without of attorney or bilingual advocate the lack of bilingual information often impedes an applicant's ability to use the court process. Many times, orders of protection fail because the client does not know how to fill out the application, and there is nobody available to explain it to them. Women do not have a basic understanding of the court procedures and don't know what constitutes a family offense, much less how to meet the legal elements of a claim. There is little information given to women on what to expect in the process.

I remember a time when a woman filled out a request for an order of protection in Spanish and it was only noticed when the Judge had it in his hands. This woman had been waiting the whole day at the court and finally when she saw the Judge, he told her to go back to the clerk's office. Many women who are seeking help at the court, without counsel, have to go back two or three days and nobody helps them.

Only after failing to get relief, women come to SEPA Mujer where they can fully describe their situations in their native language. Sometimes our staff is able to accompany women back to court or provide referrals to an attorney at Nassau/Suffolk Legal Services. However, these referrals are not enough because Nassau/Suffolk Legal Services is also limited in staff and unfortunately, they are not enough attorneys to fully explain the court process to them. This extra service must be provided by our already over extended, non-profit because it is basic information not being provided by the court in Spanish.

To file for custody in the Family Court clients are advised by court personnel to "bring someone who speaks English". Otherwise, they are often unable to file for custody due to a shortage of bilingual assistance. This is a huge problem, because most of our clients don't have anyone that is fluent in English who they can trust and who can leave work or family responsibilities to help her.

My clients have often reported that when they approach personnel in court to ask for information the staff member simple chants at them "English, English, English", adding a hostile tone to the already difficult language barrier. Again, with an attorney or a bilingual advocate, these kinds of difficult situations would not take place.

Lastly, many women with limited English proficiency are immigrants who are still being harassed by their abusers. Several women have simply given up on petitions for child support in order to stop abuse or harassment. It is common that when the court serves an

abusive father with papers to pay child support, he finds ways to harass the mother in retaliation. While technically it is not a request from her, the abuser knows that she has initiated the process. The difficulty that women with significant language barriers face when using the court system, without the representation of an attorney and with the continuing threats of abuse or harassment, prevent many women from using the legal system. In addition, my clients said that some attorneys who were not working through Nassau Suffolk Legal Services, advised them to stop requesting custody of their children or to not pursue an order of protection because of their lack of immigration status. When we work with our local civil legal service office, this does not happen so we need to make certain that our vulnerable clients receive counseling from lawyers who are trained to bridge the gap between Immigration Law and NYS family law. From SEPA Mujer's perspective, the best way to do this is (1) greater support for civil legal services and (2) more training for attorneys.

When there are not enough attorneys, competent interpreters, and advocates for women suffering from domestic abuse, the costs are high. Women suffer because they cannot protect their children, their homes, or their safety. Courts suffer because they cannot make accurate findings, and because communities lose faith in the justice system. I still have faith in the justice system and this is why I am here today. I know that the provision of adequate services to immigrant women suffering from domestic violence is a vital and I applaud Chief Judge Lippman for this open dialogue and give to us the opportunity to speak for the community that we represent. I know that you will pay attention because it is in your hands to provide efficient services for immigrant victims of domestic violence. We cannot fail with women and children suffering from domestic abuse because they might not have another chance tomorrow.

I thank you for the opportunity to share my experiences with you and I look forward to working together to improve services to my community. Thank you.

Respectfully Submitted,

Martha Maffei

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Mr. McEntee concentrates his practice in commercial litigation at the trial and appellate levels, representing corporations, partnerships and individuals in a broad variety of business disputes, including actions for breach of contract, breach of restrictive covenants, fraud, and misappropriation of trade secrets. He litigates royalty, copyright, shareholder, and partnership disputes, and defends class action, ERISA, and employment discrimination claims.

Mr. McEntee is the First Vice-President and a member of the Board of Directors of the Nassau County Bar Association. He is also a member of the House of Delegates of the New York State Bar Association, a Fellow of the New York State Bar Foundation, and an officer of the Federal Bar Association, Eastern District of New York Chapter.

Mr. McEntee served as an Assistant District Attorney in Nassau County (District Court, County Court, and Rackets Bureaus) and as an Assistant Deputy Attorney General with the New York State Organized Crime Task Force.

Mr. McEntee has been selected for inclusion in the New York Super Lawyers® -Metro Edition (Business Litigation and Employment Discrimination Defense), is included in the Bar Register of Preeminent Attorneys published by LexisNexis Martindale-Hubbell, is an elected Fellow of the Litigation Counsel of America, and was recognized by the New York Law Journal for having obtained the highest jury verdict in New York State ($100,361,000) in 2002.

Mr. McEntee has twice been selected by the Long Island Business News as one of twenty-five attorneys in its listing of "Who's Who in Law" on Long Island. He is a co-author of *Commercial Litigation Strategies* published in 2008 by Aspatore Books, a division of Thomson Reuters, and serves as a member of the Advisory Board of the Commercial Law WebAdvisor.

In 2011, Mr. McEntee was honored as *Public Interest Attorney of the Year* by Touro Law School for his successful, pro bono representation of a young mother who was the victim of a vicious sexual assault and robbery. After years of contentious litigation in the New York State Supreme Court in Nassau County and Albany County and the Surrogate's Court in Cayuga County, including a jury trial and multiple appeals, the litigation concluded with a substantial (six figure) payment to the client who, seventeen years after a vicious assault, was finally able to obtain compensation for her injuries.

A graduate of Brockport College and St. John's University School of Law, Mr. McEntee is admitted to practice in New York, to the United States District Courts for the Southern and Eastern Districts of New York, and to the United States Court of Appeals for the Second Circuit.

Judge Lippman, Justice Prudenti, Justice Mastro, Past President Standard. Good morning. My name is John McEntee. I am a member of the law firm of Farrell Fritz and serve as the First Vice President of the Nassau County Bar Association. I am honored by this opportunity to testify at the Chief Judge's Hearings on Civil Legal Services.

My remarks today will focus on three issues. First, the scope of the need for civil legal services by indigent clients. Second, what the bar is doing on a pro bono basis to meet this need. Third, whether the need for civil legal services can be met solely by attorneys providing pro bono services.

I. Need for Civil Legal Services

I begin by discussing the scope of the need for civil legal services by those members of our society who find themselves in economic distress. To state the obvious, the economic problems of the past several years have increased the number of people needing civil legal services while decreasing the number of people who can afford these services. For example:

- As of September 30, 2011, in counties outside of New York City, 59% of defendants in mortgage foreclosure actions were not represented by counsel, while in New York City that number was 78%, for a statewide average of 67%.

- In 2010, there were 10,160 eviction proceedings in Suffolk County and 7,966 eviction proceedings in Nassau County

- In 2011, there were 18,119 Chapter 7 and 1668 Chapter 13 bankruptcy filings in the Eastern District of New York

II. Pro Bono Efforts of the Bar

To meet the needs of those members of our society who require but are unable to pay for civil legal services, attorneys practicing in the Second Department have responded with a variety of pro bono programs. I would like to briefly describe a few of these programs in Nassau County.

A. Volunteer Lawyers Project

The Volunteer Lawyers Project Attorney for the Day program operated by Nassau-Suffolk Law Services provides representation to tenants facing eviction in the Nassau County District Court. The tenants are screened for eligibility for these services. The project is staffed with volunteer members of the Nassau County Bar Association Monday through Thursday of each week. These pro bono attorneys are supervised by a paid, in-court supervisor. To help pay for the costs of this supervisor, the Nassau County Bar Association has an annual telethon, called the "Probonothon," where the officers, directors, and committee chairs of the Association call the more-than 5,000 members of the Association asking for donations to support the project.

In 2011, the project handled nearly 850 cases. Of those cases, 324 evictions were prevented and 420 were delayed giving the tenant time to find alternative housing.

B. Mortgage Foreclosure Project

The Nassau County Bar Association Foreclosure Project serves Nassau County residents in two ways. First, the Association has, for more than three years, held a monthly clinic where an average of 50-60 homeowners facing foreclosure consult with an average of one dozen volunteer attorneys. Bankruptcy attorneys are also available at these clinics for consultation.

Second, volunteer attorneys attend the mandatory conferences in residential foreclosure actions in the Supreme Court to help indigent defendants understand the legal process, identify and accumulate documents to support their defenses, and identify their options. To date, volunteer attorneys have appeared at more than 850 such conferences.

C. BOLD Program

The increasing diversity of our community has been reflected in the attendance at the Association's clinics. Several years ago, the Association accepted the challenge of meeting the needs of this diverse population by instituting the Bridge Over Language Divides program, known by its acronym, BOLD. Among other things, the BOLD program provides pro bono attorneys who speak languages such as Spanish, Korean, Haitian Creole, Russian, and Urdu, in an effort to ensure that access to justice is not limited to those who speak English.

D. Miscellaneous Programs

There are a variety of other programs and clinics where volunteer attorneys are providing pro bono civil legal assistance. For example, the Nassau County Bar Association holds a Senior Citizen clinic every month, an annual Pro Bono FAIR, and, in conjunction with Nassau-Suffolk Legal Services, a Bankruptcy Clinic six times a year. In the past year it has also held a clinic for victims of domestic violence and a clinic for children with special needs. These are just a few examples of the many pro bono programs that the Nassau County Bar Association and its sister Bar Associations in the Second Department hold every year in an effort to meet the civil legal needs of our society.

III. Meeting the Needs of Society

So, pro bono attorneys can assist indigent members of our society facing evictions from their homes. Pro bono attorneys can assist indigent members of our society facing the foreclosure of their homes. And, pro bono attorneys can assist indigent victims of domestic violence. But what they cannot do is meet all of the civil legal needs of our society, as the need is great while the ability of attorneys to provide pro bono services is necessarily limited.

I recognize that our state legislators have a very difficult burden in allocating scarce resources among the needs of our society. But just as there is a need for roads, tunnels, and bridges, there is also a need for something less concrete but equally vital: meaningful access to

justice for all members of our society. And, meaningful access to justice typically requires legal representation.

In closing, I can state confidently that attorneys throughout the Second Department are providing pro bono legal services to meet the civil legal needs of indigent members of our society. But, they cannot shoulder the entire burden of this obligation. As a result, our Legislature must find a way to provide consistent and meaningful funding for organizations such as Nassau-Suffolk Law Services and Legal Services of the Hudson Valley who, every day, struggle to meet the civil legal needs of the most vulnerable members of our society.

Thank you.

Interwoven\2587461.1

Lois Schwaeber

Director of Legal Services for the Nassau County Coalition Against Domestic Violence

TESTIMONY ON CIVIL LEGAL SERVICES

OCTOBER 4, 2012

Good morning Judge Lippman and honored members of the panel. Thank you for giving me the opportunity to testify before you today.

My name is Lois Schwaeber and I am the Director of Legal Services for the Nassau County Coalition Against Domestic Violence. I provided oral testimony on the urgent need for civil legal services during your hearings at the Second Department last year, but today I am writing to you to re-emphasize the increasing dire need for civil legal services in New York State. Research has shown that legal assistance is the **one** service that has been found to reduce the occurrence of domestic violence in a community.

The Coalition is the only provider of comprehensive domestic violence and rape/sexual assault services in Nassau County. We maintain the county's only Safe Home for Abused Families and the county's only domestic violence and rape/sexual assault 24 hour hotlines, in addition, to our individual and group counseling services to victims and children who witness. There are **no** fees for any of our services. Coalition is a 501(c) (3) private-not-for-profit corporation and is totally dependent on grants, awards, and donations to provide for all our services. All Coalition services are available to both men and women, unless there is a conflict of interest.

Coalition is also the only provider of civil legal services to victims of domestic violence, dating violence, elder abuse, and rape/sexual assault in Nassau County. Our Legal Services Center provides court advocacy services on

a daily basis in Nassau County Family Court, and as needed in the two Nassau County Dedicated Domestic Violence Parts and the Integrated Domestic Violence Court where we assist any petitioner, walk-ins, or other victims, regardless of their income, in navigating the court system, and provide much needed emotional support, information, and referrals. Our Legal Services Center also has attorneys who provide direct representation to indigent and low-income victims of violence in family offenses, child custody/visitation, child/spousal support, paternity, immigration, and matrimonial proceedings, or other issues arising out of the abuse. There are **no** fees for any of our legal services.

Our free bi-monthly "Legal Question and Answer Clinic" available to all provides information about divorces, orders of protection, child custody/visitation, and child/spousal support to clients.

Nassau County is viewed by the rest of the world as a "wealthy" county, but in reality almost 5% of our 1,300,000 plus residents are below the poverty line. Of the 3646 victims of domestic violence and rape/sexual assault seen at Coalition between 70% to 84% are TANF-eligible, almost 300 are Limited English proficient people and close to 175 are undocumented residents, who do not qualify for any congressionally funded legal services.

Recent census poverty statistics show rising numbers of poor people in Nassau County. Using the federal poverty threshold a family of **four** earning $22,113 would be considered indigent making them eligible for federal government assistance programs. (Most government benefits are only available to people who earn between 150-200% of the federal poverty guidelines.)

However these figures do not take into consideration the actual cost of living in Nassau County. In fact a 2010 report "Self Sufficiency Standards for NYS" (University of Washington) calculated that an adult with two children (**a family of three not four**) living in Nassau needed an income of almost $75,000 to meet just their basic needs. Thus, over 45% of Nassau families fall between the federal poverty level and the self-sufficiency level. These people struggle to make ends meet and cannot find the funds to obtain legal services.

Our Legal Services Center's attorneys provide direct legal representation in family offenses, child custody/visitation, immigration, paternity, divorces, child support, (Since Nassau Suffolk Legal Services lost funding for their child support project we are seeing many more clients in need of representation in child support litigation), and any other issues that arise as a result of the abuse. Coalition provides legal representation to victims who fall within 200% of the federal poverty guidelines.

The agency is seeing more and more clients who are unemployed and/or who have spouses or partners that are unemployed, and many have houses already in foreclosure and "underwater". Their credit cards are "maxed out" and many are in debt, often caused by their abuser. Many are dependent on food banks and food stamps to supplement their income. Other clients come to my office in the middle of a divorce, with a trial date certain, without legal representation because their attorneys have been relieved by the judges because of the amount still owed them. These clients have already exhausted their bank accounts, borrowed money for retainer fees, and yet still owe their attorneys $30,000 or $40,000 or

more. They are desperate for representation, afraid of representing themselves when their abuser has legal counsel, afraid of losing their children, afraid of being left homeless and poverty-stricken (just as the abuser has always told her she would be). They are doubly afraid to go to trial without an attorney because then the abuser would have the right to cross examine them. Some are frightened to show up in court without an attorney because the judge has told them that they must get one within 30 days. However, they cannot afford to pay the retainer requested by the attorney. Many cannot even afford to pay the consultation fee.

Every legal service agency they went to has said that they cannot help, either because they don't do divorces, (like Legal Aid of Nassau County); or because the agency has a three or four year wait for assignment to a matrimonial attorney; (like The Volunteer Legal Project who send all their domestic violence clients to us); or because she still is on the deed of a house from which she fled for her safety; and which is worth less than the money owed on the mortgage because her husband has taken out all the equity; or because her disability payments are too high, so she doesn't qualify for services; or because she is undocumented.

Without adequate legal representation the client either doesn't understand the legal jargon; or the procedures; or have the know-how to answer legal papers or make legal arguments; or the necessity for prompt action to avoid a default or to avoid being precluded from presenting evidence.

Pro se litigants consume an inordinate amount of judicial time and court resources. *Pro se* litigants add to the cost of litigation for the courts and for the

opposing party. Faced with budgetary cuts, judicial funding of civil legal services can save the courts precious time, money, and resources.

Coalition is also currently working with volunteer attorneys, to learn the nuances of victimology, and understanding of the impact and complex dynamics of domestic violence in contested divorces. (Few, if any, domestic violence cases are ever uncontested). We have been able to continue and expand our *Pro Bono* Project, thanks to being award the Judiciary Civil Legal Services funding for 2012-2013. We currently have 100 clients who have been assigned to the *pro bono* attorneys that Coalition has recruited. Nonetheless, we still have over 30 clients waiting to be assigned to either a staff attorney or a *pro bono* attorney. (A waiting list that would be about a year's wait to initiate a divorce action).

We hope the training and mentoring that we provide to this cadre of volunteer attorneys will enable them to provide survivors sensitive and competent legal representation. Coalition has also created a website and listserv to provide the volunteers with on-going information, social research, and case law updates, as well as a forum to network.

Recently Coalition has also entered into a *pro bono* partnership with the Nassau County Bar Association to provide domestic violence clinics in unserved and underserved communities staffed by Coalition and volunteer attorneys who have been trained in nuances of domestic violence issues. This partnership is also encouraging the volunteer attorneys to take on a *pro* bono matrimonial. I am providing the volunteers with training on the dynamics of domestic violence and

its impact in matrimonial proceedings. This October and November we are planning to provide a free clinic to both the Hispanic and Mosque communities.

I understand that with the current economic conditions, hard choices have to be made, however, without funding for Civil Legal Services the Coalition, and agencies like it, will be unable to assist victimized families to establish safe and healthy lives free of their abuser.

Without this funding victims will return to their abusers so they can continue putting food in their children's mouths.

Without this funding we will be unable to help survivors get access to equal justice.

Without this funding more and more abused women and children will become homeless and a financial burden to the country, state, and county.

Without this funding, New York State's most vulnerable citizens will sink further and further into poverty and homelessness.

Alizabeth Newman

Director of Immigrant Initiatives and Clinical Professor of Law at CUNY School of Law

Alizabeth Newman

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Alizabeth Newman is the Director of Immigrant Initiatives and Law School Instructor at CUNY School of Law where she focuses on innovative models for collaboration with immigrant community organizations. Ms. Newman has worked for almost two decades advocating for the rights of immigrants and has been active in educating legal and immigrant communities on immigration law, with emphasis on unique protections for battered immigrant women. Ms. Newman was the founder and initial director of SEPA Mujer, Servicios Para El Avance De La Mujer, (Services for the Advancement of Women), a community based organization offering to Latina immigrant women legal rights education, leadership development, and legal representation for survivors of domestic abuse. She has established CLE trainings on the Violence Against Women Act for local attorneys and law students and has lectured extensively at bar associations, law schools, national and local conferences options for immigrant women.

October 4, 2012
Testimony of Alizabeth Newman, Clinical Professor of Law, CUNY Law School, Director of CUNY Law Immigrant Initiatives. Founder and Chair Board of Directors, SEPA Mujer, Services for the Advancement of Women.

First I want to thank the Chief Judge and the panel for taking on this difficult and complex issue and for the invitation to address you today.

Last year the task force reported from its findings that 95% of litigants in many civil court proceedings, including evictions, credit, and child support, were unrepresented. The report went on to recognize that due to the large percent of people lacking legal representation, many valid claims were lost.

My testimony will focus on a group I consider among the most vulnerable when unrepresented by legal counsel in civil court: those who have limited English proficiency and those who are immigrants. Not only does this group face the challenges of understanding the legalities involved in court proceedings, but the added obstacles of understanding the basic English language itself, as well as the complex intersection of immigration law with other civil procedures.

In the last decade in New York State, the percentage of the population with limited English proficient increased by 15.2 percent.[1] In New York State, nearly a third of households speak a language other than English at home (compared to about 20% nationally.)[2] As of 2010, 8.2 percent of all New York households (of both natives and the foreign born) were linguistically isolated, meaning all of the adults were limited English proficient, double the national rate. [3] The risk they take of pursuing relief while unrepresented is high.

In addition, NY State's immigrant population continues to grow. According to census data, 21% of NY State's population is foreign born (compared to 13% in the nation.)[4] In New York City, immigrants and their U.S.-born offspring account for approximately 55 percent of population.[5] Nassau and Suffolk counties have growing populations of about 15 and 20 percent, respectively. The consequences for this group of being unrepresented in civil proceedings can be devastating.

This task forces' assessment of need for counsel in civil legal services does not include immigration courts, which are under federal jurisdiction. However I would like to use my testimony today to highlight the tremendous risk to those with

[1] MPI Data Hub comparing statistics between 2000 and 2010,http://www.migrationinformation.org/datahub/state2.cfm?ID=NY#1
[2] http://quickfacts.census.gov/qfd/states/36000.html
[3] http://www.migrationinformation.org/datahub/state2.cfm?ID=NY#1
[4] http://quickfacts.census.gov/qfd/states/36000.html
[5] NY City Dept. of City Planning
http://www.nyc.gov/html/dcp/html/census/nny_exec_sum.shtml#sco

limited English proficiency and/or immigrants of participating unrepresented in civil courts and finally to offer a model to increase access to justice.

There are many instances in which immigration status itself becomes a part of civil court proceedings. At these junctures, is becomes critical that legal counsel is available to ensure that immigration status is understood in context and is not exploited by the opposing party who may be a native English speaker.

For example, in one case an immigrant spouse was in removal proceedings (new term for deportation) while her husband petitioned for custody. He based his claim on the "fact" that the mother was about to be deported and it was not in the best interest of the child to be taken out of the US. Accordingly, the family court judge chose to wait for the decision of the immigration court before determining custody. Meanwhile, the Immigration Judge was weighing many factors in deciding whether or not to grant legal permanent resident status to the immigrant mother- factors which included hardship to the US citizen child who was the subject of the custody dispute. The Immigration Judge also decided to withhold his decision pending the outcome of the family court proceeding, recognizing that a determination granting the mother custody of the child would weigh in favor of her remaining in the US. The attorney was able to explain to the family court judge that the immigration case could have taken years and was quite likely to result in permanent status for the mother. Legal counsel convinced the family court judge to make a determination without the results of the immigration proceedings and based on the facts before him, while leaving available to both parents the possibility of re-visiting the custody if there was a major change in circumstance such as the deportation of the custodial parent. Because the woman had competent counsel who could understand the interplay of the two cases, the mother prevailed on both fronts.

Similarly, attorneys are critical in protecting foreign-born survivors of domestic violence from abusers' attempts to further harm them by use of immigration status. When a US citizen or legal permanent resident marries an immigrant, the law affords that citizen or resident spouse almost total control over the process of legalizing the immigrant spouse. They alone decide when and if they will file for the spouse to obtain status, and they alone maintain the power to cancel the sponsorship at any point. If you superimpose a scenario of domestic violence, you can see a recipe for disaster. It is unfortunately common that abusive husbands in this scenario cause their wives to be undocumented and then blackmail them on that basis. An abuser can threaten that if his wife reveals the abuse to anyone or refuses to drop a civil suit against him, he will refuse to sponsor her, separate her from the children, and cause her to lose work authorization. These threats are very effective and leave no marks. If this group is not represented, they remain fair game for further abuse, especially when the abuser can afford legal counsel.

In one case I worked on for many years, a cunning and persistent abusive US citizen used his wife's lack of status as a tool for abuse on many fronts, each time requiring counsel to protect her. First, he caused her to be arrested for shoplifting and then

intentionally mis-interpreted for her in court stating that all charges were dropped and that she did not need to appear again. In reality, she had an outstanding warrant for her arrest. So when the abuser called ICE, the immigration enforcement branch of DHS, they came after her as a fugitive. Where? In family court. As the wife was appearing in court to push for an order of protection for their child, the abusive husband hired counsel to adjourn the proceedings and then to let ICE know where to find this fugitive. Due to the outstanding warrant, she was arrested and whisked directly from family court, to a prison in Pennsylvania, leaving her elderly mother to care for her three children. Legal counsel worked to track her, contact the deportation officers, and finally ICE headquarters in Washington, DC to expose the abuse and secure her release. However, back in family court, the abuser eventually prevailed in gaining custody of his son, for whom he had previously denied paternity not 2 years earlier. The same abuser obtained protected information about his wife's immigration proceedings and contacted the assistant chief counsel in attempt to testify against her is in what should have been closed, confidential proceedings. Legal counsel warned the government of its obligations to secure confidentiality and the abuser was escorted out of the building by federal marshals. And even years later, the same abuser made further fraudulent allegations against his former wife with the Department of State. Counsel was needed in each of these instances to right those wrongs otherwise the well resourced citizen spouse would have prevailed in using our courts to abuse his wife.

Where another abusive US citizen attempted to exploit his power over immigration petitioning to obtain custody of his child from his immigrant wife, legal counsel was able to expose the charade and educate the court. After patiently hearing the full story, a Bronx Family Court judge gave custody to the undocumented mother when she recognized that it was solely due to his actions to stop his sponsorship of a family petition midstream that led to his wife being left without legal immigration status. After his constant efforts to highlight her lack of status to all who would listen, the husband's efforts to depict his wife as the less fit parent because of her status- was seen by the judge as his attempt to interfere in the relationship between the child and his mother and then using that fact to advantage himself. The judge cited his actions as one of the negative factors against his custody petition. Without competent counsel, the very legal system to which they turned for protection would have been instruments of abuse.

Legal counsel is desperately needed by immigrant crime victims and immigrant youth with Limited English Proficiency. Over the last decade, Congress has crafted new types of relief for these groups. The intended benefits of these laws, however, will be lost if those eligible are not represented by counsel.

First, family courts have vast untapped potential to assist immigrant victims of abuse with relief for through the U visa. As part of the VAWA Reauthorization Act of 2000, Congress created the U visa, which provides temporary status a victim of certain crimes who has suffered substantial harm from one of the enumerated crimes and who has been, is being or will be helpful in the investigation or

prosecution of a listed crime. We have used this path to assist immigrants who have been horrifically victimized by hate crimes and domestic abuse. Law enforcement has been educated in its role in these processes, however civil courts must have competent lawyers to request participation from judges when they have investigated facts of domestic violence. When victims are unrepresented, their claims will go unnoticed and the Congressional intent to provide protection is lost.

Special Immigrant Juvenile (SIJ) status is another fairly new proceeding in family court. SIJ is available to undocumented immigrant youth who are under the jurisdiction of juvenile courts (family court in NY State).[6] For many youth, this will be their only opportunity to get permanent legal status, which affords them permission to work, financial aid for college, some medical and other public benefits. The youth must be under 21 years of age and unmarried, and there must be a finding by the family court that the youth was abused, neglected or abandoned, that reunification with one or both parents is not a viable option and, that it is not in the best interest of the youth to be returned to his or her home country. This "special finding order" must establish that the youth has been declared a dependent of the juvenile court or dept. of a state, or places the youth with guardian, in foster cared or even adopted. The order then becomes the basis for the immigration status. In NY State, all social service agencies and voluntary authorized agencies have been directed to assess all youth in foster care who do not have US citizenship or legal permanent resident status for SIJ eligibility.[7] But again, without the benefit of legal counsel, immigrant youth will age out of the system, missing the opportunity to gain legal status and futures in the US as full participating member.

New models of service delivery

The suggestion I offer for expansion of access to civil legal representation is based on my work grappling with the desperate need for pro bono or low-bono attorneys for low-income families or those with limited English proficiency. We cannot allow civil courts to be available only to those who can afford counsel. Since there is no entitlement to an attorney, the burden falls on legal service offices and non-profits to fulfill this need. While the recent passage of pro bono requirements is a significant and very hopeful step in instilling a culture of pro bono service in the legal profession, inexperienced law students cannot be expected to fill the huge gap in services. I whole-heartedly support the monumental efforts of Chief Judge Lippman to increase funding to capacitate the organizations now providing these crucial legal services.

For the last two decades I have confronted the extreme need for pro bono legal services in marginalized communities and I have experimented with a variety of

[6] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.
[7] Administrative Directive: SIJ www.ocfs.state.ny.us/.../11-OCFS-ADM-01%20Special%20Immigrant%20Juvenile%20Status%20(SIJS).pdf

models for doing so. I have found the traditional model of one on one, individual provision of services, at times, present an impediment. I would propose that in certain circumstances, NY State consider expanding its ethical code to allow for exceptions to the mandate of exclusively individual provision of legal representation. Just as there were exceptions created to support pro bono representation in relaxing the need for conflict checks or in limiting the need for submission of notices of appearance, I encourage accommodations for a legal service agency or law clinic that is managing many similar pro bono claims. For example, a busy legal services office has a waiting list of low-income litigants needing representation in distinct, but similar housing claims. Rather than wait for the already over burdened staff attorneys or pro bono volunteers to absorb a dozen new cases, it would be efficient to work with these individuals in a group. This would only be feasible after confidential, individual counseling, when a determination is made that the cases are sufficiently similar, and the individuals are given a true choice. A group model would prove efficient at the very least for the purposes of educating the individuals on the elements of the legal claim and supporting them in recognizing and collecting potential evidence. In other circumstances such as in domestic violence claims, the group setting helps survivors understand the dynamics of abuse and provides a support system to follow though with the difficult legal process. I have had great successes with this model (which I call Collaborative Individual Law). I examine the benefits and concerns of this model in an article I published last year, which I will make available to the committee.[8] I would be delighted to discuss this idea more thoroughly if there is interest on the task force.

As Mahatma Gandhi reminded us, "A nation's greatness is measured by how it treats its weakest members." Again, I commend Judge Lippman, this panel and the task force for their initiative and innovation in tackling this fundamental problem and in pushing us all toward our higher selves.

[8] Alizabeth Newman, *Bridging the Justice Gap: Building Community by Responding to Individual. Need*, 17 CLINICAL L. REV. 615.

Edwin Pearson

Retired Administrative Law Judge

TO WHOM IT MAY CONCERN:

I recently retired as an Administrative Law Judge during which time I held fair hearings requested by Applicants or Recipients of Public Assistance benefits including Cash Assistance and Food Stamp benefits who reside in one of the five boroughs of the City of New York. I held such fair hearings for about a three year period in the early 1980s and for about a fourteen year period between October 1997 and December 2011.

The major observation I was able to make was that a vast majority of the Appellants attending those fair hearings were not represented by any kind of advocate to assist them in ensuring that their due process rights, both substantive and procedural, were adequately protected. This is particularly alarming taking into consideration that a substantial portion of such individuals are not mentally equipped to understand the complexities of the underlying laws and/or regulations that govern their substantive and procedural rights regarding their basic cash and Food Stamp benefits and that these benefits were very essential to their well being. Also, whenever an Appellant was represented by an advocate, whether or not an attorney, the Appellant's interests and rights were presented in a much more compelling manner.

Furthermore, while the State of New York's Office of Temporary and Disability Assistance (OTDA) has been designated to oversee the dispensation of all the benefits available to the poverty stricken persons of the State of New York including the City of New York, OTDA fails to maximize the opportunity of providing adequate instructions and directions to the persons seeking to obtain and/or retain the benefits to which they may be entitled. During my tenure of employment with OTDA, I continually urged the Agency to be a conduit of providing educational information to the Appellants who had requested a fair hearing, such as providing copies of the many intricate forms and/or policy statements issued by the City of New York, that could further explain to the Appellants the underlying rationale of the Human Resources Administration (HRA) of the City of New York in making its determination. Instead, my requests were always denied on the basis that it was not the responsibility of the State to provide copies of City forms and/or policies, despite the State's statutory responsibility pursuant to the Social Services Law of the State of New York. If OTDA took a more aggressive position in assisting the Appellants in understanding their rights and responsibilities, the lack of adequate advocates would be somewhat ameliorated!

The problems are further exacerbated by the fact that a very high percentage of persons living in the City of New York are persons categorized as having Limited English Speaking Ability (LESA), hence need to have the assistance of a qualified interpreter, other than a member of the family or a friend. While HRA regularly issues updated Policy Directives and Desk Guides as to their intended policies and practices, and Mayor Bloomberg issued an Executive Order several years ago on this issue, my experiences is that there is no regular enforcement and/or implementation of these policies and practices. A good example of the lack of seriousness by the State regarding these policies and practices is the fact that fair hearing decisions are not even issued in Spanish for those who are Spanish speaking, which is the language of the vast majority of persons who are categorized as LESA. Another example is a lack of appropriate postings and distribution of the written policies at all the Job Centers and Food Stamp Centers in New York City and at 14 Boerum Place, the site of all the fair hearings. Those examples, alone, clearly indicate a lack of seriousness by either OTDA or HRA in enforcing its policies and practices regarding persons categorized as LESA.

Another facet of the necessity for an advocate to assist low income persons in obtaining the benefits to which they are entitled is the attitude of many of the New York City personnel administering and implementing the various benefits that are being issued. My observations, based on the credible testimony of the many Appellants I observed during my approximately 17 years of experience, is that many of the HRA employees do everything possible to thwart the interests of their clients, sometimes to the extent of a type of psychological abuse. Furthermore, OTDA does nothing to monitor the actions and attitudes of the HRA employees, despite the existence of State Regulations that require the local social services districts to provide all the necessary assistance to its clients so that the clients receive all the benefits to which they are entitled. The amount of training provided to State and City employees is very inadequate. Instead, based on the testimony provided at many of the fair hearings I held, it is evident that HRA attempts to use every possible tactic to minimize the benefits that it provides to its clients. A perfect example of this approach is the uniform policy of HRA of not accepting any explanation for missing an appointment that is not supported by clear and convincing documentary proof. Even when some type of document is provided at a hearing, the Agency Representative, representing HRA's interest, does everything possible to question the validity and genuineness of the document.

Finally, it should be noted that HRA has refused to provide any help desks at its various Centers that would allow advocates to assist its clients in fully

understanding the complex system of laws and regulations. The organization entitled Make the Road by Walking commenced a lawsuit challenging the prohibition of advocacy groups from discussing welfare issues at the various New York City welfare centers, but even with the help of the Brennan Center of Justice and the New York Civil Liberties Union was unable to convince the Second Circuit of the Court of Appeals that such a policy was necessary, as reported in the case of Sanchez v. Turner, 378 F.3d 133 (2004.)

Also, the September 2012 newsletter of the Public Welfare Foundation entitled "Updates" under the heading "Too Many Lawyers? Not For The Poor" discusses the need for more funding in this area, especially in light of the reduced funding by the Legal Services Corporation and the reduced funding available via the use of IOLTA funds.

Respectfully submitted
Edwin C. Pearson
Ridgefield, Connecticut 06877

Hon. Andrea Phoenix

Nassau County District Court Judge and Acting
Nassau County Court Judge

PROFESSIONAL AFFILIATIONS AND COMMUNITY PUBLIC SERVICE

Over the years, Judge Andrea Phoenix has been very involved in public service and in the community at large. She is a past president of the Women's Bar Association of the State of New York ("WBASNY") and the Nassau County Women's Bar Association. Notably, she was the first African-American president of both organizations. Her other professional affiliations include: New York Chapter -Association of Family and Conciliation Courts-President and Founding Board Member; Nassau County Bar Association- WE CARE Advisory Board and Past Elected Director; Theodore Roosevelt American Inn of Court-Executive Committee; Amistad Black Bar Association of Long Island; Jewish Lawyers Association of Nassau County; Nassau/Suffolk law Services Committee, Inc.-Advisory Board; Nassau Community College Paralegal Advisory Council and Nassau County Judicial Committee on Women in the Courts. The Judge is a long standing appointed member of the New York State Unified Court System Family Violence Task Force.

Other affiliations of Judge Phoenix include: National Association for the Advancement of Colored People ("NAACP"); Antioch Baptist Church of Hempstead-Board of Trustees, Nassau Alumnae Chapter of Delta Sigma Theta Sorority, Inc. and Long Island Chapter of the Links Incorporated-International Trends and Services Facet Chair.

Jude Phoenix has received various awards and accolades because of her organizational involvement. She is the first recipient of both the Nassau County Women's Bar Association's Bessie Ray Geffner Award and Virginia C. Duncombe Scholarship Award. The Judge also received the organization's distinguished Rona Seider Award. Operation Get Ahead, Inc. of Hempstead, New York presented her with their Trail Blazer and Rosa Parks awards. She is listed in "Who's Who in Black New York City" and has been selected to receive an award in October 2012 from the Amistad Black Bar Association of Long Island.

Some of Judge Phoenix's highlighted community service projects include: The Nassau County Bar Association's WE CARE "Dressed to a Tea", an event involving gathering new and gently used clothing for men and women re-entering the work force, chairing both the Thanksgiving Eve Basket Drive involving delivery of cooked dinners all over Nassau County and the Thanksgiving Day Luncheon for senior citizens in the community.

Judge Phoenix is very involved with the Long Island Chapter of the Links, Incorporated. She played a key role in implementing the chapter's Healthy Heart Fair for Women held at the Nassau University Hospital. Additionally she chairs the chapter's International and Trends and Services Facet. As chair of the facet, she and its members have presented a program which includes five sessions introducing the organs of the United Nations and careers in international business affairs to secondary students for the past three years. The program culminates with a trip to the United Nations headquarters in New York City. For the past two years the facet also hosted timely international programs at the Nassau County African American Museum on topics involving South Africa and Haiti.

Judge Phoenix is a long time member of Nassau Alumnae Chapter of Delta Sigma Theta Sorority, Inc.. A number of years ago as chair of the sorority's Arts and letters Committee, she and its committee members implemented a former program called "Kit Lit". She and committee members visited young children to read to them and build a "library without walls" in their homes. In the spring of 2010, Judge Phoenix assisted in coordinating the chapter's International Day of Service. The event included interactive workshops for the community on global issues surrounding drinking water. As a former Health Law Committee Co-Chair of the Women's Bar Association of the State of New York, the Judge played a key role in planning and implementing presentations for senior citizens in the New York City area on advance directives and related legal health issues.

Andrea Phoenix
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Hempstead, New York 11550
(516) 493-4271

Admitted to New York State Bar and Washington, D.C. Bar

EXPERIENCE:

2007-Present — **Nassau County District Court Judge, Acting Nassau County Court Judge** Hempstead, New York
Presides over the Mental Health Court adjudicating misdemeanors and felonies. Additionally presides over a civil court part, trials, conferences and motions.

2002-2006 — **Law Office of Stephen Bilkis & Associates-** Baldwin, New York
Of Counsel: Representation for family law and matrimonial matters. Representation Includes other general practice matters. Responsibilities include all phases of litigation.

1999-2002 — **Law Office of Gari W. Power-** Hempstead, New York
Associate: Provided representation for matrimonial and family law cases. Representation also included general practice matters.

1993-2002 — **Nassau/Suffolk Law Services Committee, Inc.**-Hempstead, New York
Staff Attorney: Child Support Unit- June 1996-December 1999. Legal representation to custodial parents in child support enforcement hearings and trials. Representation also included related visitation and custody matters. Public Benefits Unit-August 1993-May 1996. Legal matters which involved public assistance, food stamps. Medicaid, homelessness, prevention and emergency assistance. Responsibilities included representation at administrative hearings, litigation and appeals.

EDUCATION:

Hofstra University School of Law, Hempstead, New York
J.D. 1989
Honors
Environmental Law Digest, Editor in Chief
Black Law Students Distinguished Service Award
Hofstra Service to the School Award

Ohio State University, Columbus, Ohio
M.A. Communications/Education

Hampton University, Hampton, Virginia
B.S. Elementary /Special Education

PUBLICATIONS:

Hofstra Environmental Law Digest, Vol. 5, No.1, Nuclear Plant Safety, Case Review
Hofstra Environmental Law Digest, Vol. 6, No.1, Shore Protection Ace of 1988, Leg. Update
Contributed to N.Y.S.B. A. Ad Hoc Committee on Non-Lawyer Practice, Preliminary Report, January 1995

Good Morning, firstly I wish to thank Judges Lippman, Prudenti, Marano and others assembled here today for allowing me to present testimony about perhaps the cornerstone of our court system--Access to Justice.

Before being elected to the Nassau County District Court bench and sitting by designation as an Acting Nassau County Court Judge, I was an attorney in private practice handling mostly Family Court cases and I was an active Law Guardian and what is now known as an Attorney for the Child. Notably, I was a staff attorney at the Nassau County Legal Aid Society and a staff attorney at Nassau/Suffolk Law Services for quite a few years. In this capacity, I have represented poor people who are disadvantaged and often times disenfranchised in all phases of litigation. I have provided representation for legal issues involving food stamps, public assistance, medicaid and homelessness prevention.

I had the client who couldn't afford bus fare to return home from court, I had the client who used her last disposable diaper at noon that day, I represented the man who had been turned down a bed for the night in the middle of January and it was me on the telephone, searching for his lodging sometimes until 7:00 p.m. on a given evening. I understand that when a food stamp allowance is reduced abruptly that children don't eat--these were my clients and their access to justice system overall was slim.

I give you this background so that you will know how close this issue of expansion of legal access for the poor is to both to my mind and heart.

In District Court, I sit in both a civil and criminal part. With respect to criminal part, I preside over the Nassau County Mental Health Court adjudicating both misdemeanors and felonies. All of the court participants have representation, as the private bar and Legal Aid play a key role in our court. The participants, persons accused of a crime who are mentally challenged, range on the economic

scale. But many are on the low income scale and are medicaid recipients. We have found that access to civil legal services outside of our Court has been difficult for them. Re- application for medicaid after being incarcerated, access to civil legal representation for other civil issues and the like has proven to be a difficult road for my Mental Health Court defendants.

Most of my time is spent sitting in a civil part - presiding over cases that involve credit card debt, medical necessity of medical testing such as an MRI, contracts and infant compromises where I see small children in my chambers. The jurisdictional amount is $15,000.00. I must explain to the many *pro se* litigants that I see, that my part is not a Small Claims part and is a true civil part where *pro se* litigants must either hire an attorney to represent their interests or alternatively be held to the standard of an attorney -- knowing how to present testimony, cross examine witnesses and the like.

The people that I am explaining this to are in my court each day and are there in the presence of a courtroom filled with attorneys on other matters. They squint when I speak to them and have a baffled look upon their face. Instructions about filing, affidavits of service, motion schedules and Order to Show Causes fall upon ears and eyes that simply don't understand.

The majority of Order to Show Causes I read are from *pro se* litigants. They are often times poorly written with misspelled words and run on sentences and some times have to be deemed legally insufficient for execution of my signature.

The District Court is a court of first impression for many. I see the senior citizens, who could be my grandparents; at a loss for words unprepared to present any plausible legal issue and who are on a fixed income and unable to afford an attorney. I see the women who is head of her household, taking off from work without enough time to do so, because she simply can't afford an attorney. I see the

people who are now way over their heads in credit card debt and can't even negotiate a settlement that they can pay because they are out of work. Often times the debt consists of things like food, essential clothing and other items of necessity. I see cases with cars repossessed and families now compelled to use one car or take public transportation. Before me come litigants with serious legal issues and no income to retain an attorney or to even pay to consult one. Most of the issues are too complex for *pro se* representation in my court part. An attorney is almost always essential for litigants to navigate well in a civil part.

In my part it is not uncommon to have nervous, anxious individuals unable to properly comport themselves before me or to articulate their legal issues and problems. I am always unnerved by the tears I see fall. The tears don't fall in English, they don't fall in Spanish, they don't fall in Black nor White. They just fall from the faces of those Americans plagued with an impoverished condition preventing them from acquiring legal representation.

There are a myriad of problems associated with access to justice for the poor. The national recession making overtime in our court system a rarity is a big problem. Having an extended calendar would give judges and support staff more time to sort out the issues of the unrepresented. Another serious concern is the loss of funds for day care centers in many of our courts. The District Court now has many more children of poor and unrepresented litigants in courtrooms and court settings because the parents can't afford child care.

Yet perhaps the biggest problem is the lack of enough pro bono or free representation for poor people saddled with complex litigation cases. There's no such thing as a free attorney to help them when they can't afford one. Alas remember the old adage, "there's no such thing as a free lunch."

What do we do? We continue to support the Task Force To Expand Access

to Civil Legal Services. We as legal professionals committed to justice, form a critical mass to address pertinent and timely issues affecting access to justice. We must provide *pro se* desks in all of our courts to ensure a more equitable access to courts for the poor and under- served. Finally, I humbly suggest that we support all efforts for legal services funding and staffing.

This past Thanksgiving Eve, I delivered fully cooked meals to some of the poorest families on Long Island on behalf of WE CARE, the charitable arm of the Nassau County Bar Association. I witnessed children shivering under a blanket in a poorly lit, small apartment above a store with no food other than the basket I delivered. I entered homes colder on the inside than outside because there had been no heat for two weeks. I can tell you stories, in fact, we all have stories to tell. We know that the poor will always be with us and they are usually the most vulnerable with respect to loss of funding and services.

Together we must forge ahead to continue to mold a legal system that brings access to justice for Americans at every income level. I have every confidence just by virtue of this proceeding, that we're well on our way towards this success. Thank you.

Hon. Kathleen M. Rice

Nassau County District Attorney

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Nassau County District Attorney Kathleen Rice brings experience, passion and dedication to the role of chief law enforcement official for one of the nation's largest and safest counties. Now in her second term in office, Rice has enacted numerous law enforcement initiatives and programs to serve Nassau County's diverse population of 1.3 million residents.

In keeping the central promise she made during her historic 2005 run for office, Rice wasted no time in tackling the epidemic of drunk-driving on Long Island. She aggressively pursued and obtained murder and manslaughter convictions for drunk drivers who caused deadly car crashes. She was instrumental in the passage of two new pieces of legislation, the creation of a new criminal statute that toughens penalties for drunk drivers who kill, and Leandra's Law which makes drunk driving with a child in the vehicle under the age of 16 a mandatory felony.

Months after taking office, Rice overhauled the office's DWI plea bargaining guidelines and created a comprehensive and unprecedented drunk-driving education program for Nassau's high schools. Later that year, Rice and the courts agreed to open a DWI court, allowing specially trained prosecutors and judges to efficiently manage thousands of drunk-driving cases on a case-by-case basis each year.

In addition to her nationally recognized fight against drunk driving, Rice has worked hard to modernize the office and to reallocate resources to fight modern crime in Nassau County.

Rice's innovative crime-fighting approach to the open-air drug market that dominated the Terrace-Bedell neighborhood of the Village of Hempstead has resulted in a dramatic reduction in crime and violence, and helped numerous men and women leave a life of crime behind.

Rice has also been at the forefront of the fight against the rising presence of heroin on Long Island. Her office has joined with police in aggressively pursuing those who supply the drug and the dealers who push the poison. Her heroin awareness program for parents, schoolchildren and teenagers, "Not My Child," has been presented in dozens of schools across the county and has received rave reviews from parents, school administrators, teens, and the former addicts who tell their cautionary tales.

Rice has also beefed up the resources used in the investigation of sexual predators preying on children using the Internet and boasts a 100% conviction rate for these predators. In addition to refusing to plea bargain on child sexual predator cases, Rice has vigorously lobbied the state legislature to close the loopholes in the law and to toughen the penalties for criminals who prey on our children.

During her first term in office, Rice reallocated a significant amount of resources to the investigation and prosecution of public corruption. Her administration has moved to aggressively root out corruption in our schools and local governments and continues to punish criminals who steal from Nassau County's honest taxpayers.

Rice has revamped bureaus dedicated to the protection of children and the elderly and to the prosecution of domestic violence. Rice has added specialized resources to the investigation of identity theft rings and consumer frauds and she has formed a specialized unit dedicated to the investigation of Medicaid fraud, the first of its kind in Nassau County.

Prior to becoming the first woman in Long Island's history to be elected district attorney, Rice served as an Assistant United States Attorney under Attorney General Janet Reno in the United States Department of Justice's Philadelphia office. During her more than five years as a federal prosecutor, Rice prosecuted cases of corporate fraud, deadbeat parents and public corruption, as well as federal drug and gun cases.

Rice began her career as a prosecutor in the Brooklyn District Attorney's Office, where she prosecuted cases of domestic violence, sexual assault and armed robbery, before being promoted to the office's elite Homicide Bureau, where Rice successfully prosecuted dozens of murder cases.

Rice has received numerous awards and recognition for her service as a state and federal prosecutor. Rice has been the recipient of the United States Inspector General's Integrity Award and the United States Attorney General's Director's Award for Superior Performance as an Assistant U.S. Attorney. As District Attorney, Rice has been honored by Touro University, the North Shore Animal League, the National Organization of Women, and 100 Black Men of Long Island, as well as many others.

Rice is the President-Elect of the District Attorney Association of the State of New York, a member of the New York State and Nassau County Women's Bar Associations, the National District Attorneys Association and the New York Women in Law Enforcement. Ms. Rice is also a member of the Board of Governors at Touro Law School and a board member of New York Prosecutors Training Institute, Inc.

Kathleen Rice is a graduate of Garden City High School, Catholic University of America and Touro Law School. She is a resident of Garden City, New York.

Kathleen Rice Testimony
The Chief Judge's Hearings on Civil Legal Services
Nassau County Supreme Court
October 4, 2012

Thank you Chief Judge Lippman, Judge Prudenti, Judge Mastro and former state Bar Association President Standard for your invitation to be here today and for your admirable concern for…and dedication to…our state courts' steadfast commitment to access, fairness and superior legal representation for all New Yorkers.

Now some people out there may not understand how someone like me…a criminal prosecutor…fits into a proceeding like this…a hearing on *civil* court access and representation.

Thankfully, under the guidance, and with the vision of this esteemed panel, those of us in this room – and those working on this issue across the state – *do* understand why this issue matters to law enforcers and to progressive criminal justice policymakers like myself.

DAs like me are truly fortunate to have judicial and state bar leadership who understand the interplay and the connections between local and state public policy, our civil courts, our criminal courts, and our various jurisdictional law-enforcement and criminal justice theories.

As our court leadership and likeminded advocates like myself know, New York needs comprehensive, multi-disciplinary public policy responses to complex individual and family cases that in many instances will not only dictate the future of a life, but also the safety of that person's community or family.

Our courts – both civil and criminal – often fall at the nexus of our government's public policy breakdowns. They often serve as the last stop in a long, vulnerable, tortured road for someone who needs our help. They are frequently the setting for our community's last stop for helping litigants achieve remedy…the last stop for protecting members of our community from wrongdoing…from injustice.

Our courts in many ways also represent the pillars of our nation's greatest commitments: to fairness, to equality, to justice.

They can also represent a microcosm of our state's unparalleled appreciation for reformation and transformation…for second chances…for dispositions that honor the wealth of the human contribution and the value of each of us to our communities, no matter their condition, their past, or their wealth.

Courts are, the guardians of our nation's promise to value people more than it values politics, power or process.

At the heart of that commitment is *access*. Equal access. Access without regard for wealth or social standing…court access and access to professional counsel…access and counsel that uphold the spirit of what we have promised to each other and what we say to the world, and access and counsel that acknowledge both the role the courts play in the lives of our people and, also, the unfortunate moments in their lives in which the courts are of most importance.

Access to civil courts and legal counsel for indigent New Yorkers don't only uphold our commitment to fairness and justice, they also make more real our search for broader, more sustainable public policy solutions to some of New York's most vexing challenges.

When this access is denied, we have broken our promise to each other. We have failed to live up to the standard of our nation and of our social contract.

And, let us be clear, when that access is denied or when professional assistance is made unavailable, we have made our communities weaker, more dangerous places.

Because courts don't only serve as the *last* line of defense, they are also frequently the *first* line of security against victimization.

They are also the *first* line of prevention against exploitation.

They are frequently the *first* opportunity for remedy of what could eventually turn into disaster.

Courts are, therefor, not only the *adjudication* of public policy and societal failures, but also many times the *gateway* to them. And that's why I'm here today…to support your attempts to shutdown that gateway and reaffirm and support unfettered civil court access and legal representation as a way turn lives around and strengthen New York communities.

I'm here to support a theory and a belief that access to civil courts and legal counsel can often close that gateway to future personal or public safety crisis for many New Yorkers.

Improved civil court access can make these courtrooms the first – and *last* – stop for families in distress, rather than the first stop in what is all too often a long continuum of personal and community suffering. Access and quality representation for all those in front of the court is at the heart of a preventative, front-end public safety strategy.

As a DA, without such a strategy and without such civil court access and representation, I can tell you that our communities will be more dangerous and we will be eschewing a sustainable model with a long-term vision, for a theory that will continue to repeat public policy failures at great financial and human cost to New Yorkers.

The most obvious scenarios in which civil court access and success can help dissolve future public and private crisis center around family settings. Whether they are matrimonial or family court proceedings, or whether they are in integrated parts or child custody cases, these fluid, dynamic cases are frequently the first interactions with situations that can deeply disturb families and eventually pose grave safety risks to the litigants involved.

We see the results of these failures in our domestic violence courts and in the victim care rooms of our child advocates and child abuse prosecutors.

Failing these families and these children in civil court by not guaranteeing their access or their professional representation sews the seeds of future criminality…future criminality that will not only victimize those involved in these settings, but that will very often cascade down a violence spectrum…possibly even to future generations.

Another typically civil court issue with a public safety impact is in housing.

Foreclosed and abandon homes erode the cohesion and physical state of safe neighborhoods and provide easy targets for those seeking illegal shelter or to those looking to steal from, or vandalize, these properties.

Access and professional representation in our civil courts can mitigate the impact of our nation's foreclosure crisis…a crisis that has, unfortunately, hit our community on Long Island especially hard.

By guaranteeing access and representation to litigants in foreclosure situations, we can better help law-abiding families stay in their homes and we can keep neighborhoods cohesive, inhabited and vibrant. These qualities are frequently the cornerstones of neighborhoods that are also *safe* neighborhoods.

The connections between family and housing crisis, and the eventual crisis in the public safety and criminal justice community are unmistakable. Guaranteeing court access and representation at the earliest stages and the eventual outcomes of these legal matters is equally related.

That is why I am here today: To make sure that our state understands these relationships…to make sure that we understand the *opportunity* we have in front of us, and, also, the *price* we will pay for inaction.

The public safety price we will pay for eroding access and representation in these courts is steep, and the moral price of such erosion is unaffordable.

It is my sincere hope that other DAs will join me in supporting civil court access and guarantees of representation. It's smart on crime, and it's this type of forward-thinking progressivism and comprehensive understanding of modern criminal justice theory that I believe will mark the future of the 21st Century prosecutor's job.

Here Nassau County, I've tried to breath some of that preventative, community-oriented, progressive style into our local criminal justice system.

Whether it's our involvement in re-entry for ex-offenders, our drug-market diversion initiative – which has since been adopted by DOJ, our creation of a one-stop social services access point for the community, our mentorship programs, our development of a peer counseling network for those with justice system interactions, or whether it's our work with the court system in setting up a youth court or a veterans court…I want those allies and advocates of criminal justice reform – including improved civil court access and representation – to know that they have a partner in our county.

I'm proud to support and defend civil court access because it fits in with our commitment to prevention, our need to address the root causes of crime, and our focus on the type of long-term crime reduction strategies that work, and that help us dismantle the revolving door system of decades' past.

Thank you for your time and attention. And thank you for coming to Nassau and hearing from us the ground about how we can best keep our neighborhoods and families safe.

Dean Patricia E. Salkin

Touro College Jacob D. Fuchsberg Law Center

Touro Law Center Dean Patricia E. Salkin's Testimony on Collaboration in Legal Services Before Chief Judge Lippman's Panel on Unmet Need for Civil Legal Services in New York State At Nassau County Supreme Court, Mineola NY

October 4, 2012

Good morning Judge Lippman, Justice Prudenti, Justice Mastro and Kenneth Standard. I am Patricia Salkin, the newly appointed dean at Touro Law Center in Central Islip, NY. Next to me is Thomas Maligno, the executive director of the William Randolph Hearst Public Advocacy Center and director of Public Interest at Touro Law Center. Tom has a 37 year history of working in legal services and is a nationally recognized expert in pro bono. I appreciate this opportunity to testify on the need for legal services and how, based on the significant experience of Touro Law Center, we believe that collaboration is a successful method to help meet the existing critical needs.

The foundation of the delivery of civil legal services really rests upon our State's ability to ensure well-funded staffed programs in which dedicated and trained professionals can concentrate solely on the issues affecting the poor and disenfranchised, and increasingly a middle class also unable to access civil legal services. We at Touro Law Center believe that the experience and information we have developed through a unique law school-based collaborative and partnership model with our colleagues in the advocacy community can inform future strategic thought leadership in achieving our shared goals. As I will share with you shortly, the Touro Law Center model has proven to help leverage resources; assist in adding the special tools that a law school can bring to legal service providers and to policymakers and lawmakers; and most importantly help to educate students, the future of our not only our profession but future leaders in civic affairs and government, on the skills necessary to serve the poor and the ethical obligations and social responsibilities we all have as stewards of the rule of law.

The Need

Let me first address the need, focusing on Touro's local community and the factors that can often complicate the delivery of legal services. The U.S. Census Bureau's Small Area Income & Poverty Estimates program estimated that 96,067 persons in Suffolk County (6.6% of the total county population) lived below the federal poverty level in 2010. In addition, the 2010 Census Bureau reports that 20% of homes in Suffolk County speak a language other than English at home and 14% of the population is foreign born.

According to the NYS Unified Court System 2010 Annual Report (the most recent available), the Suffolk District Courts handled 10,160 evictions that year, the highest of any county or city outside New York City, and this did not even include the caseloads of the Justice Courts, which handle all of the evictions in the 5 eastern most towns.

The foreclosure crisis has hit Suffolk County harder than any county in the state and, according to the Federal Reserve Bank of New York's *Regional Mortgage Briefs*, as of March 31, 2011, 12.5% of Suffolk homes were seriously delinquent or in foreclosure. The situation is worst in poorer communities, where the rate of homes with a mortgage that was seriously delinquent or in foreclosure was as high as 20%. The impact upon these neighborhoods is severe, and overall property values suffer as a result. The Neighborhood Economic Development Advocacy Project analyzed Department of Financial Services data on 90-day pre-foreclosure notices issued in 2011 and, in its January 2012 report, found that with 52,378 notices issued, Suffolk County had by far the highest number in the State (15% of the statewide total.) The foreclosure crisis hits the low income population of Long Island in two ways. Those who purchased homes with unconventional or predatory mortgages during the mortgage "boom" are losing their homes in record numbers, at the same time that non-delinquent tenants are being evicted from their homes because the landlord's mortgage has been foreclosed.

Given the above statistics, it is not surprising that on one cold night in January 2012, staff and volunteers of the Suffolk Continuum of Care, led by the Long Island Coalition for the Homeless, counted 2,468 homeless persons in Suffolk County. Of these, 1,856 were in families with children, and 282 were veterans. These are only the individuals the shelters were able to account for or the volunteers were able to find in areas where homeless are known to congregate. There is no way to calculate the exact number, but we know it is far greater that the number than counted on that date.

The Needs Not Being Met

As this committee is well aware, every study conducted on the lack of access of the poor to legal services demonstrates that less than 20% of the need is being met. In the last ABA study, conducted in 2006, it was reported that less than 20% of the civil legal needs of the poor were met. In Suffolk County, Nassau Suffolk Law Services, the largest provider of civil legal services in our community, reports similar statistics. According to the New York State IOLA fund, these other agencies also provide civil legal services in Suffolk County (waiting for IOLA report).

It was with these statistics and background in mind, and with the intention of partnering with our advocacy colleagues to assist the community and at the same time provide our students with practical skills based learning opportunities, Touro Law created the William Randolph Hearst Public Advocacy Center five years ago when we moved into our new state-of-the-art facility in Central Islip.

What is the Public Advocacy Center?

The William Randolph Hearst Public Advocacy Center was an experiment in legal education created by Touro Law Center in 2007. The Center, which fosters a unique partnership between Touro Law Center and local not-for-profit agencies, was designed to provide a unique educational opportunity and training for our law students while having a real-time impact on social justice, legal resources, and the lives of countless individuals in and beyond the local community.

Housed within the law school, the Center provides furnished offices to local non-profit agencies at no cost. While the services of each agency are varied, each participating non-profit must develop a plan to engage Touro Law students, who then can work with the organizations to satisfy their pro-bono requirements while developing an understanding of the problems facing the local community, within local, statewide and national contexts. We are the only law school in New York and in fact, in the country, to offer such an innovative program.

What led Touro Law to Create the Public Advocacy Center?

Touro College Jacob D. Fuchsberg Law Center offers a progressive curriculum rich with practical learning opportunities to a student body that is engaged in the community and in the world around them. Taking advantage of our location adjacent to both a federal and a state courthouse, we offer innovative courses for law students that bring together the academy, the bar and the bench to ensure that students are prepared for the practice of law. Collaboration is the cornerstone of the success of these programs. And our curriculum is dependent on such collaboration as we continue to develop more opportunities to involve the bar and the bench in teaching our students about the realities of practicing law in today's ever changing, global society.

Our law school has a rich tradition of teaching the moral and ethical obligations of law while promoting social justice and community service. Touro Law was among the first law schools in the country to require pro bono service hours of students, mandating 40 hours, and up until Chief Judge Lippman's recent new mandate on pro bon, we were only one of two in the state to have instituted the requirement. To further this early mission, Touro Law planned for and built a wing of the new law school building to be dedicated to our model Public Advocacy Center. This Center is now a working example of collaboration of legal resources to serve the community and opportunities for law students developing a sense of professionalism and responsibility to serve the community. As I mentioned, it's the only one of its kind in the nation, and serves as a statewide and national model for successful collaboration of legal resources to serve the community while providing hands on opportunities for law students.

I should also note, that without the space in our building, many of these nonprofit legal services providers - who operate sometimes on a month-to-month basis when it comes to revenue streams to support the critically important work they do – would likely have closed their doors for service in Suffolk County because of the overhead and infrastructure costs of office space. The typical not-for-profit agency in Suffolk County is paying between $20 and $25 per square foot for rental of office space. The PAC consists of 2,732 square feet of office space, saving approximately $61,470 per month.

A Description of The Public Advocacy Center

The Public Advocacy Center has proven to be a powerful partnership with our law school --the agencies working within the PAC have seen many benefits and the PAC has provided enhanced legal educational opportunities for students.

The PAC has enabled Touro Law students the ability to learn about the way public interest law works. This doesn't mean that all of our students will become public interest lawyers, nor do we want them to, but because public service is every lawyers' responsibility we at least want our students to have a first-hand look at how it works. We choose agencies for the PAC that present our students with a diversity of subject matter (landlord tenant, immigration law, education law, to name a few) and a diversity in the way they provide services. We want student to understand that not every public service lawyer goes to court every day - some conduct administrative hearings, some organize community education, some draft legislation, some do research and advocacy, while others do represent clients and bring class actions. The point is for our students to see the variety in areas of practice and provision of legal services.

Our students can be involved in the PAC through several avenues – either working with agencies to complete their pro bono requirements, for academic credit or for pay through work study, through a funded fellowship or, occasionally, by being paid by the agency itself.

A critical part of developing the PAC into a successful model for delivering legal services and enhancing legal education was the integration of the PAC into the academic life of the law school. This has been achieved in several ways:

- PAC attorneys have become adjunct professors, teaching classes at Touro Law that incorporate the practical work of their affiliated agency
- Law school professors have utilized the PAC agencies by bringing them in as guest speakers or by tying their classwork to the work of the PAC agencies
- Professors have been engaged in the work of the PAC agencies – for example one professor is now on the Board of Directors of a PAC agency

In addition, Touro Law's policy is to allow PAC agencies, as well as other outside organizations, to hold conferences and meetings in the building at no charge, only the promise to allow Touro Law students to attend the events at no charge. This philosophy has brought major conferences and smaller meetings to the building that have had an impact on our students – as well as legal services provided. For example the Keys to the Homeless Conference annually brings 500 advocates, community leaders to the school to talk about legal, social and political issues that surround homelessness – and our students can participate. In many cases, the students have presented panels or led discussions as part of these public events – assisting in both their legal education and their connections to the community.

Benefits Beyond Those We Planned

A true Center for public service housed within and working with a law school has obvious benefits. However, there are other benefits that have and continue to occur that should not go unnoticed.

- More agencies than can be housed in the PAC applied for space, resulting in a dedicated group of affiliate agencies. These affiliate members meet with PAC agencies regularly and enjoy the benefits of collaborative working partners, although they are not housed within the law school. As a result of this dynamic group of agencies who strive to work together to provide legal services efficiently and effectively some great things have happened – clients are able to walk down the hall from one service provider to another to get a complete legal solution, agencies are working together to service clients most effectively and are aware of each other's work through regular updates.
- The Center, and as a result, Touro Law Center, has become known within the local community as an effective resource. Many agencies have partnered together on initiatives to serve the community and the PAC has been called upon to provide solutions and/or guidance.

Funding

- Funding for legal services on Long Island has increased as a direct result of the PAC: some PAC agencies never had funding for a Long Island or Suffolk County office, but received funding in order to be part of this venture and other money came in the form of grants written jointly with

various agencies in the PAC, individual donations, private foundations and government agencies have all contributed to the effort.

- We are not here to replace staff legal services programs – not only are they our largest partner and strongest in the PAC, but they are the main placement for our students who do public service work and fellowships. Some of the best experiences our students get are at agencies that need to be funded in a strong and appropriate way. We have strived not to compete with civil legal services funding for resources but have attempted to bring new sources of funding and infrastructure support for the work that we all do.

The Future

Lastly, Touro Law Center is honored that Chief Judge Lippman has designated our former Dean and Professor of Law Lawrence Raful as the point person for the implementation of the new 50 hour pro bono requirement. We know that Professor Raful, working with the PAC, will play a leadership role for New York and the country when it comes to pro bono. We plan to work on, among other things, a guide to best practices to assist in the development of working relationship between law schools and public interest providers.

As the new Dean, part of my vision for Touro Law Center includes strengthening our commitment to the PAC and to research and advocacy to ensure the provision of civil legal services necessary to satisfy unmet needs. I invite each of you to visit Touro Law Center and the PAC, and I urge the Office of Court Administration to further examine our model and to partner with us to further our knowledge and nurture advocacy and thought leadership so that together, we can make a meaningful difference. Thank you for the opportunity to share these comments today.

Pamela Sandousky

Client of Nassau/Suffolk Law Services Committee, Inc., accompanied by Hannah Abrams

Testimony of Ms. Pamela Sandousky
Client-Nassau Suffolk Law Services Before

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. William F. Mastro, Acting Presiding Justice of the Second Department
Hon. A. Gail Prudenti, Chief Administrative Judge
Seymour W. James, Jr., President of the New York State Bar Association

Second Department
Public Hearing
Supreme Court, Nassau County
100 Supreme Court Drive
Mineola, New York

My name is Pamela Sandousky. I am currently reside in Southampton, New York. I am originally from California, was reared in New Jersey, and came to New York to study marine biology at Southampton College. After college, I never left the area.

I was married, but have been divorced for eight years. My ex-husband got the house we lived in as part of the divorce settlement. That house is now in foreclosure. After the divorce, I became a renter. I am a single parent of two children.

My legal woes began in June 2012. I was sent an email from my landlord that I was to vacate the premises in 30 days, by July 4th. She also put a paper on the fence, requesting that I vacate the premises. She did this because I was behind in some of my rent payment. You see, my ex- husband, who had moved to Florida, lost his job, and was behind in support payments. I was unable to make the payment on my salary alone.

I started making phone calls to see if the landlord had the proper rental permit, and if she had outstanding code violations. I also made phone calls to see if I could get assistance in handling this matter. I called the Southampton Town Attorney's office and the town attorney referred me to Nassau Suffolk Law Services.

I called Ms. Hannah Abrams, and she agreed to assist me. Serendipitously Law Services received funding from the Office of Court Administration, which enabled them to fund an attorney to represent clients like me in landlord tenant proceedings in the east end Justice Courts. Ms. Abrams was the attorney assigned to that position. This was a great relief because I received this notice in the middle of the summer. I knew how difficult it would be to find affordable, long term housing in Southampton in the summer.

After I received the notice, the landlord made our life miserable. She turned off the utilities. She disconnected the cable and Internet. The police were called several times. This disruption marred the celebration of my daughter's high school graduation. In the midst of all of this, we were planning a celebration for my daughter, guests were invited from out of town, and we had to deal with the turmoil of being evicted from our home.

I met with Ms. Abrams twice before going to court. She reviewed all the relevant documents with me, and researched the rental permit statutes and code violation statutes.

Ms. Abrams represented me in court. First, the landlord claimed I owed her $3500. She claimed I owed back rent and utilities. Then, she dropped the case.

The landlord refilled the case five days later saying I owed her more than $10,000. She claimed as a result of my non payment she had incurred other expenses. During questioning the judge determined that the he did not have jurisdiction over the matter because I was improperly served the prerequisite rent demand. The judge declined to determine whether the landlord did or did not have the proper rental permit or accessory apartment permit until I decided whether I wished to waive the defense that had surfaced during cross-examination of the landlord. Ms. Abrams advised me of the advantages and disadvantages of having the case dismissed at that point in the proceedings. She explained that I could still be sued in Small Claims Court for the other alleged expenses the landlord claims she incurred. I asked that the case be dismissed.

The matter is not settled. I now have to face the landlord in Small Claims Court. However, with the advice given to me by Ms. Abrams, I went to the town attorney and the code enforcement division to inform them that the landlord was renting the apartment without a rental permit and the required accessory apartment permit. As a result the town has cited her for numerous code violations. They said that they rarely follow up on cases like this because tenants ordinarily do not have the proper documentation, or knowledge of the relevant law and statutes. Had it not been for Ms. Abrams legal counsel, I would not have known what the law was, and what recourse I could take.

My landlord was unscrupulous. Rather than to cooperate with me, until I could stabilize my financial situation, she chose to try to evict me, a single mother, with two children.

Thank goodness, I have now have a place to live. Hopefully I will prevail in Small Claims Court. But at the very least, the landlord will have to face consequences for her actions. Without Nassau Suffolk Law Services, I shudder to think what could have happened to me and my family.

Respectfully submitted,
Pamela Sandousky

William C. Silverman, Esq.

Greenberg, Traurig, LLP, Shareholder and Head of Pro Bono Program

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William C. Silverman's practice focuses on government investigations and white collar criminal matters, as well as complex civil litigation in federal and state courts. Before joining the firm, Bill served as an Assistant U.S. Attorney in the Southern District of New York, where he led criminal investigations, conducted trials and handled Second Circuit appeals. In 2001 he was recognized by the Department of Justice for superior performance in connection with a month-long Racketeer Influenced and Corrupt Organizations (RICO) murder trial that resulted in four life sentences. While at the U.S. Attorney's Office, Bill also worked on a number of white collar matters, including a health care fraud prosecution arising out of a network of medical and chiropractic clinics in Westchester County, New York.

Prior to the U.S. Attorney's office, Bill practiced at a national law firm and served as a law clerk to the Honorable Louis L. Stanton, U.S. District Judge for the Southern District of New York.

Bill is head of Greenberg Traurig's pro bono program in New York. In that capacity, he has helped spearhead a partnership among several law firms, corporations and the New York City Family Court to provide free legal advice to *pro se* litigants.

Areas of Concentration

- White collar criminal defense
- Complex civil litigation
- Internal investigations
- Securities litigation
- Antitrust
- Product liability

Professional & Community Involvement

- Counsel, New York State Anti-Trafficking Coalition
- Member, Board of Directors, The Fund for Modern Courts
- Member, Board of Directors, The Children's Law Center
- Member, Board of Directors, Legal Information for Families Today (LIFT)
- Member, New York County Lawyers' Association (NYCLA) Task Force on the Family Court

Awards & Recognition

- Recipient of the Above and Beyond Award for Excellence in Pro Bono Service from Sanctuary For Families, 2008
- Recipient of the Commitment to Justice Award for Outstanding Partner from inMotion, 2008
- Recipient of the Matthew G. Leonard Award for Outstanding Pro Bono Achievement from MFY Legal Services, 2007
- Recipient of Director's Award for Superior Performance from the Department of Justice, 2001

Previous Experience

- Assistant United States Attorney, Criminal Division, Southern District of New York, 1997-2002

Clerkship

- Law Clerk, Judge Louis L. Stanton, United States District Court, Southern District of New York, 1992-1994

Articles, Publications & Lectures

Publications

- Co-author with The Hon. Robert S. Smith, Associate Judge of the New York Court of Appeals, “Venue,” chapter in *Commercial Litigation in New York State Courts* (West 3d ed. 2010)
- Co-author, "Time for Supreme Court to Rein in Expansion of Civil RICO," *New York Law Journal*, April 12, 2006

Education

J.D., *cum laude*, New York University School of Law, 1992

- Note and comment editor, *New York University Law Review*

B.A., American History, Brown University, 1989

Admitted to Practice

- New York
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York

William C. Silverman, Greenberg Traurig, LLP

October 4, 2012

My name is Bill Silverman and I am a Shareholder at the law firm of Greenberg Traurig where I head the pro bono program for the New York office. Prior to joining Greenberg, I served as an Assistant United States Attorney in the Southern District of New York.

I want to thank Chief Judge Lippman for the opportunity to address this Panel. I am going to discuss today a legal clinic in New York City Family Court that has made a great impact. With the help of technology and additional support from the private sector, I believe it holds even greater potential as a model for the entire state.

Since fall 2006, thousands of low-income families have been helped by an innovative pro bono project run by the New York City Family Court in partnership with firms and companies. This project, in my view, is administering a much-needed jolt to a system with a large number of unrepresented litigants and, especially given recent budget constraints, a lack of adequate resources. There is no adequate substitute for being represented by counsel and I do not mean to suggest that this project somehow equals the work of civil legal services attorneys. This project does, however, serve a critical need.

The premise is as simple as the impact is great. Attorneys from major law firms and in-house legal departments -- specially trained by court personnel -- provide one-on-one sessions for unrepresented litigants lasting about 30 minutes on a variety of legal issues. Approximately half of the clients seek advice about child support while the rest ask questions relating to paternity, visitation, custody, guardianship and related issues. Once the one-time session

concludes, the representation ends and the volunteer attorney then meets with the next litigant. Over the course of a morning or an afternoon, an attorney can help five or six litigants in what is best described as legal triage.

Why the need for triage? The numbers speak for themselves**.** There are 143 Family Court judges in New York State handling over 700,000 new filings each year. Significantly, while the number of family court petitions has increased over the years, the number of family court judges has not kept up. In fact, there has not been a new Family Court judgeship created in New York City in over 20 years. There is simply no question that the Family Court needs greater resources to meet the needs of thousands of low-income litigants dealing with issues vital to the safety and security of their families. I should also add that this is not a New York City issue. The challenges facing unrepresented litigants in Family Court are statewide issues and therefore require statewide solutions. We -- now I'm speaking for the entire private sector -- need to do more.

The project started small but has expanded rapidly. In 2006, Judge Joseph Lauria, who was in charge of the New York City Family Court at the time, approached me during a meeting about a different pro bono project with the idea for this legal clinic. With his support and the support of then Chief Judge Judith Kaye and then Chief Administrative Judge Lippman, the project got off the ground. We started in a small room with two chairs in the Brooklyn Family Court, and were initially staffed by attorneys from five law firms and Citigroup.

Today we have over 200 volunteer attorneys from 34 law firms and companies working in every borough but Staten Island. And we have not forgotten about Staten Island, which is in great need of this service as well. Thanks to the leadership of Judge Fern Fisher, and with the

help of Pro Bono Net, we will be expanding to Staten Island in January. Our volunteer attorneys will be in Manhattan and they will communicate through Skype or similar computer technology with unrepresented litigants in Staten Island.

This is an exciting development. It is a great example of partnership and close collaboration among the private and public sectors. We are all united by a joint interest in securing due process for all litigants, whether the dispute is commercial or personal, whether the litigant is rich or poor, and whether represented or unrepresented. We, again speaking for the private sector, need to view this not simply as helping individuals in need (which is, of course, important), but as fulfilling a crucial bigger-picture role in helping to ensure that we have a meaningful system of justice, from which we all benefit.

I am hopeful that Staten Island is just the beginning and that it will serve as a model for all of New York. Through the expansion of this project we will hopefully be able to serve a large number of unrepresented litigants in places where there simply are no local pro bono attorneys available. To do this right and on a meaningful scale it will require additional commitments from the private sector as well as close coordination with public service organizations and law schools. Every family court in this state should have pro bono assistance of some kind available to unrepresented litigants, even if on a limited basis. In some venues we can accomplish this through local attorneys but where we cannot do so we must bring our volunteer lawyers to the litigants through computer technology. This may sound a bit daunting but it is absolutely doable and, in fact, it is underway. We are looking at other venues now and will be announcing additional expansion plans soon.

I would like to use my remaining time to explain in a little more detail why this project has been so successful and outline what will be critical to its expansion.

Impact. The time required from each individual attorney is modest -- as little as a few hours a month -- and does not entail bringing any work back to the office. Yet, even with this limited commitment, the attorneys make a big difference. Walking into the session, a client, often with much at stake, typically has little understanding of the law, and is almost always disorganized. Walking out of the session, a client has a better sense for what to say in court, what to bring to the next proceeding, and what relief is available. There is no question that the litigants are in a better position after speaking with a volunteer attorney than they would have been in the absence of legal advice even on this limited basis.

A strong commitment from the court. This project works because of the court's willingness to devote scarce resources to the project. The vocal public support from court leadership has been essential. For example, early in the project a letter from Chief Judge Kaye appealing for support among firms helped our recruitment efforts dramatically. This direct partnership between the court and the private sector has worked well and we need to build on it.

A meaningful training program. Volunteer attorneys complete several hours of training conducted by judges, referees, magistrates, and family law practitioners. Volunteers also sit in on court proceedings before meeting with clients.

A supervising attorney on site. We have great attorneys, employed by the court and experienced in all aspects of family law and practice, who supervise the project, screen the litigants and answer questions raised by the volunteer attorneys. In fact, if I had to point to a

single reason for this project's success I would have to single out Angela Britton, a court attorney on this project from the beginning whose dedication and professionalism is an inspiration to all of us associated with the effort. These court attorneys not only answer questions of the volunteer attorneys but also maintain a library of legal and social services resources for the litigants. In short, having a strong supervising attorney available on site provides the volunteer attorneys (who typically have no family court experience) with a certain comfort level as they provide the legal advice court personnel are prohibited from dispensing. This comfort level -- also furthered by adequate training -- helps keep attorney attrition rates low.

Given budget constraints within the court system, however, we will have to be more creative as we expand, relying more on public service organizations and law schools to provide support and supervision for our volunteer attorneys. One advantage of a technological expansion is that the volunteer attorneys can be in one central place, which makes supervision easier.

A commitment to the project from each participating law firm and company (not simply from each individual attorney). The firms and companies must be responsible for staffing certain days and must be sufficiently committed to the project. To expand, we will need greater commitments from existing firms in the project as well as commitments from additional firms and companies. Pro Bono Net's technical contribution has been invaluable. We need to partner with other public service organizations as well.

In closing, thank you again for this opportunity to address this Panel. When I was a federal prosecutor I learned that a fair process is as important as a fair result. I learned that an effective system of justice and the stability of society itself depend on protecting the rights of <u>all</u> litigants. After joining my firm and becoming involved in pro bono work, I learned that in

Family Court these basic principles are threatened by the lack of sufficient resources. I would like to stress again that these one-time, limited pro bono representations are no substitute for increasing resources available to the judiciary and increasing access to counsel. The project does, however, provide hope to a large number of litigants who otherwise would have no access to legal advice. More fundamentally, the project is training hundreds of attorneys from big firms and companies not only in the substantive aspects of family law but in the rough and tumble, real-life challenges facing low-income New Yorkers in Family Court. In so doing, the pro bono work here is not as much about the individual case as it is about building momentum for change.

Max Valerio, Esq.

Tsirelman & Valerio P.C.

From: Max Valerio <mvalerio@gtmdjd.com>
Sent: Friday, September 28, 2012 4:43 PM
To: CivilLegalServices@nycourts.gov
Subject: Written Submission for 10/4/2012 Hearing

To whom it may concern:

I am submitting these remarks on a personal basis only. Nothing herein shall be construed to bind or otherwise represent my Firm's opinions or its clients'.

I would like to address the still unmet need for legal representation to the poor. Since my practice is mostly limited to courts in New York City, this will also be the limit of my submission.

In short, whatever amount of money is currently being spent to help unrepresented individuals navigate through their civil cases is largely wasted. These people need actual representation by experienced counsel; anything short of that is useless.

Let me elaborate. There is a vast number of consumer and housing cases currently pending in the Civil Court of the City of New York. Most consumers and tenants appear pro-se. To correct this grave injustice, many organizations provide assistance on a pro-bono basis. This assistance comprises legal information, "tips and suggestions" about what to say at court appearances, "lawyer-for-the-day" representation, and the like. I have personally volunteered through one of these permutations: a free resource center where pro-se litigants could bring their questions or doubts. The center is staffed by a permanent attorney who, to the best of my knowledge, has never practiced in court. For a few hours a day, I would help as many people as walked through the door by explaining their cases is simple terms, by suggesting litigation strategies, and so on. I was explicitly told, however, that under no circumstances could I do anything amounting to actual legal representation. The short version of this mandate is that "we can provide legal information but no legal advice."

Aside from the fiendish difficulty in distinguishing between the two, this model simply does not work. People need attorneys to take their case and represent them in court. They don't need a "walking legal dictionary"! In this day and age, anyone with an Internet connection can find answers to just about any legal question. Unrepresented individuals don't need to come to court to find these answers. When they come to court and seek to speak with an "attorney," their implicit (and sometimes stated) expectation is that that attorney will "do" something, not just "say" something. Similarly, and with all due respect for the tremendous amount and quality of work carried out by staff attorneys, it is questionable whether someone with no experience as a litigator may

provide answers of a depth and scope comparable to a seasoned practitioner's.

The solution, I believe, is straightforward: allocate a sufficient amount of money to create a pool of independent staff attorneys appointed by the courts. For example, assuming an attorney's salary of $80,000 a year, with a relatively low budget of $4M a year the pool would comprise 50 staff attorneys. Since most civil cases present simple legal questions, each of these attorneys could easily handle at least 300 cases a year. By these conservative estimates, $4M a year would buy actual, effective legal representation in 15,000 civil cases.

I personally know dozens of accomplished litigators that would readily jump at the possibility of doing good while earning a reasonable salary, and without having to work the long hours that cause so much attrition in large and small firms alike. I have personally observed and spoken with other volunteer attorneys, and we all agree that it would be great to be able to help people on a daily basis. But, there's only so much free time in a day. My solution, I believe, would be a suitable compromise for everyone: for consumers and tenants, because it would give them, free of charge, the legal representation they want and need; and for staff attorneys, because it would allow them to "do good" while still earning a salary.

Thank you for your consideration. Feel free to contact me at your convenience if you want to discuss these ideas further.

Sincerely,
Max

--
Max Valerio, Esq.

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APPENDIX 14:

Public Notice of the Chief Judge's Hearings Published on the Unified Court System's Website

NOTICE OF PUBLIC HEARINGS

The Chief Judge's Hearings on Civil Legal Services

The Hon. Jonathan Lippman, *Chief Judge of the State of New York, will be conducting his third annual series of public hearings to evaluate the continuing unmet civil legal services needs in all parts of the state and to assess the level of resources necessary to meet those needs. As requested in the June 2010 Joint Legislative Resolution, the Chief Judge will report to the Legislature on the information obtained at the hearings, as well as the continuing work of the Task Force to Expand Access to Civil Legal Services in New York, and will request State funding to meet these unmet needs.*

The Chief Judge will conduct one hearing in each of the four Appellate Division Departments together with the Presiding Justice of that Judicial Department (Presiding Justice Luis A. Gonzalez of the First Department, Acting Presiding Justice William F. Mastro of the Second Department, Presiding Justice Karen K. Peters of the Third Department, and Presiding Justice Henry J. Scudder of the Fourth Department), Chief Administrative Judge A. Gail Prudenti, and the President of the New York State Bar Association, Seymour W. James, Jr.

THE HEARINGS WILL TAKE PLACE AS FOLLOWS:

THIRD DEPARTMENT
Thursday, September 27, 2012..10:00 a.m. to 1:00 p.m.
Court of Appeals, 20 Eagle Street, Albany

FIRST DEPARTMENT
Monday, October 1, 2012 .....10:00 a.m. to 1:00 p.m.
Appellate Division, 27 Madison Avenue, Manhattan

FOURTH DEPARTMENT
Tuesday, October 2, 2012.....11:00 a.m. to 2:00 p.m.
Onondaga County Courthouse
401 Montgomery Street, Room 400, Syracuse

SECOND DEPARTMENT
Thursday, October 4, 2012.....10:00 a.m. to 1:00 p.m.
Supreme Court, Nassau County
100 Supreme Court Drive, Mineola

The purpose of the public hearings is to receive the views of interested individuals, organizations and entities on the following issues:

- The impact of Judiciary Civil Legal Services funding in the amount of $12.5 million for the completed fiscal year of 2011-2012 and in the amount of $25 million for the current year fiscal year of 2012-2013.
- The current state and scope of the unmet need for civil legal services by low income New Yorkers confronting legal problems involving the "essentials of life," including housing, family stability and personal safety in domestic relations, access to health care or education, or subsistence income and benefits.
- The economic and social consequences of the lack of sufficient civil legal services in communities and for the courts.
- The costs and benefits, to the courts and to communities, from the provision of civil legal services in matters involving the "essentials of life."
- The potential for reduction in the unmet need through:
  - Preventive and early intervention services by providers.
  - Simplification of court and administrative processes.
  - Enhanced use of technology, self-help programs, community legal education, non-lawyer advocates, provider collaborations with non-legal entities, and alternative dispute resolution techniques.
  - Regional providers' collaborations and cost sharing.
  - Expanding the availability of pro bono legal services provided by private attorneys and through greater law school involvement in narrowing the justice gap, as well as through creative and innovative development of effective pro bono programs for law students by law schools and other stakeholders in response to the new pro bono requirement for admission to the New York bar.

THE CHIEF JUDGE'S HEARING PANEL WILL CONSIDER BOTH ORAL TESTIMONY (BY INVITATION ONLY) AND WRITTEN SUBMISSIONS. Persons interested in presenting oral testimony or making a written submission are asked to follow the procedures and deadlines described below. Please note that the Hearing Panel cannot accept any comments, written or spoken, addressing details of individual litigation or comments about individual judges or attorneys.

Because of the limited time available for the hearings, oral testimony is by invitation only. If you are interested in being invited to testify at a hearing, you should send an email to **CivilLegalServices@nycourts.gov no later than 14 days in advance of the hearing** at which you propose to testify. **Proposed testimony should be no more than 10 minutes in length.** If requesting an invitation, please (1) identify yourself and your affiliation (and if you are requesting an invitation for someone else to testify, that individual's name and affiliation); (2) attach a prepared statement or a detailed outline of the proposed testimony and specify which of the topics described above will be addressed; (3) indicate at which of the hearings the testimony is proposed to be given. In advance of the hearing, invitations to testify will be issued and will include an approximate time period for each presenter's testimony. For those not invited to present oral testimony, your proposed testimony will be deemed a written submission.

Persons unable to attend a hearing, or those interested only in making a written submission, may submit their remarks by emailing them to:

CivilLegalServices@nycourts.gov at least seven (7) days in advance of the hearing, or by mailing the submission to the **Task Force to Expand Access to Civil Legal Services in New York** at the address below. The Task Force is assisting the Chief Judge in preparing for the hearings and in reporting on its results.

Mail: **The Task Force to Expand Access to Civil Legal Services**
c/o Lara J. Loyd, Esq.
Sullivan & Cromwell
125 Broad Street, NY, NY 10004-2498

Email: **CivilLegalServices@nycourts.gov**

For further information please visit the Task Force's website

www.nycourts.gov/ip/access-civil-legal-services

7-17-12

APPENDIX 15:

Report of the Task Force's Working Group on Law School Involvement

TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP

From the MAY 22, 2012 CONFERENCE

ACCESS TO JUSTICE: THE ROLE OF NEW YORK'S LAW SCHOOLS
A Conversation About The Role of Law Schools In Helping To Meet The Essential Civil Legal Needs of Low-Income New Yorkers

BENJAMIN N. CARDOZO SCHOOL OF LAW
New York, New York

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KEY RECOMMENDATIONS

The Task Force has documented a crisis in the lack of representation for low-income people in the New York's courts, particularly relating to legal matters that bear on the "essentials of life" – eviction, child custody, health care and education. In this report, the Task Force's Law School Involvement Working Group offers recommendations that can make a difference in addressing this crisis. The recommendations describe opportunities for law students, law graduates and law faculty to apply their skills to help close the justice gap.

The contraction of our national economy has pushed millions of people into our courts. At the same time, sharp cuts in funding have impaired the capacity of the courts to respond and have diminished the protective efforts of the legal services providers, our front line institutions that are dedicated to helping people preserve their homes, maintain custody of their children, retain their health care coverage, and secure their children's educational rights. Help is needed from all quarters.

At a groundbreaking Conference sponsored by the Task Force to Expand Access to Civil Legal Services in New York, at the Benjamin N. Cardozo School of Law on May 22, 2012, discussions showcased the broad range of activities New York's law schools currently engage in that improve access to and the quality of justice for low-income residents. Indeed, the Conference closely followed the May 1, 2012 announcement by New York's Chief Judge that people seeking admission to the New York Bar will be required to complete 50 hours of *pro bono* service. This new rule recognizes the value of engaging future lawyers in meeting the real world needs of vulnerable people in our justice system.

The Conference also revealed the law schools' opportunity to do more. Six Key Recommendations emerged from ideas discussed by the four concurrent Conference Work Groups that, if adopted, would:

- Include law schools in regional planning processes to guide law students toward areas of greatest need;
- Establish an annual conference to encourage and promote communication and collaboration among the law schools and legal services providers, the courts and the bar, to further efforts to meet the civil legal needs of low-income residents in our State;
- Create online systems to match law students and providers, track students' work and hours, gather feedback, and measure outcomes;
- Establish a New York State Uniform Student Practice Order (consistent with the practice in the other 49 states);
- Support recent law school graduates as they establish new law practices that serve low-income clients and respond to the justice gap; and,
- Educate law students about the justice gap and equip them with the skills needed to provide *pro bono* services to low-income clients as students and throughout their careers as attorneys.

RECOMMENDATION 1:

Law Schools Should Participate in Regional Planning to Respond to the Justice Gap

A. Establish a Law School Access to Justice Council to Provide Better Cooperation and Collaboration Among Schools and with the Broader Justice Community

No regular channels exist through which to coordinate the access to justice activities of the State's 15 law schools, dozens of legal services providers, numerous courts, bar associations and private firms (*see* Exhibit 5, Maps of New York's 13 Judicial Districts showing proximity of law schools in relation to legal services providers and bar associations). Law schools should be regular and active participants in state and local planning and coordination initiatives, including those undertaken by regional bar associations, task forces and the court system.

New York's law schools should establish a Law School Access to Justice Council that would help link the schools with each other and other stakeholder institutions to foster coordination and collaboration in programs that provide access to justice to low-income or vulnerable New Yorkers confronted with legal matters implicating the essentials of life. The Council would be comprised of a representative from each law school and representatives from major bar associations, the courts and the legal services community. The Council should work to increase the law schools' involvement in responding to the justice gap and to focus law school programs on areas of demonstrated need.

The Council's specific activities would include:

●Coordinating Law Student Initiatives
The Council will promote development of programs to involve law students in the response to a) statewide or regional legal needs, such as foreclosure and domestic violence and b) short term or one-time needs, such as the 9/11 Victims' Compensation Fund (enabling victims to file administrative claims on line) and the Deferred Action Childhood Arrivals program (protecting certain immigrants from deportation).

●Promoting Best Practices
The Council will organize events to promote best practices for law student initiatives.

●Promoting Curricula Innovation
The Council will create resources for curricular innovation in substantive law that affects low-income clients and practice skills that are central to the effective representation of low-income clients.

●Promoting Communication
By communicating about civil legal needs in specific communities, legal services providers, school officials, law students, the courts and the bar can work jointly to coordinate delivery of critical legal services to vulnerable individuals, at once maximizing efficiencies and bridging the justice gap.

B. Create Access to Justice Committees at Each Law School

Law schools are complex institutions, engaged in dozens of initiatives to improve access to justice in their communities, including public service projects, clinics, externships, centers and institutes and unique initiatives pursued by faculty members. While this creates a rich and varied environment for students, it is not always apparent who to contact or how to access the resources of the law schools. Likewise, the imperatives that inform the development of initiatives at law schools may not correlate with the imperatives of the courts and/or legal services providers. Therefore, the creation of an Access to Justice Committee to improve communication with all justice system stakeholders and improve access to justice planning within each school is recommended. Each school's Committee would designate a representative to serve on the New York State Law School Access to Justice Council described in Recommendation 1 (A) above.

C. Create an Access to Justice Law School Webpage with a Portal on the New York State Law School Access to Justice Council (Recommendation 1[A]) Website

Each school should establish an Access to Justice webpage to inform the public--and legal community--of the range of activities undertaken by the law school, enabling members of the public and justice system to understand how the law school's efforts to bridge the justice gap. By

collecting this information on a centralized website, maintained by the Access to Justice Council, a statewide law school network will be established that will improve access to justice.

RECOMMENDATION 2:

Establish an Annual Conference to Continue the Dialogue on the Law Schools' Efforts to Bridge the Justice Gap

Working in conjunction with the Law School Access to Justice Council, and each law school's Access to Justice Committee, the Task Force to Expand Access to Civil Legal Services in New York, will host a conference for law school deans, faculty and students, legal services providers, representatives of the courts and members of the bar to promote regular communication and coordination among the law schools; to identify curricular innovations that address skills and practice unique to the needs of low-income litigants; highlight programs and projects in which law students effectively respond to the civil legal needs of low-income people in the community; and, promote greater understanding of competing interests that impact the delivery of civil legal services.

Each year, the Conference would study the impact of the law schools' civil legal services work, compare programs and service models, discuss prospects for expanded collaborations and exchange ideas and information concerning curriculum relating to the representation of low-income clients. The 2012 Conference demonstrated the need for a forum where the law schools, legal services stakeholders, the courts and the bar can engage in open dialog on how to best serve the civil legal needs of low-income New Yorkers.

RECOMMENDATION 3:

Create an Online Clearinghouse to Match Students to *Pro Bono* Opportunities and Enhance Online Services to Track and Support Law Student *Pro Bono* Work

An "Online Clearinghouse for *Pro Bono* Opportunities" would serve as a unified conduit for providers and courts to post *pro bono* opportunities open to law students, simplifying the myriad processes and avenues that law students - - and law school administrators - - must currently navigate to identify appropriate *pro bono* placements. The new rule requiring that applicants to the New York bar perform 50 hours of *pro bono* service, in law school or post-graduation, underscores the importance of a ready database that would serve as a "marketplace" for *pro bono* opportunities.

A streamlined system can be implemented through enhancements to existing software platforms to enable a systematic matching of students, based on their individual profiles to appropriate, open positions. With increased technological capacity, the courts and legal services providers will be better equipped to integrate large numbers of students into volunteer initiatives that have maximum impact in areas of demonstrated unmet need. It would be prove especially valuable when hurricanes or other disasters occur that require hundreds of students from multiple

schools to respond to victims' needs. The law schools—and other stakeholders—will also be better positioned to gain an accurate understanding of the true breadth and nature of the impact.

Certain features of the existing foundational platform in use by providers can be leveraged to support law student *pro bono* throughout New York State including:

- *Pro Bono* Opportunities Guide: searchable database of *pro bono* providers
- New Case Summaries: describes individual cases or projects in need of staffing
- Calendars: comprehensive statewide calendar of events and trainings
- Libraries: can be used to aggregate high quality training and best practice resources
- Listservs/Message Boards: allow *pro bono* volunteers and service providers to share questions and expertise.

As a complement to the "clearinghouse" function, online systems can help perform certain related tasks essential to the administration of *pro bono* work, such as enabling students, providers and law schools to track hours of service, to gather feedback from students regarding the quality of their experiences, and to assemble information for program assessment.

Maintenance of an online clearinghouse will require dedicated staffing to ensure accuracy of the content and to engage key stakeholders to coordinate content development and dissemination activities among provider organizations and law school *pro bono* leaders.

RECOMMENDATION 4:

Establish a New York State Uniform Student Practice Order (consistent with the practice in the other 49 states)

Currently, each Judicial Department issues student practice orders setting forth the terms and conditions under which law students and graduates can represent clients in court. Practice orders are issued by each Department in response to applications received from the institutions and programs located within the Department. The orders may vary substantially, both among judicial departments and from order to order within the Department.

Under the current system, the location of an institution or program may determine whether its law students receive authorization to engage in a broader or narrower range of tasks, and may therefore determine whether educational goals are satisfied, and -- critically--whether individuals in need of legal representation are able to receive valued assistance. Student practice orders are not always a model of clarity, and the perceived need to obtain a student practice order may, in some instances, have the effect of reducing the number of students who become involved in *pro bono* activities or preclude assistance in circumstances in which no student practice order is, in fact, needed.

A statewide model student practice order applicable to both law students and law graduates would form the basis for all practice orders, would eliminate the discrepancies between

and within the Judicial Departments, and take into account the ways in which law students differ from law graduates. This model uniform order will provide for greater consistency and enable successful programs developed in one part of the state to be replicated in other regions. It would also enable schools with programs in more than one Judicial Department to offer consistent services and to design their coverage to meet real world needs. Moreover, the additional precision available through statewide adoption of a model student practice order could help to clarify the multiple tasks that students are authorized to perform or prohibited from performing, as well as those that students may perform without the necessity of obtaining a student practice order.

It is recommended that the Chief Administrative Judge lead an effort to develop such a model order.

RECOMMENDATION 5:

Law Schools Should Establish Incubator and Related Projects to Help Law Graduates Build Solo or Small Practices in Underserved Areas

Incubators and related projects, supported by law schools and staffed by their graduates, have proven to be effective tools that provide practical experience for new graduates committed to starting a law practice that will serve individuals with unmet legal needs. Incubators often work with established legal service programs or volunteer projects through the courts to enable the new lawyers to develop practical experience and to match experience to need.

Since City University of New York School of Law's development of the first law school-based incubator, similar programs have cropped up across the United States and more are on the drawing board. The creation of a team of individuals with experience in setting up successful incubators should be convened to serve as mentors for each of the law schools in New York State. The team would create a guide that outlines best practices for incubator development and management that would be disseminated to law schools seeking to create incubators for their graduates. The team would provide technical support and training to law schools committed to designing, sourcing and implementing incubators.

RECOMMENDATION 6:

Law School Curricula Should Prepare Students for Public Service

This is a period of transition and innovation in legal education. Many law schools are currently reviewing their curricula to account for major changes in the legal profession and a number of schools have recently launched major curriculum initiatives. Whether this curriculum review is undertaken by law school administration, faculty committee, special committee or task force, it is important that practitioners and providers be included in this discussion. As part of this pattern of curriculum reform, law schools should ensure that students are educated in the systems of providing representation to low-income clients and the distinctive ways in which laws and the legal system affect low-income individuals and communities. While many classes and

programs in law schools deal with the legal issues that impact low-income clients, this issue is rarely viewed as a core part of the educational mission of schools and, as a result, is addressed in *ad hoc* ways. A focus on these issues as part of the process of curriculum reform would ensure that each school has a considered approach with clear objectives, rather than a haphazard set of offerings.

In addition to focusing on substantive law and legal issues that affect low-income clients, law schools should equip students with practice skills and competencies necessary to represent such clients. Because many of these skills and competencies overlap with those required for representing clients generally, educating students for public service practice will overlap with other goals of professional practice education. Nonetheless, representation of low-income clients does require distinctive skills and competencies, such as an ability to effectively represent clients with cultural, social and economic backgrounds that may be very different from those of the lawyer, and an understanding of how legal issues fit into the context of the lives of low-income clients. In addition, effective representation of low-income clients can call for a different set of advocacy skills from those used in representing other clients, as the institutions that low-income clients deal with are often tremendously overburdened and under-resourced.

A. Required Law School Class on Access to Justice

As a prerequisite to graduation, law schools in New York State should require students to complete a course, which could be one or more credits, that offers an introduction and orientation to civil legal assistance involving the "essentials of life" areas of housing, family matters, access to health care and education, and provides skills training and the practical application of doctrinal law in this context. This recommendation is also intended to assure that students gain an understanding of the importance of public service in their careers as lawyers and their responsibilities as members of the profession. New York State could include criteria in its bar exam to evaluate whether students have acquired this knowledge. Subjects covered in the course and on the bar exam could include:

- The problem: causes and consequences of the Access to Justice crisis, including numbers of people, categories of cases, systemic problems and funding concerns .
- The response: efforts to assure that the courts, legal services programs, *pro bono* systems, and other resources and strategies address the problem.
- The doctrine: pertinent legal doctrine, including Supreme Court and other jurisprudence, on the right to counsel in civil proceedings, and right of access to the civil justice system.
- The role: the nature of civil legal services practice, including the role of lawyers, law students, and justice system officials at the organizations that

provide assistance such as legal services agencies, law firm *pro bono* programs, bar associations and the courts.

- Substantive law that affects low-income clients in unique and distinctive ways, such as government benefits law, housing law, wage and hour law.

Law schools are encouraged to develop the course through collaboration with one another and through consultation with each other, the legal services bar, the courts, and other justice system stakeholders. This course is not intended to displace other initiatives to integrate access to justice issues into classes across the curriculum. Law schools can also determine how a required access to justice class would relate to elective classes focused on areas of law specific to low-income clients that also play important roles in the curriculum.

B. Basic Doctrinal Classes Should Include Consideration of How Law Impacts Low-income People and Communities

Each law school should ensure that basic doctrinal courses include consideration of how law impacts low-income people and communities, providing a doctrinal context for *pro bono* and public service work that addresses the justice gap. For example, property law classes can address foreclosure and the warranty of habitability; tax classes can highlight the earned income tax credit; family law classes can study issues presented in domestic violence cases and child custody proceedings; and, administrative law classes can include consideration of administrative adjudication systems which low-income clients regularly navigate. Moreover, doctrinal courses can include components that focus on practice skills or link to *pro bono* work in the area. Certainly, some courses cover subjects of particular importance to low-income clients; but, in most schools, it is entirely *ad hoc* as to whether they are included and it is a matter of happenstance whether issues relating to low-income clients are presented. The Access to Justice Council (Recommendation 1) should create a collaborative mechanism by which law schools can work together to create and share relevant and topical teaching materials.

C. Law Schools Should Educate Students in the Skills and Competencies Necessary to Represent and Advise Low-income Clients

Over the past 30 years, law schools have greatly expanded programs and courses that teach students professional skills in representing and advising clients. These programs include clinics, simulation courses, externships and other forms of experiential learning. Sparked by the publication of the Carnegie Report and other studies, discussion about the role of experiential learning in legal education has intensified.[1] A focus on professional skills and competencies is

[1] Sullivan, William M., *et al.*, Educating Lawyers: Preparation for the Profession of Law (2007) [Carnegie Report]; *see also* Stuckey, Roy, *et al.*, Best Practices for Legal Education: A Vision and A Roadmap 176–78 (2007); New York State Bar Ass'n, Report of the Task Force on the Future of the Legal Profession (2011).

important in preparing lawyers to contribute to closing the justice gap. Low-income clients pose distinctive issues with regard to counseling and cultural competencies and representation often requires advocacy before courts and government agencies that are overburdened and under-resourced thereby calling for a different set of advocacy skills than those that may be used in other settings. Faculty and administrators who design experiential learning programs should ensure that these issues are addressed, whether through clinical programs, simulation courses, externships, the addition of practice components to doctrinal courses, or a combination of all of these approaches. Law schools should also explore the creation of opportunities for students to spend a semester working in offices that provide legal services to low-income clients with appropriate classroom components and supervision. The Access to Justice Council (Recommendation 1) can facilitate this effort by fostering communication and the exchange of ideas among schools. As law schools further develop curricula relating to professional skills and competencies, it is important that lawyering issues relating to the representation of low-income clients be integrated into the basic law school curriculum.

OVERVIEW:

THE LAW SCHOOL INVOLVEMENT WORKING GROUP AND THE CONFERENCE ON ACCESS TO JUSTICE: THE ROLE OF NEW YORK'S LAW SCHOOLS

The Task Force to Expand Access to Civil Legal Services in New York was appointed by Chief Judge Jonathan Lippman in 2010 to work toward a comprehensive approach to the provision of counsel to low-income New Yorkers. The Task Force has ongoing responsibility to study, analyze and develop recommendations on all aspects of civil legal services and to issue recommendations for improvement. The Task Force has documented the continuing crisis posed by the lack of representation for 2.3 million New Yorkers who annually navigate the state's court system without an attorney. This crisis harms vulnerable low-income families and individuals and burdens the overworked court system of our State. The Task Force has also recognized that, given the limitations on resources, this crisis can only be effectively addressed by focusing all of the components of our legal system on the issue, including *pro bono* work by the private bar, the provision of preventive legal services and alternative conflict resolution initiatives, simplification of court system processes, increasing efficiencies in the delivery system for legal services in the State, and through greater funding for providers of civil legal services.

As part of its multi-pronged effort to close the justice gap in our State, the Task Force has focused on the role of New York's fifteen law schools in addressing the crisis in access to justice. Its efforts in this area have been led by a Working Group on Law School Involvement, appointed by Task Force Chair Helaine M. Barnett. The Working Group has commenced a discussion with key stakeholders to develop initiatives and measures designed to increase the services that law schools and law students provide to low-income clients, to better educate law students in the issues that often affect unrepresented litigants in New York, and to inculcate an ethos of service that will imbue the next generation of lawyers with a commitment to the importance of *pro bono* and public service work.

New York's law schools have long been leaders in legal education nationally and have developed an extensive range of courses, activities and programs that provide direct legal services and other assistance to vulnerable populations and educate the next generation of lawyers about issues of access to the justice system. In 2011, the Working Group conducted a study of law school programs focused on the provision of legal representation and other assistance to low-income New Yorkers concerning the "essentials of life." The survey documented the extensive number and range of law school activities on access to justice issues and showed that schools employ a wide variety of models to address these issues, including clinics, externships and other credited student work, student *pro bono* projects, and law school support for summer and post graduate legal work on behalf of low-income clients.

Based on the Working Group's study and recommendations, the Task Force concluded in its' 2011 Report to the Chief Judge:

> While not a substitute for civil legal services staff programs, the Task Force finds that greater law school involvement can help reduce the gap between the need for civil legal assistance and available services.
>
> Although law schools are already playing a role in the civil legal services delivery system, the Task Force finds that more can be done and considers it important to explore ways in which the fifteen law schools in New York State can best participate in the further expansion of access to legal services.
>
> The Task Force finds that additional opportunities exist for law schools, consistent with their underlying missions and goals, to help increase access to civil legal services. More specifically, the Task Force finds that the law schools in the State can work with one another, legal services providers, law firms, and the Courts to:

- Identify the greatest areas of unmet need that are amenable to law school assistance;
- Determine which existing projects are especially effective in responding to the justice gap (such as those that reach large numbers of people or resolve fundamental legal or structural problems) and use this information to develop law school programs that will be most effective in increasing assistance to vulnerable people who need it;
- Coordinate *pro bono* efforts among law schools, where appropriate, to enlist large numbers of students and develop capacity and expertise for training and supervision that would be difficult for a single law school to match if acting in isolation;
- Foster collaborative projects among law schools, legal services providers, and

the Courts, to maximize the likelihood that law students will render valuable services to those who need assistance; and

- Create programs that more effectively tap into the pool of recent law school graduates to help meet the essential legal needs of indigent New Yorkers. To date, law schools have not collaborated to any significant extent with each other to address this key issue.

As an initial step in achieving these goals, the Task Force announced that it would convene the first ever "Leadership Conversation on the Role of New York's Law Schools in Meeting the Essential Legal Needs of Low-income New Yorkers" so that "New York's fifteen law schools can engage in a frank exchange to narrow the justice gap." The Task Force envisioned that other important stakeholders, including legal services providers, the courts and law firms would participate in this Conversation as well.

THE MAY 22, 2012 CONFERENCE: A CONVERSATION ABOUT THE ROLE OF LAW SCHOOLS IN HELPING TO MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW-INCOME NEW YORKERS

The Leadership Conversation contemplated by the Task Force was held at the Benjamin N. Cardozo School of Law on May 22, 2012, as a full day program, entitled "A Conversation About the Role of Law Schools in Helping to Meet the Essential Civil Legal Needs of Low-income New Yorkers" (Exhibit 1 [Program]). This Report summarizes the proceedings of the May 22nd event and identifies key recommendations that the Task Force's Law School Involvement Working Group has drawn from the rich and full discussions that took place.

The May 22nd program brought together 150 participants, drawing 91 attendees from all 15 law schools in the State including deans, faculty members, administrators and law students, 23 representatives of legal services providers, 13 members of the judiciary and the Office of Court Administration (OCA), and 23 leaders of the bar. In addition to representation from the different geographic regions in the State, a number of national experts and leaders on access to justice issues were also present.

The program assembled law school administrators and faculty to encourage greater integration of their programs into the existing legal services structures. This coordinated effort is intended to channel the efforts of law schools and law students in ways that make sense to the institutions that deal with the crises in access to justice on a daily basis, and, in ways that are therefore most likely to maximize the contribution that law schools can make to the effort.

The Conference took place three weeks after Chief Judge Jonathan Lippman announced the establishment of a new 50 hour *pro bono* requirement for admission to the bar in New York State. Although the conference did not address the way in which

this requirement would be defined and implemented, there was broad recognition that the new requirement would place a renewed emphasis on the contributions that law students can make to narrowing the justice gap and to the ways in which law schools can support and encourage such work.

Chief Judge Jonathan Lippman and Task Force Chair Helaine M. Barnett delivered welcoming and introductory remarks (Exhibits 2, 3 and 4).

Opening Plenary Session

The Opening Plenary Session brought together two law school deans, New York University School of Law Dean Richard Revesz and St. John's University School of Law Dean Michael Simons; the Hon. Fern Fisher, Director of the New York State Courts Access to Justice Program and Deputy Chief Administrative Judge for the New York City Courts and; Lynn Kelly, Executive Director of New York City Bar Justice Center; Adriene Holder, Attorney-in-Charge of The Legal Aid Society's Civil Division; and, Karen Lash, Senior Counsel, Access to Justice Initiatives at the United States Department of Justice, for a conversation intended to lay out a number of critical perspectives on the issue of the role of law schools in bridging the justice gap.

Deans Simons and Revesz cautioned that although their respective schools commit substantial resources to clinics and other programs that facilitate the involvement of law students in representing low-income clients, the law schools have limited resources and look at all such programs through an educational lens. Judge Fisher discussed a number of programs launched by OCA that has enabled lawyers and law students to undertake meaningful *pro bono* work by providing limited scope representation relating to issues such as housing, consumer debt and family law. Judge Fisher also discussed the possibilities new technologies offer to help law school programs reach clients in remote areas, an issue of particular importance in upstate New York, where there are fewer law schools and the distances are vast. Ms. Holder discussed the need for structure and supervision in student *pro bono* projects. Ms. Kelly spoke of the potential for bar associations to provide structure and supervision of *pro bono* projects. Ms. Lash provided a national perspective on the tremendous potential of law schools and law students to provide greater services to clients, pointing out that in 2008 law school clinics served 90,000 clients with civil matters.

Conference Work Groups

The Conference participants then divided into four concurrent Work Groups, each coordinated by prominent leaders in legal education and access to justice, to focus on a different aspect of the role of law schools in addressing the lack of representation for low-income clients:

- **Student *Pro Bono* Projects and Structures** coordinated by Dora Galacatos, Senior Counsel at the Fordham Law School Feerick Center for Social Justice and David Udell, Executive Director of the National Center for Access to Justice and Visiting Professor from Practice, Benjamin N. Cardozo School of Law

- **Post Graduate Programs** coordinated by Jennifer C. Friedman, Executive Director of the Pace Community Law Practice; Director of the Public Interest Law Center at Pace University School of Law; Marcia Levy, Associate Dean of Career Services and Professor of Professional Development at the, Benjamin N. Cardozo School of Law and Fred P. Rooney, Director of the Community Legal Resource Network (CLRN) and External Relations at City University of New York (CUNY) School of Law

- **Clinics, Externships and Other Experiential Courses** coordinated by Susan Bryant, Professor of Law at CUNY School of Law and Ellen P. Chapnick, Dean for Social Justice Initiatives at Columbia Law School

- **The Incorporation of Access to Justice Issues in the Basic Law School Curriculum** coordinated by Olatunde Johnson, Associate Professor of Law at Columbia Law School and Elizabeth M. Schneider, Rose L. Hoffer Professor of Law and the Director of Edward V. Sparer Public Interest Law Fellowship Program at Brooklyn Law School.

Each of these Work Groups was asked to consider a common set of questions focused on the following issues:

- How can law schools better communicate with key stakeholders and others to target programs toward priority areas and to improve coordination?

- Identify models that are successful in terms of impact, cost, supervision and student learning that could be expanded or replicated. Propose new models that can expand the impact of law schools in meeting civil legal needs of low-income New Yorkers;

- Identify opportunities for law schools to work together and with other stakeholders to expand the impact of law school programs focused on closing the justice gap in a cost effective manner. Propose initiatives for capitalizing on these opportunities.

- Identify resources that law schools and other stakeholders bring to bear to assist in meeting civil legal needs of low-income New Yorkers. Propose means of expanding these resources and putting them to better use.

Closing Plenary Session

At the conclusion of the day, the participants reconvened in a Plenary Session, facilitated by Professor Peter Edelman of Georgetown University Law Center, to report on and discuss the recommendations of the Work Groups. Professor Edelman moderated and facilitated discussion of these recommendations.

Professor Edelman then offered his own thoughts on the role of law schools in addressing the problem of access to justice. He spoke of the importance of producing law school graduates who are "justice-ready" - - ready to analyze, equipped with practical skills and imbued with a commitment to access to justice issues. He stressed that this is a multidimensional process and

that conference participants were each, in effect, like blindfolded people, touching an elephant – each experiences a piece of the problems and responses, but it is difficult to get a sense of the whole.

Professor Edelman described law school clinics as helping students to learn in the fullest way, but as extremely expensive. Accordingly, he urged examination of other facets of legal education as the means of producing graduates who are "justice-ready," including courses with experiential components, externships, summer programs and loan forgiveness programs. Finally, he urged a commitment to deal with the problem of poverty in the United States, the underlying source of the crisis in access to justice.

REPORTS OF CONFERENCE WORK GROUPS

Each of the four Work Groups focused on a different category of programs and activities of New York's law schools that broaden community access to justice. The Work Groups examined current and potential delivery models, and considered initiatives that could further enhance the collective contribution of the law schools in bridging the justice gap. To this end, each Work Group was charged with developing a set of recommendations to expand the law schools' work in helping to meet the essential civil legal needs of low-income New Yorkers by improving existing delivery structures and collaborations with legal services providers, bar associations and the court system, thereby serving more people in need and better preparing new lawyers to engage in legal work relevant to low-income clients. This Report highlights leading observations and includes recommendations from each of the Work Groups.

***PRO BONO* PROJECTS AND STRUCTURES**

GOALS

The Work Group on *Pro Bono* Projects and Structures, led by Dora Galacatos from Fordham Law School's Feerick Center and David Udell from the Benjamin N. Cardozo School of Law, sought to discover opportunities for the courts, legal services providers, law firms, the organized bar and law schools to strengthen law student *pro bono* as a means of expanding access to justice in New York. More specifically, the Work Group sought to identify practical opportunities that would:

1) enable law students to prioritize certain areas of practice and certain categories of client needs,

2) increase the number of clients helped by law students,

3) increase the systemic impact of work done by law students,

4) improve the efficiency of law students' *pro bono* activities, and,

5) improve the quality of law students' *pro bono* activities.

The Work Group also considered strategies that would help to enable applicants to the New York bar satisfy the 50 hour *pro bono* service requirement through initiatives that expand access to justice.

CHALLENGES AND PERSPECTIVES

CHALLENGES:

The Work Group identified the following challenges inherent in strengthening law student *pro bono*:

1. Need for Clarity about Categories of Law Student Public Service

"Law Student *Pro Bono*" is generally, but not always, conceived of as volunteer work, alongside other categories of law-related public service in which law students engage. The four main categories are:

- Law student *pro bono*: law student *pro bono* is generally done without an academic grade or law school course and without financial compensation.
- Law school clinics: clinic activities are generally done for a grade with law school faculty or attorney supervision.
- Externships: externships are generally done for a grade in conjunction with a law school seminar and faculty or attorney supervision.
- Fellowships: fellowships are generally accompanied by a financial stipend or other payment.

Significantly, the new rule in New York now requiring completion of 50 hours of law-related pro bono service as a condition of admission to bar treats all of these categories as potentially countable for purposes of satisfying the "pro bono" requirement, so long as other elements of the rule's definition of pro bono are satisfied.

2. Need for Clarity Regarding Nature of Law Student *Pro Bono*

It can be confusing that law student *pro bono* takes multiple forms. The main categories are:

•Advocacy

Advocacy in a legal matter on behalf of a client includes the provision of legal advice to a client, authorship of filed pleadings, and presentation of oral argument to a court of law. These tasks can only be performed if the student's practice is authorized by a "student practice order" issued pursuant to New York's "student practice rule." Pursuant to the student practice rule and order, the student must be supervised by a lawyer.

•Lay Advocacy
Generally occurs in administrative law settings where advocacy by non-lawyers is permitted by law. It does not require authorization by a student practice order.

•Advocacy on Policy Matters
This includes legislative advocacy, rulemaking advocacy, and other informal policy advocacy to persuade government officials or private individuals to change their policies or practices. It does not require authorization by student practice order.

•Information Provision
This includes carrying out "know your rights trainings," preparing and distributing informational pamphlets, helping clients complete forms required by courts and agencies, and explaining legal documents and legal requirements to clients.

•Receipt and Transmission of Information
This includes screening potential clients at intake for legal services programs, interviewing clients and witnesses, summarizing facts and other aspects of potential clients' stories for attorneys.

•Research
This includes answering questions posed by legal services programs. Tasks may involve conducting research into case law, statutory or regulatory law, or into public policy.

•Court Watching
This involves students' observation of proceedings in courts and agencies. For example, students can sit in the courtroom and observe protocols, such as the appointment of counsel or interpreters, or waiving fees for indigent litigants.

•Other *Pro Bono* Activities
Students may provide support to a committee of a bar association in planning and hosting a conference on the subject of access to justice. Or, students may help to organize and supervise intake of potential clients in a legal services organization.

3. Vast Unmet Need for Legal Assistance

The need for legal assistance among people proceeding without representation in New York's courts and agencies is vast. The Task Force to Expand Access to Civil Legal Services in New York has produced reports in 2010 and 2011 documenting different aspects of the need.

•Supervision Bottleneck
There are limited numbers of attorneys available to supervise students. The legal services bar is underfunded and understaffed. The law schools also face funding limitations. Models that allow supervision to reach more people, more effectively need to be developed.

•Complex Schedules
Students are eager to make a difference in the world and to gain experience in the skills of being a lawyer, but may struggle to fit *pro bono* into their lives. Courts' schedules can be unforgiving and a poor fit with students' schedules.

•Limited Guidance for Law Schools about Prioritizing
Few communities currently have a structure or process for educating law schools about the particular justice system needs that law students could potentially help to meet.

•Limited Technology
Limited technology for tracking law students' *pro bono* projects, reporting law students' *pro bono* hours, and/or measuring law students' *pro bono* outcomes exist. Schools, providers, courts, firms, do not have a uniform, single digital platform for provided comprehensive coordination of law student *pro bono*.

•Limited Opportunities for Law Students to Learn about *Pro Bono* Possibilities, and for Justice System Stakeholders to Learn about Law Student *Pro Bono* Capacities
No centralized system exists to notify students of *pro bono* opportunities. Thus, students make repetitive calls to providers, wasting their own time and burdening providers. Relatedly, schools generally do not post information about the ways in which students' services are available to justice system stakeholders and to potential clients. This makes it difficult for providers and courts to involve students in their work, and also makes it difficult for potential litigants to obtain assistance from students. Students often find it difficult to learn about *pro bono* opportunities.

•Limited Collaborative Efforts
Currently no structure or process exists for enlisting multiple law schools in collaborative efforts to support law student *pro bono*, for example, through shared responsibility for training, supervision, or administration.

•Lack of Clarity Regarding Unauthorized Practice Rules, Lack of Insurance; Lack of Uniformity in Student Practice Rules

Currently, student practice orders differ from department to department in New York State, creating confusion about what students are authorized to do. Moreover there is no shared understanding about what students are permitted to do outside the particular forms of client representation that are governed by student practice orders. Indeed, it is not readily apparent to what degree law student *pro bono* may present any risk of noncompliance with New York's unauthorized practice laws. Nor is it readily apparent whether law student initiatives are adequately insured, including through coverage provided by law schools, legal services programs, or other sources.

•No Liaison within the Law Schools

Most law schools have not designated a particular person or committee to serve as a liaison to justice system stakeholders such as the courts, the legal services providers, the Task Force, and the organized bar. Thus, when a stakeholder proposes a new *pro bono* concept to a law school, it can be difficult to obtain a final authoritative decision from a law school about whether law students might be willing and available for the proposed purpose.

•Limited Preparation for *Pro Bono*

While most law schools provide a range of public interest offerings, including clinical courses, it is unusual for law schools to provide law students with training to prepare them for *pro bono*. The following subjects would benefit from treatment within a course focused on *pro bono*: the structure of the courts, systemic dysfunction within the justice system, the justice gap, the role of the legal services bar and the indigent defense bar, the limited nature of civil right to counsel, the advocacy tools used by the legal services and indigent defense bar, the role of *pro bono* in helping to narrow the justice gap, the opportunities for justice system reform, the potentially transformative impact of law student volunteers.

•Need for New Models and Best Practices to Promote Increased Involvement of Students in Responding to the Justice Gap

Courts and providers are not always adept at using volunteers. Some institutions in our society have come to appreciate the contribution of students, but others have limited experience working with students or have generally not made use of volunteers. Best practices and new models should be circulated among all justice system stakeholders.

PERSPECTIVES:

1. Courts

Judges and court administrators see, on a daily basis, thousands of people who are unrepresented. These officials are concerned about the capacity of the courts to render fair and accurate decisions to individuals who appear without counsel. Financial limitations have made it difficult for courts to replace open judgeships and to replace staff lost through attrition and layoffs. Cases involving unrepresented parties also impose substantial time demands on courts. Courts have an interest in discovering new models that can involve larger numbers of students more effectively in the courts.

2. Legal Services Providers

As reported by the Legal Aid Society of New York, legal services providers must currently turn away more than seven potential clients for every one they are able to represent in New York City. Legal services attorneys and other case handlers see firsthand the thousands of unrepresented persons in the state courts and in administrative agencies and often witness the consequences for these individuals when they proceed in their cases without the protection of a legal representative. Legal services programs seek to expand their services to clients through increased reliance on law students. Legal services programs are interested in discovering models that would assure the provision of adequate supervision to a large number of student volunteers.

3. Law School Administrators, Faculty and Students

Law schools operate under standards stating that they "shall make *pro bono* available" (ABA accreditation standard §302[b], and ABA Information 302[10]).

Law schools are also interested in increasing the number of opportunities they provide to students to acquire legal skills, per recommendations set forth in the Carnegie Report. In a period in which the number of jobs for law school graduates is contracting, and the number of students enrolling in law schools is contracting, law schools are seeking models for law student *pro bono* that can assure quality at affordable cost. Law school administrators, faculty, and students, are on familiar ground when considering pedagogy, but it is more unusual for law schools to consider the degree to which law students' *pro bono* activities can help to increase access to justice.

4. Law Firms and Organized Bar

Many lawyers participate actively in *pro bono*, including the supervision of law student volunteers. Law firms have an interest in making opportunities available to their attorneys and staff to participate in worthwhile *pro bono* projects, including those involving law

students. Law firms also have an interest in enabling students to gain lawyering skills through *pro bono*.

RECOMMENDATIONS

1. Involve Schools in Access to Justice Planning

Courts, providers, firms and law schools should engage in ongoing communication with one another. The Task Force to Expand Access to Civil Legal Services in New York or other entities (such as the New York State Bar Association, or the New York courts) should include law schools in annual access to justice planning processes. At minimum, these stakeholders should communicate to law schools the areas of practice that each year presents the greatest unmet need so that the schools can take this into account alongside other factors when planning new *pro bono* initiatives.

2. Designate an Access to Justice Liaison at Each Law School

Law schools should create a position for a "point person in the law school" to be the liaison to outside providers. Currently providers may identify important needs, reach out to the law schools only to encounter confusion about whether a clinic, externship, volunteer initiative, or something else would be the right structure for the school to establish in response to the identified need. The law schools can reduce this kind of confusion and promote access to justice by making one person the liaison.

3. Create a Preparatory Course for Law Student *Pro Bono*

Law schools should provide students with training that provides students with basic knowledge of the context in which *pro bono* is done and the skills involved. The schools should educate students about family court, housing court, civil court, the limitations of a civil right to counsel, the nature of *pro bono* practice, the kinds of services provided by legal services programs and other public interest organizations, and the basic skills involved.

4. Create New Software to Coordinate and Administer Law Student Pro bono

Courts, providers, firms, and schools should collaborate on computer and phone "applications" that can facilitate law student *pro bono*, making it easier to match students to pro bono opportunities, track students' participation, show outcomes that are the result of law student pro bono, enable students to record their hours, and more.

5. Create New Software to Post *Pro Bono* Opportunities Centrally On Line

Courts, providers, firms, law schools should be posting on line the many opportunities for law students to perform *pro bono* activities. Probono.net, PSLawnet, bar associations, courts themselves, or schools themselves, may be the right places to host central bulletin boards with electronic postings of opportunities.

6. Post all Access to Justice Initiatives Prominently On Line on Each Law Schools' Website and Link These School Web Pages to a Central Website

Every law school web site should prominently post, ideally on the home page, a link to the law school's initiatives with the header: **"What Our Law School is Doing to Expand Access to Justice."** This link should take readers to a single page on the law school's web site where students, faculty members and stakeholders outside the law school (including members of the public) can learn of *pro bono* initiatives as well as clinical offerings, externships, fellowships, centers, faculty research initiatives, curricular reform, and everything else related to access to justice – the full menu of activities the school is engaged in to help increase access to justice. The Access to Justice web page should also make clear who the law school's access to justice liaison is for purposes of further communication with justice system stakeholders as recommended above). Finally, each school's access to justice web page should be linked to a central web page, maintained by bar association, or other appropriate entity. This last step will make it easy for everyone to determine the scope of access to justice services provided by law schools throughout the State of New York.

7. Create a Statewide Uniform Student Practice Rule and Model Student Practice Order[2]

New York's approach to student practice should be uniform throughout the state, precise in its eligibility requirements, and clear in its description of the responsibilities of students and supervising attorneys. Reform is necessary to assure that students in different locations throughout the state will have equivalent opportunities to make a difference. Reform will also help to clarify the activities students can engage in under the student practice rule.

[2] *See generally* Claire James, Associate, Skadden Arps Slate Meagher & Flom, LLP, *Memorandum, Re: Recommendation for Modifying New York's Student Practice Rule to Increase Access to Justice* (October 25, 2012)(on file with Task Force)

8. Continue the Conference Dialogue to Develop Excellent Models of Projects and Structures

All justice system stakeholders should continue to develop and share new models that can provide sufficient training and supervision while enabling increased numbers of law students to carry out *pro bono* activities that increase access to justice.

9. Encourage Law Student *Pro Bono*, Identify Opportunities, and Explain Unauthorized Practice Rule Limitations

Law schools and other stakeholders should encourage law students to become engaged in *pro bono*, while being specific about expectations for training and supervision, educating students about unauthorized practice of law rules, student practice orders, and the importance of insurance.

10. Create Law School Coalitions to Share in Coordinating Law Student *Pro Bono*

Law schools should be working closely with one another to develop projects that take advantage of efficiencies of scale, especially for training and supervision. A law school task force should be created to bring schools together. Law firms already engage in this kind of collaboration for training and for practice, including teaching new associates how to handle *pro bono* matters.

11. Rely on Pro Bono Models that Accommodate Students' Schedules

Courts, providers, firms and law schools need to be mindful of students' schedules, the limitations on their ability to commit their time, and the advantages of discrete projects that are flexible with respect to timing, and that enable students to drop in, perform work, and finally step away when other obligations demand.

POST GRADUATE PROGRAMS

The entry level job market for lawyers has been extremely hard hit in the aftermath of the financial crisis of 2008 and the resulting recession. Many students graduating from law schools have difficulty in securing employment, and there is often a substantial time lag between graduation and the start of a first job. Opportunities to gain skills and experience are vitally important to both the development of these new lawyers and to their marketability. These new lawyers represent a substantial resource that can aid in closing the access to justice gap in New York. Potentially, recent graduates can both serve clients and gain critically important skills. Programs to link recent graduates with opportunities to serve low-income clients, however, must be carefully designed, as recent graduates, like law students, need training and supervision.

Many law schools have launched programs to assist recent graduates in this transition period. The Work Group on Post Graduate Programs, led by Jennifer Friedman from Pace University School of Law, Marcia Levy from the Benjamin N. Cardozo School of Law, and Fred Rooney from CUNY School of Law, focused on how such programs can best be designed and implemented to both contribute to closing the justice gap in New York and provide valuable training experiences for recent graduates. The Work Group also considered how programs for recent graduates can operate in collaboration with the courts and legal services providers to meet community needs.

GOALS

The overarching goal of post graduate programs is to "match need and able bodies in a responsible way." Embedded in this goal is the idea that recent graduates have the potential to be a great resource that can be brought to bear in closing the access to justice gap, but that often they lack the skills necessary to represent clients without supervision or support. Several law schools have instituted programs that seek to utilize post graduates to provide needed legal assistance, at the same time building into the program the opportunity for skills building, professional development and long-term job opportunity.

Post Graduate Program Models:

1. Law School Funded "Bridge the Gap" Programs for Recent Graduates:

   Post graduate programs exist in some form at most law schools, and one example is the Bridge the Gap Post Graduate Fellowship Program that has existed at the Benjamin N. Cardozo School of Law since 2005. The program provides stipends to recent graduates to work for ten weeks in a variety of public service placements of their choosing, under the supervision of staff attorneys who help them develop the skills and knowledge to represent the particular client population. The placements can turn into full time employment when a job opening becomes available.

2. Incubators - - Entry Level Programs Funded by the Host Organization:

   Examples of such programs include:

   ●The Community Legal Resources Network (CLRN) is a collaborative project of CUNY Law School, originally funded by the Open Society Institute and other private foundations, and represents an early innovator in post-graduate programming. CLRN works with CUNY post graduates who are in small or solo practices, providing training and mentoring in business development and practice areas, such as housing or immigration. The CUNY program also features an incubator clinic, which provides space and resources for 8 – 10 recent graduates who are starting solo practices. The

ultimate goal of CUNY's model is to create a corps of lawyers whose services can be used in a myriad of access-to-justice initiatives created by CLRN and resourced by public and private funding. While the CUNY incubator is fully committed to training CUNY Law graduates, its ultimate goal is to increase access to justice in marginalized communities in and around New York City.

●Pace Law School's new "Pace Community Law Practice" (PCLP) is an incubator "legal residency" fellowship program that opened in September 2012 with its first class of four recent graduate fellows. The PCLP began by training its fellows to practice immigration law in underserved areas north of New York City, including Westchester and the Hudson Valley region, with attention paid to the collateral legal needs of immigrant clients. The Pace program has two focuses. One is to close the justice gap for immigrants. The other is to provide recent graduates with the tools and infrastructure to build their own law practices, at the same time giving them the skills and understanding of the law one needs to serve immigrants in the community. Finally, it gives its fellows their first paid job.

●The New York State Unified Court System established and administers the "Volunteer Lawyer for a Day Program" (VLFD) which enables recent graduates to provide advice and actual representation under supervision by court employees to unrepresented litigants in family, housing and consumer debt cases with a high rate of settlement. The recent graduates receive training from the court program and then provide limited representation for a day to clients. A recent addition to the VLFD program is a collaborative project with CUNY called the "LaunchPad for Justice," which provides training and space to recent CUNY graduates who want to engage in solo practice by working with the court volunteer program to begin development of their skills.

3. Entry Level Fellowship Programs Funded by Outside Funders, such as Skadden, Arps; Equal Justice Works (EJW) and Americorps; and,

4. Deferred Associate Programs.

CHALLENGES AND PERSPECTIVES

After discussing four models of post graduate programs, the Work Group focused on three themes:

1. Creating and Fostering Post-Graduate Opportunities;
2. Training the Next Generation of "Diehard" or Long Term Committed Public Interest Lawyers; and

3. *Pro bono* Opportunities for Non-Public Interest Lawyers

The Work Group examined existing models for post graduate programs that operate in collaboration among the courts and legal services providers in order to identify concerns and weaknesses in established programs, as well as strengths and aspects worthy of replication.

CHALLENGES:

Several challenges were identified in thinking about matching recent graduates with unmet community needs in a responsible way.

1. Funding

Perhaps the most salient challenge is the dearth of resources available for creating opportunities and funding the supervision that must necessarily accompany such opportunities. Law schools and legal services providers all operate on tight budgets, and as was discussed during the opening session of the conference, the money needs to come from somewhere. Consequently, it is important that the goals identified above be discussed and addressed creatively. A group participant referenced Teach for America as a model program that is able to attract private funding not only because of its important mission, but because of the aura of prestige that surrounds it. To the extent that law schools and other stakeholders are unable to commit new resources to achieving these goals, they must reconceive extant programs and emphasize the message that *pro bono* is important so that recent graduates incorporate *pro bono* into their post-graduate practice.

2. Supervision

The reality is that programs utilizing recent graduates require supervision by experienced attorneys. Most students are not equipped with the skills necessary to engage in the practice of law without the guidance and oversight of an experienced practitioner, and many have not yet passed the bar exam or are not admitted to practice. Pedagogically, it is also makes sense that recent graduates at least have a supervisory resource to approach with questions or for practice tips. Supervision can be expensive and time consuming, but it need not be. For example, the Volunteer Lawyer for a Day Program offers comprehensive up front training, and little supervision "in the field." Attorneys are available if volunteers have questions, but the up-front training and discrete nature of the volunteer advice alleviates the need for a full-scale supervisory framework. Similar to the funding challenges, the need for supervision can be addressed creatively and cost effectively without compromising the integrity of the advocacy provided.[3]

[3] In addition to possible student practice concerns, addressed by the presence of supervision, there is also a concern that unemployed recent graduates will take volunteer positions at legal services providers, and will abandon camp upon being offered full employment. While it is completely understandable that a recent graduate would jump at the chance of full-time employment, departing a volunteer position with little or no notice leaves legal services providers in the lurch – with already over burdened attorneys having

PERSPECTIVES:

These challenges are not insurmountable and can be addressed creatively and cost effectively. In addressing the scarcity of resources and the need for supervision, the various stakeholders will have to engage in an ongoing colloquy over how best to use and modify existing frameworks, and where to focus new development efforts. The Work Group acknowledged that an overarching challenge for recent graduates and the public sector generally is the dearth of paid public interest job opportunities, which leads to fewer trained, dedicated public interest attorneys in the field.

The Work Group agreed that law schools should work together with local communities, courts and their recent graduates to provide access to justice. Developing programs will inculcate in their students a commitment to public service for the duration of their professional careers, and post graduates could be well utilized to close the justice gap, while at the same time developing needed skills and opportunities to obtain permanent employment. To this end, law schools should not only create new opportunities for recent graduates who desire to be "public interest lawyers," but should also encourage those recent graduates interested in the private sector to offer *pro bono* services as part of their practice. In sum, it is important that the legal community aspire to create new opportunities for recent law school graduates that help close the access to justice gap, provide training and supervision that will allow recent graduates to responsibly assist those who would otherwise be without access to legal representation, and to encourage all law school graduates, regardless of specialty, to help close the access to justice gap in their community.

RECOMMENDATIONS

1. Law Schools Should Enhance the Curriculum to Better Prepare Students for Practice upon Graduation and Expand Existing Clinical Frameworks to Include Recent Graduates

2. Creation of Full Time Fellowship Opportunities for Recent Graduates Should be a Priority for Law Schools in Collaboration with the Public and Private Sectors

Specifically, a program should be established whereby each of the 15 law schools in New York State would choose three fellows from its graduating class to be part of a 45 member legal fellowship corps that would help close the access to justice gap across the state. As mentioned above, Teach for America offers a model of a program that has branded public interest work in a way that makes the program prestigious and attractive to applicants

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to absorb the recent graduate's work load. This issue is easily addressed by informing students that when accepting new employment, they should either request an opportunity to give their current supervisor two week's notice, or should request that their new employer allow them to subsume their uncompleted work in a *pro bono* capacity at their new job until finished.

and private donors alike. A possible funding source could be a state-wide *pro bono* buyout or bar registration fee.

3. Encourage Law Firms to Create Additional Six Month Secondee and Extern Opportunities at Legal Services Agencies

4. Increase Collaboration Among Law Schools on Bridge-to-Practice Programs

5. Work with Bar Associations to Create More Incubator Programs for those Interested in Solo Practice

6. Law Schools have an Ongoing Obligation, in conjunction with Alumni Fundraising Efforts, to Communicate with all Graduates Regarding *Pro bono* and the Schools' Commitment to Helping Close the Access to Justice Gap

To this end, the Work Group conceptualized a model that would be available to all post-graduates whereby each law school would identify a strength that matched a community need, and based on a clinic or faculty member's experience, would develop a program that would invite alumni back to the law school for a day of *pro bono*. For example, New York University has an excellent tax program and could use its faculty to supervise and run a day-long program for graduates that would involve a training component in the morning, and the remainder of the day could be spent dispensing tax advice to low-income community members.

CLINICS, EXTERNSHIPS AND EXPERIENTIAL COURSES

In the context of the law school experience, clinical legal education blends the study and the practice of law. Law schools award academic credit to students for hands-on learning, under the supervision of the law schools' clinical faculty, as students engage in legal work for actual clients. Clinics operated by New York's law schools cover a wide range of subject areas that deal with legal needs of low-income clients, ranging from housing, domestic violence and family law to community economic development, health care, employment law and environmental law. They teach students practical legal skills, ranging from litigation and other forms of dispute resolution to transactional work, such as representing community organizations. Clinics traditionally operate in offices located in or near the law schools, but some are operated in partnership with legal services providers, government agencies and in the courts. As academic programs, students are closely supervised by faculty. Because the cases are teaching vehicles, clinics are generally low volume service providers.

Externship students are individually placed under the direct supervision of an experienced attorney in a public sector legal department, a nonprofit organization, a law firm or corporation, as a clerk to a judge, to gain work experience in a legal position. Externship students generally attend a law school seminar taught by either a law school professor or a practitioner serving in an adjunct faculty position to satisfy academic requisites. In contrast to clinics, which generally have their own case loads, students working as externs participate in the representation of the clients

of the host organization. Finally, law schools may offer courses that provide opportunities for field work or other experiential learning that do not fit neatly into the rubric of clinics or externships. The common denominator in these programs is that students engage in legal work for low-income clients as a learning experience and receive academic credit for their work.

Clinical education has grown tremendously over the past twenty years as law schools have endeavored to offer opportunities for students to learn practice skills. Moreover, in the current economic climate, students recognize the importance of gaining experience working on real cases and legal matters, leading to an increase in student demand for clinics and externship experiences.

GOALS

The Work Group on Clinics, Externships and Experiential Courses, led by Susan Bryant from CUNY School of Law and Ellen Chapnick from Columbia Law School, sought to develop a set of recommendations for creating and expanding clinics and externships that would help meet the essential civil legal needs of low-income New Yorkers. Drawing on the dual relationship of clinical/externship faculty as both academics and practitioners, the Work Group also focused on the ways in which clinical professors and their students could use their expertise in *pro bono* or other law school projects. In addition to recommendations for the Task Force, each participant was asked to record a new idea for their own work in the next year that would help close the justice gap.

CHALLENGES AND PERSPECTIVES

Challenges:

1. **Lack of a Uniform Student Practice Rule**
   Student practice rules currently limit the kinds of cases students can do for low-income clients and the Judicial Departments restrict student practice differently. The different rules create issues when NYC school students engage in representation upstate where, for example, the Third Department rules differ from the Second Department rules.

2. **Easing Tensions, Real and Perceived, Between Maximizing Services Offered to Clients and Educating Students**
   Legal services organizations may have service needs that do not fully develop students' educational needs. For example, an organization may want students to engage in repetitive tasks or legal research that students are uniquely qualified to do, while the clinical supervisor may want the student to do fewer cases at a slower pace enabling them to take ownership and responsibility for cases and projects. A student with fewer cases and more opportunities to learn will be a better lawyer for low-income people in the future.

3. **Forces Driving Selection of Cases by Clinics**
   Clinics aim to teach students to problem solve, employing long-term solutions that include knowledge building to empower communities or long-term change in policies affecting low-income people. However, expediency may require that urgent needs feel more desperate and require immediate resolutions. Clinics often take the long view in selecting cases, filling the docket with cases will solve real problems and fit within the student education model.

4. **Develop New Service Models for Clinics and New Learning Experiences for Students**
   Clinical professors with proven results in specific clinical courses hesitate to think outside the box in terms of designing new service models and teaching them to students.

5. **Increase Collaboration Between Legal Services Providers and Faculty**
   This is not common practice currently and the lack of communication creates service deliveries that function as "silos."

PERSPECTIVES:

The Work Group identified "best practices" for law schools' clinical programs to consider in closing the justice gap:

•In addition to serving individual clients, clinics can also work on changing the law through litigation and other advocacy as well as developing data and other tools to provide support to legal advocates. For example, the University of Miami's clinic put together advocacy materials (factual & legal) to fight the deportation of people to Haiti and made that available nationwide to advocates fighting to prevent deportations. Another example is the FOIA work at Cardozo's Immigration Justice Clinic to gather data on night raids by Immigration Enforcement to inform policy debates on night raids.

•Supervision of students is critical to the creation of high quality clinics. In designing partnerships between legal services providers and law schools, the allocation of supervisory and teaching responsibility between the law school and the partner organization is a key question. Legal services providers are generally not in a position to use staff time for supervision and teaching unless a law school partner provides the resources necessary to free up time for teaching.

•Legal service organizations often prefer year-long clinics to semester-long clinics as student understanding and work product improves. As the goal is for both students and clients to have a positive experience, the longer the student stays the less disruption for clients and the more the student participates in the full case.

● Law School clinics in the New York City area can assist in meeting the need for representation elsewhere in the State, where there are fewer clinics, by (1) providing training and support for advocates outside of NYC by offering CLE courses and advocacy resource development; (2) engaging in legislative and administrative advocacy to change policies on a state-wide basis; and, (3) direct representation of clients in other areas of the State, especially in areas of practice where there is more limited upstate expertise, such as immigration. Examples of recent student work include collaborations with the Empire Justice Center and Albany Law School students' research and factual report writing that contributed to Governor Cuomo's Executive Order eliminating fingerprinting of food stamp applicants and the work of Touro's Public Advocacy Center's students on-site review of 23 Long Island hospitals and subsequent follow-up to ensure adequate signage in hospitals regarding financial assistance.

●The resources of a law school clinic, including its students' work product and the school's technological resources, can be used to enhance legal services organizations' practice. Students can create reports, advocate, research, and design or implement tech tools to improve legal work or client's lives. For example, a clinic's work in designing a computer program database for Project FAIR, an on-site advice program at the NYC Department of Social Services Administrative Hearings site, tracks systemic problems in real time and sends referrals to partnering agencies. Another example of student work included media-ready materials to paint a picture of overcrowding at NYC welfare application sites that created safety problems. Students addressed major overcrowding issues by preparing press kit with coverage in the *Wall Street Journal* and the *New York Times*, creating videos that allowed a NYC Councilwoman to use video footage as her opening statement in hearing against City. On all of these projects, students worked closely with University technical staff as well as their clinic supervisors.

RECOMMENDATIONS

The following projects could be implemented relatively quickly and would offer viable ways that law school clinics or externships could work in collaboration with one another and with legal services providers, courts or law firms to increase the access to civil legal services for low-income New Yorkers:

1. Create an Online Clearinghouse that would Link Clinics and Legal Services Providers Across the State.

It would have several components including:

• A Current/Immediate Needs section in which providers could list legal needs/tasks with which they need assistance from law school clinics and law school clinics could find projects for students in real-time;

• Best Practices Guides about what law students can do in collaboration with providers, with various levels of supervision that can be used by providers in designing projects.

2. Initiate Pilot Projects that Partner a Law School with a Legal Services Provider to Address Targeted, Important Unmet Legal Needs in their Community

Such collaborations would significantly improve the lives of low-income residents. Priority should be given to efforts that rethink the one lawyer-one client representation model, including designing cases to obtain systemic relief. Projects later could be expanded, or added, to include other stakeholders such as courts, bar associations and law firms.

3. Devise Ways in which Law Schools in Relatively Resource Rich Areas Could Work with Organizations in Upstate New York to Expand Legal Services to Address the Urgent Need of Immigrants

4. Assist in the Creation of a Statewide Student Practice Order that Increases the kinds of matters that students can do, with appropriate supervision

5. Make Strategic Use of Existing Regularly Scheduled Meetings to Provide more opportunities for law schools and providers to foster collaborations that increase resources

For example, there could be a designated session at New York State Bar Legal Assistance Partnership Conferences.

OTHER RECOMMENDATIONS:

As part of thinking strategically about ways to add access to justice and substantive justice for indigent people to their clinics' goals and practices, the Work Group brainstormed and offers these additional recommendations about other ways clinical faculty should think about working with partners outside of the law school, such as

●Long-term sustainable opportunities for collaboration with community partners and legal services providers, starting with an assessment of the community's legal needs.

● Locate clinics in spaces easily accessible to clients or foster collaborations with legal services providers. For example, clinic offices could be in hospitals, neighborhood legal services or social services provider offices, community centers, or courts. In the alternative, legal services offices could be located at law schools to bring their clients and opportunities to students.

● Multidisciplinary education and service delivery projects with other graduate programs at the university in, among others, medicine, social work, education or business.

●Working with underserved populations, such as immigrants and formerly incarcerated persons, for whom there is a critical need but legal services providers face funding and other restrictions in assisting these populations.

●Engage in projects that would expand the organizations' ability to do policy advocacy and legislative work:

Clinical faculty could collaborate on intensive replicable *pro bono* projects in which large numbers of students working, without much lawyer supervision, for a limited period (a day or a vacation week) could provide meaningful legal services. Providers and *pro bono* lawyers would identify their needs and work with law school faculty to design the project. Faculty could help design the project, prepare sample forms and train the students before the project begins. Models include Elder Law Days at social services providers to prepare simple wills, living wills and health care proxies; Citizenship Days at local libraries; and filling in worksheets on collateral consequences of criminal convictions.

●New technology and social media could be used by clinics to increase their reach. For example:

•Using Skype, Live-Help, the internet and other centralized communications tools could help address different distribution of resources across the state. Schools outside of New York City could better serve a large geographical area. Clinics in New York City could connect to other parts of the state.

•Smart phone apps that allow whistleblowers/witnesses to report problems such as stop-and-frisk incidents and prevention of the right-to-vote. Other apps could help people identify government benefits to which they are entitled such as a Medicaid Managed Care.

●Law students should receive professional values education about responsibilities and opportunities for legal services that provide substantive justice for poor people, throughout their law school careers. Clinicians could help create a program for first year students during orientation week or the first semester, which would include a practice component. They also could develop clinics and externships with an eye to what complements the curriculum and creating practice models that prepare students for postgraduate positions and *pro bono* service.

●Both clinical faculty and legal services providers would benefit from jointly teaching legal services lawyers. Clinicians could teach substantive law, supervision and reflection techniques and other subjects. Doing so would teach them about legal and practice issues confronted in the field. Clinicians also could enlist other law school resources. For example, legal writing instructors could mentor individuals who are strong lawyers but need coaching on their writing and, in turn, learn more about practice-based writing.

Law school education should inculcate students with the responsibility to perform *pro bono* service and engender a lifetime professional commitment to volunteer their legal services to help close the justice gap. Clinics, externships and experiential courses can be shaped to correspond to basic law school curriculum that incorporates access to justice issues to further this goal.

INCORPORATION OF ACCESS TO JUSTICE ISSUES IN THE BASIC LAW SCHOOL CURRICULUM

GOALS

The goal of the Work Group on Incorporation of Access to Justice Issues in the Basic Law School Curriculum was to develop a set of recommendations for the incorporation of access to justice questions into the basic (non-experiential and non-clinical) law school curriculum as well as to shape the law school experience in a way to integrate access to justice.

The Work Group, led by Olatunde Johnson from Columbia Law School and Elizabeth Schneider from Brooklyn Law School, sought to identify courses particularly suitable for exploring access to justice questions and to identify models for integrating basic law school classes with clinical and experiential courses. The Work Group also aimed to identify best practices for developing and implementing curricular changes and other changes in the three years of law school to address the justice gap. At the suggestion of Task Force leaders, we avoided discussion of the new *pro bono* admission requirements.

CHALLENGES AND PERSPECTIVES

CHALLENGES:

The Work Group explored some of the challenges to implementing curricular reform, while identifying some promising models and interventions.

1. Law School Curriculum and Pedagogy

Recent studies profiled in news reports have documented a crisis in legal education, suggesting that law schools need to fundamentally change their pedagogy to respond to changes in legal practice demanded by a new economic climate and market contractions. Despite broad transformations in the nature of legal practice, law schools were often teaching too narrow a range of "real world" skills, particularly in the first year.

- Casebooks

The dearth of casebooks and course materials that effectively incorporate skills, experiential learning, or access to justice issues in routine classroom use. Despite repeated efforts, documented for example in The Carnegie Report, law schools have made little headway in moving away from the standard case method, common-law methodology.

●Access to Justice Courses
In many schools, current curriculum does not include courses that focus or relate to access to justice questions, such as poverty law and many law school courses do not integrate access to justice questions into doctrinal cases.

●Access to Justice as a Bar Exam Topic
A strong incentive for change would exist if the bar exam asked a question on access to justice, or incorporated a clinical component, like the performance test which is a component of some state bar exams.

●Increase Collaborations between traditional podium courses and clinical/experiential courses.
It appears that podium professors lack information about the work of clinical professors and vice-versa. Law schools could create greater opportunity for information sharing and collaboration among their faculty.

Collaborations envisioned included teaching doctrinal classes in consortium with a clinical component, for example a family law course would partner with a family law clinic, or having a 1 or 2 credit access to justice work component of podium courses, for example, a Property class, with a housing clinic or externship:

°The possibility of a mini-term class, possibly in January, that might focus on access to justice issues in a practice context, and would integrate theory and practice.

°The possibility of law schools providing greater opportunities to serve low-income, under-resourced communities by working with existing clinics or providing *pro bono* themselves.

●Access to Justice taught as a component of Professionalism Courses imparting the ethical responsibilities of a lawyer to serve the public good -- "*pro bono*."

2. Faculty Recruitment

Adopt protocols for faculty recruitment and hiring that require practical experience and/or experience with problem-solving or experiential learning, akin to training in the medical profession, and a familiarity with access to justice issues.

PERSPECTIVES:

There is a need for greater inculcation in law school of the core value of providing service to low-income and underserved people, and explicitly sending messages in orientation, spring

break caravans for students, together with the new mandatory *pro bono* requirement. There was some resistance among the Work Group participants to the notion that law schools should be engaged in shaping values.

The Work Group identified promising approaches that could facilitate curricula and philosophical reform, including expanding existing casebooks and materials to incorporate experiential learning; allocating increased credits to skills training in the law school curriculum; creating stipends and other incentives for professors to adopt new teaching methodology, for instance, a summer research grant; and, hiring professors with practical experience, especially on access to justice issues. As this Law School Conference demonstrates, enhancing collaborations within and among the law schools will spur innovations in how law schools prepare students for legal practice in the 21st century.

RECOMMENDATIONS

1. **Emphasize the Value of Access to Justice Issues Throughout the Law School Experience**

2. **Develop Internal Task Forces within Each Law School to Bring Together Podium and Clinical Faculty**

   Each law school mini-task force would be part of a statewide task force committee in which each New York state law school would be represented by one or two members of that law school's task force to foster collaborations and innovations.

3. **Establish a Public Service Office at Each Law School**

   The Public Service Office would develop new courses or clinics, or add Access to Justice to ongoing courses and clinics.

4. **Incorporate Professional Development Programs for all Law School Faculty and Strengthen Resources Available to Law Schools for Incorporating Access to Justice Issues into the Basic Curriculum**

   - Hire professors with relevant access to justice background and strengthen faculty capacity to integrate access to justice issues into curriculum;
   - Evaluate present curriculum to assess the degree to which access to justice issues are represented and add new courses, clinics or practicums;
   - Develop and expand existing case books and other materials and create new resources, such as databases, wikis, and blogs;
   - Partner with other law schools to develop access to justice programs and resources like clinics and externships and establish a virtual menu of opportunities and ideas for different law schools to explore;

•Encourage *pro bono* opportunities for faculty and provide incentives for *pro bono* work and curricular innovation.

5. **Provide Incentives for Curricular Change by Law School Deans and High Level Faculty**
   For example, create an access to justice or clinical component of the bar exam and/or incorporate access to justice as a factor in law school rankings.

ACKNOWLEDGMENTS

The Law School Involvement Working Group, comprised of Task Force Chair Helaine M. Barnett and Task Force members Dean Matthew Diller, Alexander D. Forger and Marcia Levy, extends its sincere appreciation to the Law School Conference Report Writing Group, Ellen Chapnick, Olatunde Johnson, Elizabeth Schneider and David Udell for their countless hours of work in the preparation of this Report.

The Working Group is grateful for the tremendous assistance, under the leadership of Brenna DeVaney Esq., for the transcription of the Work Group discussions by Rosemaire Barnett, Esq., Claire James, Esq., Gia Wakil and Peter Spaet of Skadden, Arps, Slate, Meagher & Flom LLP.

The members of the Law School Conference Planning Committee, as recognized in the Program, attached as Exhibit 1, are:

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TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP

E X H I B I T S

From the MAY 22, 2012 CONFERENCE

ACCESS TO JUSTICE: THE ROLE OF NEW YORK'S LAW SCHOOLS

A Conversation About The Role of Law Schools In Helping To Meet The Essential Civil Legal Needs of Low-Income New Yorkers

at

BENJAMIN N. CARDOZO SCHOOL OF LAW
New York, New York

EXHIBIT 1

ACCESS TO JUSTICE: THE ROLE OF NEW YORK'S LAW SCHOOLS
CONFERENCE PROGRAM
MAY 22, 2012

ACCESS TO JUSTICE:

THE ROLE OF NEW YORK'S LAW SCHOOLS

A Conversation about the Role of Law Schools in Helping to Meet the Essential Civil Legal Needs of Low Income New Yorkers

CONVENED BY THE

Task Force to Expand Access to Civil Legal Services in New York

at Benjamin N. Cardozo School of Law, New York City

May 22, 2012

ACCESS TO JUSTICE:
THE ROLE OF NEW YORK'S LAW SCHOOLS

MAY 22, 2012: AGENDA

9:00 – 9:30 AM **REGISTRATION AND CHECK IN** ***LOBBY***

Light refreshments will be served

9:30 – 9:45 AM **WELCOME AND OPENING REMARKS** ***MOOT COURTROOM***

HON. JONATHAN LIPPMAN
CHIEF JUDGE OF THE STATE OF NEW YORK

HELAINE M. BARNETT
CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

9:45 – 11:00 AM **OPENING PLENARY SESSION** ***MOOT COURTROOM***

THE ROLE OF LAW SCHOOLS IN HELPING TO CLOSE THE JUSTICE GAP: OPPORTUNITIES AND CHALLENGES

MODERATOR

MATTHEW DILLER
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PANEL

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MICHAEL A. SIMONS
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11:00 – 12:45 PM **CONCURRENT SESSIONS: PART I**

A. STUDENT PRO BONO PROJECTS AND STRUCTURES ***ROOM 424***

CO-FACILITATORS

DORA GALACATOS *SENIOR COUNSEL, FEERICK CENTER FOR SOCIAL JUSTICE*
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B. POST GRADUATE PROGRAMS — *ROOM 303*

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Marcia Levy *Associate Dean of Career Services and Professor of Professional Development Benjamin N. Cardozo School of Law*

Fred P. Rooney *Director, Community Legal Resource Network (CLRN) and External Relations CUNY School of Law*

C. CLINICS, EXTERNSHIPS AND OTHER EXPERIENTIAL COURSES — *MOOT COURTROOM*

CO-FACILITATORS

Susan Bryant *Professor of Law, CUNY School of Law*

Ellen P. Chapnick *Dean for Social Justice Initiatives, Columbia Law School*

D. INCORPORATING ACCESS TO JUSTICE ISSUES IN THE BASIC LAW SCHOOL CURRICULUM — *ROOM 205*

CO-FACILITATORS

Olatunde Johnson *Associate Professor of Law, Columbia Law School*

Elizabeth M. Schneider *Rose L. Hoffer Professor of Law; Director, Edward V. Sparer Public Interest Law Fellowship Program, Brooklyn Law School*

12:45 – 1:30 PM **LUNCH** — *LOBBY*

1:30 – 2:45 PM **CONCURRENT SESSIONS: PART II** — *RETURN TO ROOMS*

3:00 – 4:15 PM **CLOSING PLENARY SESSION:** — *MOOT COURTROOM*

Reports from Concurrent Sessions and Next Steps

The product of the Work Groups will become the basis for the action plan that the Task Force will use to develop proposals for the Chief Judge on how New York's law schools can collectively work to help close the justice gap.

MODERATOR

Peter B. Edelman *Professor of Law; Faculty Director, Center on Poverty, Inequality and Public Policy; Co-Director, Joint Degree in Law and Public Policy, Georgetown University Law Center; Chair, District of Columbia Access to Justice Commission*

4:30 – 5:30 PM **RECEPTION** — *LOBBY*

ACCESS TO JUSTICE: THE ROLE OF NEW YORK'S LAW SCHOOLS

A CONVERSATION ABOUT THE ROLE OF LAW SCHOOLS IN HELPING TO MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW INCOME NEW YORKERS

GOAL

The goal of the Conference is to explore how New York State's law schools can work in partnership with each other and with providers, law firms, bar associations and the courts to help meet the civil legal needs of low income New Yorkers. The Task Force has focused on access to legal assistance concerning issues that relate to the "essentials of life" – housing, family matters, health and education, and subsistence income. Based on the conference discussions, four Work Groups will develop initiatives and recommendations that will be incorporated into an action plan to expand the role of law schools in helping to provide legal assistance for matters that relate to these essentials of life and in preparing lawyers to be active participants in working to close the justice gap throughout their professional lives.

THE WORK GROUP SESSIONS

The Conference will feature working sessions based around four subjects:

1. **Pro Bono Projects and Structures;**
2. **Post Graduate Programs;**
3. **Clinics, Externships and Experiential Courses; and**
4. **The Incorporation of Access to Justice Issues in the Basic Law School Curriculum.**

Each Work Group will be asked to consider a core set of issues and to formulate recommendations that will form the basis of an action plan to be developed by the Task Force. The core issues are:

A. Communication: Develop recommendations for how law schools can better communicate with key stakeholders and with each other to target programs toward priority areas of need and to improve coordination.

B. Models: Identify models that are successful in terms of impact, cost, supervision and student learning that could be expanded or replicated. Propose new models that can expand the impact of law schools in meeting the civil legal needs of low income New Yorkers.

C. Collaborations: Identify opportunities for law schools to work together and with other stakeholders to expand the impact of law school programs focused on closing the justice gap in a cost effective manner. Propose initiatives for capitalizing on these opportunities.

D. Resources: Identify resources that law schools (faculty, students, alumni, facilities, university relationships, etc.) and other stakeholders (providers, courts, law firms, bar associations, client and community groups, funders, etc.) bring to bear to assist in meeting the civil legal needs of low income New Yorkers. Propose means of expanding these resources and putting them to better use.

ACTION PLAN: FUTURE STEPS

At the conclusion of the Work Group Sessions, the conference will reconvene in plenary session for reports from each of the four Work Groups and discussion of common threads among the groups. The product of the Work Groups will become the basis for the action plan that the Task Force will use to develop proposals for the Chief Judge on how New York's law schools can collectively work to help close the justice gap.

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EXHIBIT 2

WELCOMING REMARKS FROM TASK FORCE CHAIR HELAINE M. BARNETT AND INTRODUCTION OF CHIEF JUDGE JONATHAN LIPPMAN

Welcoming Remarks from Task Force Chair Helaine M. Barnett and Introduction Chief Judge Jonathan Lippman

I would like to welcome you to this special day long Conversation on the role of New York law schools in helping to meet the essential civil legal needs of low-income New Yorkers.

We have present today many law school Deans and faculty from all 15 New York State law schools. In addition, we have brought together bar association leaders, legal services providers, practitioners, representatives from the courts and law students to engage in a unique Conversation on ways in which the law schools can work with one another and with these other stakeholders to help close the justice gap.

To open our Conference, we are privileged to have the Chief Judge of the State of New York, Jonathan Lippman.

Chief Judge Jonathan Lippman's career in the court system spans four decades. He knows the court system intimately. Highlights of his career include his appointment as the Chief Administrative Judge of all New York State courts and is the longest tenured person to serve in that capacity.

He was appointed the Presiding Justice of the Appellate Division of the Supreme Court, First Department and in that capacity served on the Administrative Board of the Courts, which is the policy and rule making body of the New York State court system. In January 2009 he was appointed the Chief Judge of the State of New York and Chief Judge of the New York Court of Appeals.

His tenure as Chief Judge has been marked by his vision and leadership and unequivocal commitment to the need to provide civil legal assistance to the most vulnerable New Yorkers in matters that involve the very basic necessities of life and by his determination to bring us closer to the ideal of ensuring equal access to justice.

His most profound achievements have been providing in the Judiciary budget the largest amount of State funding of civil legal services of any state in this country and his recent announcement of required pro bono service for admission to the bar is another bold initiative, making New York State the first state to do so.

New York State is enormously fortunate to have at this time and at this place the Honorable Jonathan Lippman as its Chief Judge. The goal of making equal access to justice for all a reality could not have a more passionate action oriented proponent then Chief Judge Jonathan Lippman.

It is my great pleasure and honor to welcome the Honorable Jonathan Lippman the Chief Judge of the State of New York to open our Conversation.

EXHIBIT 3

OPENING REMARKS FROM CHIEF JUDGE JONATHAN LIPPMAN

Opening Remarks from Chief Judge Jonathan Lippman

It is my great pleasure to welcome all of you to this unique conference to explore how our state's law schools can work with each other, with providers of civil legal services, law firms, bar associations, and the courts to help meet the civil legal needs of low income New Yorkers.

I want to acknowledge and thank the extraordinary Task Force to Expand Access to Civil Legal Services in New York -- which I appointed in 2010 -- for convening this first- of-its-kind gathering. I especially want to thank Task Force Chair, Helaine M. Barnett, and Task Force Member, Dean Matthew Diller of Benjamin M. Cardozo School of Law, and their Planning Committee members, for their herculean efforts in making today's conference a reality. The formation of the Task Force was announced at the same time that I stated my intention to hold annual hearings on the unmet need for civil legal services in New York. Since then, the Task Force has assisted the leadership of the court system and the State Bar in conducting these hearings and has performed its own groundbreaking research and analysis, described in their comprehensive reports issued in 2010 and 2011. It was in their November 2011 report that the Task Force indicated its intention to convene this group for today's conversation.

While acknowledging that law schools already play a significant role in the delivery of civil legal services, and do a great deal to inspire and prepare students to perform public service both in law school and after graduation, the Task Force found that "greater law school involvement can help reduce the gap between the need for civil legal assistance and available services" in matters involving the "essentials of life" -- housing, family matters, health and education, and subsistence income. The Task Force also concluded that more could be achieved in addressing the justice gap if the law schools in our state were to work with one another, as well as with civil legal services providers, law firms, bar associations and the Courts, on increasing the availability of civil legal services.

The Task Force rightly believed that a joint effort of the law schools and other stakeholders could do so many things: like identify those areas of unmet civil legal needs that are amenable to law school assistance; determine which existing projects are good models for replication or inspirations for more and better programs; coordinate efforts, where possible, to develop capacity and expertise for training and supervision that would be difficult for a single law school to match; foster collaborative projects among and between all of you and the courts that can maximize the likelihood that law students will render valuable services to the needy; and develop programs that more effectively tap into the pool of recent law school graduates to help close the justice gap. And, in fact, these subjects are a very large component of today's agenda.

Not just by chance, I assure you, the significance of today's event was underscored by my own announcement on Law Day, just three weeks ago, of a 50-hour pro bono requirement for admission to the New York Bar. In our state, it is the Appellate Divisions of the Supreme Court through their Committees on Character and Fitness that oversee and approve all admissions to the bar. I am delighted that the Presiding Justices of the four Appellate Departments have embraced this new pro bono requirement as a critical step in instilling a

culture of service in the next generation of lawyers in our state. And it is gratifying that we have received such widespread support for the idea that new lawyers must embrace the core values of our profession prior to admission to the New York bar.

Since we are the first state to move in this new direction, the eyes of the legal community around the nation are on New York as to exactly how this new requirement will be implemented, and questions abound as to details and how much flexibility will be built into our rules.

I realize full well that all of you in this room want to know exactly how the new requirement will be put into effect and enforced, and there has been much speculation about the criteria for pro bono service that we will put into place. Let me briefly explain to you the process we will use to set the parameters of the new pro bono protocols for admission applicants - - and ultimately answer all the questions you may have.

I am announcing today the formation of the Advisory Committee on New York State Pro Bono Bar Admission Requirements, whose mission will be to receive and solicit input from all of the affected constituencies in our state and make implementation recommendations to the Chief Judge and the Presiding Justices. The Committee will be co-chaired by my Court of Appeals Colleague Victoria A. Graffeo and Alan Levine, a partner at the law firm of Cooley LLP and former Chair of The Legal Aid Society. I am greatly appreciative of the willingness of Judge Graffeo and Mr. Levine to take on this task along with this distinguished Committee. They include members of the legal community who have great expertise and interest in the well being of our profession. Among them are one former and one current law school dean, representatives of two legal services providers, a law firm pro bono counsel, former and present bar presidents, a former Presiding Justice of the Appellate Division, as well as Deputy Chief Administrative Judge Fern Fisher, Director of New York State Courts Access to Justice Program, and last but certainly not least, Helaine Barnett, Chair of the Task Force. The Presiding Justices of the Appellate Divisions will be ex officio members of the Committee.

The members working under the leadership of Mr. Levine and Judge Graffeo are, in addition to Judge Fisher and Ms. Barnett:

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The Advisory Committee has been asked to consider input from all stakeholders and to provide me and the Presiding Justices with their advice and recommendations in the Fall, when the new rule will be put into place, effective January 1, 2013. The specific methodology for soliciting and receiving information, questions and suggestions will be announced by the Committee in the coming weeks on nycourts.gov. In the interim, all correspondence and requests should be sent by email to advisory- committee@nycourts.gov. The process will be wide ranging and inclusive and, with help from all of you, the Committee's recommendations will inform the necessary amendments to the Character and Fitness Rules for admission to the bar.

I want to put all this into context and make our purpose and objectives very clear. Just a few short months before I became Chief Judge, the economy went into a tailspin from which it still has not recovered. We have seen shrinking state coffers, reduced court budgets, and a dramatic impact on the legal profession, including law firms, law schools, the courts and legal services providers. At the same time, the critical need for legal services for the poor and the most vulnerable in our society could not be more evident as they struggle with legal problems involving the essentials of life. Funding for the federal Legal Services Corporation has been cut, and revenues for IOLA programs -- which depend on interest rates paid on attorney accounts -- have been dramatically reduced by the drop in interest rates. Our Task

Force estimates that we are at best meeting only 20 percent of the civil legal services needs of New York State's low-income residents -- and this is at a time when 15% of the people in our state live at or below the poverty level. The state courts are the emergency rooms of our society -- the most intractable social problem find their way to our doors in great and increasing numbers. The net result is that literally millions of litigants each year are left to navigate critical legal problems both in and outside our courtrooms without the help of a lawyer.

Thanks to our partners in the legislative and executive branches, the judiciary's budget has included substantial funding for civil legal services over the last two years. I am proud of the fact that in New York we have established a template to publicly fund civil legal services for the poor in a systemic and reliable way. This year, the Judiciary Budget includes $40 million to support civil legal services -- that total being by far the highest level of state funding for civil legal services in the country, but yet the tip of the iceberg in terms of the need. The funds that we have obtained for legal services could not be more important given that the economy has impacted most heavily on those who can least help themselves and created greater demands for legal services than ever before in our history.

While greatly increased state funding has gone, and will go, a long way to addressing the desperate straits many litigants with limited means find themselves in, money, by itself is not enough -- and our overburdened but courageous legal services providers can do only so much. Bridging the justice gap requires more. We need the continued individual efforts of practicing lawyers doing their part. We are indeed fortunate that, in New York, so many lawyers are already embracing a culture of service to others. So many lawyers understand that it is their special responsibility to use their skills and their position to help ensure that we are providing for the justice needs of all New Yorkers. Pro bono service is deeply rooted in our traditions and has been part of the lawyer's professional lives for centuries. Our great State Bar, as well as countless other bar associations around the state and the country, remind us of the ethical and social responsibility to volunteer our time and resources to provide legal services for those in need.

Pro bono service has also become very much a part of the law school culture as well, and I'm proud of the good deeds fostered by New York's outstanding law schools. New York's practice rules -- like those of many other states -- allow law students to perform legal work under the supervision of law school faculty or legal service organizations, thereby enabling students to appear in court and put their name on court filings. I believe it is time to connect the dots between the ongoing professional responsibility of lawyers to perform pro bono service and the experience of law students. If pro bono is a core value of our profession, and it is -- and if we aspire to have all practicing attorneys devote a meaningful portion of their time to public service, and we do-- these ideals ought to be instilled from the start, with the hands-on experience of helping others with our legal skills as a pre-requisite to meaningful membership in the bar of our state. By requiring, as a condition for admission to the bar and the practice of law, that applicants demonstrate 50 hours of participation in law-related and uncompensated pro bono service, we are sending a very strong message that assisting in meeting the urgent need for legal services is a necessary and essential qualification to becoming a lawyer. We are stating loudly and clearly that service to others is an indispensable part of our legal training, and that you cannot call yourself a lawyer in New York, unless you show your commitment to our profession's ideals.

This approach not only benefits the clients who are in dire need of legal assistance but also, so importantly, will help prospective attorneys build valuable skills and acquire the practical experience so crucial to becoming a good lawyer. We know that newly-minted lawyers are simply better at their jobs when they receive direct experience in the practice of law. Where, under appropriate supervision, they assist a family facing eviction or foreclosure, draft a contract for a fledgling not-for-profit, help a victim of domestic violence obtain a divorce, or help state and local government entities in a time of economic stress, law students can access the real-world lessons that are such an important foundation for successful law practice.

I have no doubt that they will also experience the intrinsic rewards that come from helping others through pro bono service, so much so that many of them will be hooked for life on the joy of using their legal skills to help those most in need -- not to mention the enormous benefits that will come to New Yorkers desperately in need of legal help from at least an additional half million hours of pro bono legal services here in New York State alone. The positive impact on persons of limited means, communities and organizations that would gain from this infusion of pro bono work is immeasurable.

We honor the commitment of the thousands of practicing lawyers who take on legal work for poor and low-income individuals -- more than two million hours donated each year -- and we hope, through this initiative, to pass on that commitment to a new generation of lawyers. Pro bono service is part and parcel of our legal culture, affecting both the way we perceive ourselves and the way the public and community perceive us as well. In so many ways, it can and should define us as being part of a noble profession and a higher calling.

And, today you can contribute so much to this effort and do a tremendous service by applying your knowledge, experience, and creativity to the original goals of this program, and to the four subjects that the Work Groups have been charged with exploring. I refer especially to identifying the most effective, existing access-to-justice related law school programs and collaborations -- and proposing new ones -- whether they involve pro bono projects, post-graduate initiatives, clinics, externships, or experiential courses. Just as important is developing ideas on incorporating access to justice in the basic, substantive law school curriculum. The Task Force is very much looking forward to your recommendations -- as am I -- and I know they will inform the work we will continue to do together to meet the challenge of assuring access to justice for all New Yorkers. Thank you.

EXHIBIT 4

OPENING REMARKS FROM TASK FORCE CHAIR HELAINE M. BARNETT

Opening Remarks from Helaine M.Barnett

Thank you, Chief Judge Jonathan Lippman, for your inspiring remarks and once again for your leadership and vision in working towards closing the justice gap.

On a personal note, I remember at the beginning of my six year tenure as the President of The Legal Services Corporation, being honored to give the Bellwood Memorial Lecture at the University of Idaho's School of Law, with my subject being, "Justice For All, Are we Fulfilling that Pledge?", and thinking, as I looked out upon all the aspiring and idealistic law students and the reservoir of amazing talent at the Law School, that this was an army or group to be harnessed towards this cause.

Little did I think that when I stepped aside six years later and joined with Chief Judge Jonathan Lippman in this major undertaking of bridging the justice gap, a term that coincidentally we had coined at LSC, that we would have achieved so much and be here today. I want to share with you that our initiatives here in New York have caught the attention of Chief Judges across the nation and are being looked at as a model by other States in this great country. You should all be proud to know that together we are indeed making a difference.

The 2011 Report of the Task Force to Expand Access to Civil Legal Services in New York noted the startling statistics that 2.3 million New Yorkers appear in civil court proceedings unrepresented and legal services providers throughout the state report they can provide civil legal assistance, at best, to only 1 in every 5 applicants who seek their assistance.

The 2011 Report of the Task Force, in suggesting ways to address this crisis, stated, as the Chief Judge noted, that although law schools are already playing a role in the civil legal services delivery system, it found that more could be done and suggested it would be important to explore ways that the 15 law schools in New York State could work with one another and with legal services providers, law firms, bar association leaders and the courts, to identify and address the essential unmet civil legal needs of indigent New Yorkers and expand access to civil legal assistance.

We indicated that the Task Force would convene the first ever leadership conference on the role of New York law schools in meeting the essential civil legal needs of low income New Yorkers and I am delighted that today we are doing just that. This is indeed a unique program at a key moment.

Each of you were specifically invited to attend today's Conversation because each of you have a unique perspective based on your experience, which we want to hear. We look forward to your input in this Conversation in helping to shape the Task Force's recommendations to the Chief Judge.

There are, of course, good things that are happening throughout the 15 New York Law Schools. There are outstanding clinics and law school pro bono programs and professors who include access to justice issues in the basic curriculum. We want to build on a framework that already exists and think creatively about new ones and that is what today is all about.

I would like to thank the Planning Committee: Dean Ellen Chapnick, Professors Helen Hershkoff, Olatunde Johnson, Marcia Levy, Mary Lynch, Elizabeth Schneider, David Udell and Alex Forger and Dean Matthew Diller.

I would also like to thank Skadden Arps for both providing the lunch and reception as well as providing note takers for each of the working groups. A special thank you goes to Lauren Kanfer from the Chief Judge's office and Kathy Horton from the Dean's office for their invaluable assistance.

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Jennifer C. Friedman, Director, Public Interest Law Center, Pace University School of Law
Marcia Levy, Associate Dean of Career Services and Professor of Professional Development, Benjamin N. Cardozo School of Law
Fred P. Rooney, Director, Community Legal Resource Network and External Relations, CUNY School of Law

On Clinics, Externships and Other Experiential Courses:

Professor Susan Bryant, CUNY School of Law
Ellen P. Chapnick, Dean for Social Justice Initiatives, Columbia Law School

On Incorporating Access to Justice Issues in the Basic Law School Curriculum:

Professor Olatunde Johnson, Columbia Law School
Professor Elizabeth M. Schneider, Director, Edward V. Sparer Public Interest Law Fellowship Program, Brooklyn Law School

Each of the facilitators have given considerable thought in preparing for the working group sessions and I want to recognize the substantial time and effort they have made to insure a meaningful Conversation.

I also want to acknowledge our final facilitator for the concluding session, Professor Peter Edelman, of the Georgetown University Law Center who is Chair of the D.C. Access to Justice Commission and is universally respected in this field. I will say more about him at the concluding session.

Finally, I would, of course, like to especially thank Dean Matthew Diller, Dean of Cardozo Law School who is a member of the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York for heading the effort on behalf of the Task Force. He has given generously of his time and extraordinary talents to ensuring that today's conversation will yield

significant recommendations to the Task Force as it considers recommendations to the Chief Judge.

Matthew Diller, who is a prominent scholar of social welfare law and policy, was appointed dean of Cardozo Law School in 2009. Prior to his appointment he had spent 16 years at Fordham Law School. Joining the Fordham Law Faculty in 1993 he was the Cooper Family Professor of Law, co-director for the Louis Stein Center for Law and Ethics, and Associate Dean for Academic Affairs. Prior to that we actually worked together at the Legal Aid Society from 1986 to 1993. He has served on numerous boards, including Legal Services NYC. Dean Diller has done a superb job in helping to identify the invited participants, in selecting the facilitators, and the panelists on the opening plenary session which he will moderate and in making the facilities of the Cardozo Law School available for this special event.

I now have the pleasure of turning the program over to Dean Diller to moderate the opening plenary session.

EXHIBIT 5

MAPS OF JUDICIAL DISTRICTS SHOWING LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

EXHIBIT 5-A:

MAP OF 1ST, 2ND, 11TH, 12TH AND 13TH JUDICIAL DISTRICTS and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

EXHIBIT 5-B:

MAP OF 3RD, 4TH, 5TH, 6TH, 7TH, 8TH AND 9TH JUDICIAL DISTRICTS and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

EXHIBIT 5-C:

MAP OF 10TH JUDICIAL DISTRICT and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

Maps and Lists prepared by ProBonoNet, New York, New York (May 2012) www.probono.net ||/www.LawHelp.org

EXHIBIT 5-A

MAP OF 1ST, 2ND, 11TH, 12TH AND 13TH JUDICIAL DISTRICTS and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

Law Schools and Legal Service Providers: NYC



New York Legal Services Providers and Law Schools – 1st Judicial District

New York County

Law Schools:

- Columbia
- Fordham
- Cardozo
- NYU
- New York

Legal Service Providers[1]:

Asian American Bar Association of New York	Grand Central Station, P.O. BOX 3656, New York, NY 10163
Association of the Bar of the City of New York	42 West 44th Street New York, NY 10036
Benjamin N. Cardozo School of Law	55 Fifth Avenue, New York, NY 10003
Columbia Law School	435 West 116th Street, New York, NY 10027
Dominican Bar Association	Canal Street Station, P.O. Box 203, New York, NY 10013
Eviction Intervention Services	1233 2nd Avenue, New York, NY 10065
FACES NY, Inc. (Forging Ahead for Community Empowerment & Support)	317 Lenox Avenue, 10th Floor, New York, NY 10027
Fair Housing Justice Center	5 Hanover Square, 17th Floor, New York, NY 10004
Fordham University School of Law	140 West 62nd Street, New York, NY 10023
Fordham University School of Law - Community Economic Development Clinic	33 West 60th Street 3rd floor, New York, NY 10023
Gay Men's Health Crisis - Legal Department	446 W 33rd St, 6th floor, New York, NY 10001
Goddard Riverside Community Center/SRO Law Project	51 West 109th Street, New York, NY 10025
Health Care Rights Initiative	233 Fifth Ave. Suite 4A, New York, NY 10016
Hebrew Immigrant Aid Society	333 Seventh Avenue, 16th Floor, New York, NY 10001
HIV Law Project, Inc.	15 Maiden Lane, 18th Floor, New York, NY 10038

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 1st Judicial District

New York County

Housing Conservation Coordinators	777 Tenth Avenue, New York, NY 10019
Human Rights First - Asylum Program	333 Seventh Avenue, 13th floor, New York, NY 10001
Immigration Equality	40 Exchange Place, Suite 1705, New York, NY 10005
inMotion, Inc.	100 Broadway, 10th Floor, New York, NY 10005
International Rescue Committee - Immigration Services	122 East 42nd Street, 11th Floor, New York, NY 10168
Lambda Legal Defense and Education Fund, Inc.	120 Wall Street, Suite 1500, New York, NY 10005
LatinoJustice PRLDEF	99 Hudson Street, 14th floor, New York, NY 10013
Lawyers Alliance for New York	171 Madison Avenue, 6th Floor, New York, NY 10016
Lawyers for Children, Inc.	110 Lafayette Street, New York, NY 10013
Legal Action Center of the City of New York, Inc. (LAC)	225 Varick St. 4th Floor, New York, NY 10014
Legal Aid Society - Community Development Project	230 East 106 Street, New York, NY 10029
Legal Aid Society: Criminal Defense Practice, Special Litigation Unit	199 Water Street, 6th floor, New York, NY 10038
Legal Aid Society: Harlem Community Law Office	230 East 106th Street , New York, NY 10029
Legal Aid Society: Health Law Unit	199 Water St., New York, NY 10038
Legal Aid Society: Juvenile Rights Practice - Manhattan	60 Lafayette Street, New York, NY 10013
Legal Aid Society: Lower Manhattan Neighborhood Office	199 Water Street, New York, NY 10038
Legal Aid Society: Manhattan Housing Court Project	111 Centre Street, #106, New York, NY 10013
Legal Aid Society: Prisoners' Rights Project	199 Water Street, 6th Floor, New York, NY 10038
Legal Information for Families Today (LIFT)	350 Broadway, Suite 501, New York, NY 10013
Legal Momentum	395 Hudson Street, 5th floor, New York, NY 10014
Legal Services NYC	40 Worth Street, Suite 606, New York, NY 10013
Lenox Hill Neighborhood House	331 East 70th Street, New York, NY 10021
Lesbian, Gay, Bisexual & Transgender Law Association of Greater N.Y.	799 Broadway, #340, New York, NY 10003
Lutheran Social Services of New York - Immigration Legal Project	308 West 46th St. , New York, NY 10036
Manhattan Legal Services	1 West 125th Street, 2nd floor (and 90 John Street, Suite 301, 10038), New York, NY 10027

New York Legal Services Providers and Law Schools – 1st Judicial District

New York County

Medicare Rights Center, Inc.	520 Eighth Avenue, NW, 3rd Floor, New York, NY 10018
MFY Legal Services, Inc.	299 Broadway, 4th floor, New York, NY 10007
NAACP Legal Defense and Educational Fund, Inc.	99 Hudson Street, Suite 1600, New York, NY 10013
National Campaign to Restore Civil Rights	151 West 30th Street, New York, NY 10001
National Center for Law and Economic Justice	275 Seventh Avenue, Suite 1506, New York, NY 10001
National Organization for Women (NOW) - Employment Law Clinic	150 W. 28th Street, Suite 304, New York, NY 10001
Neighborhood Defender Service of Harlem	317 Lenox Avenue, 10th floor, New York, NY 10027
Neighborhood Economic Development Advocacy Project	73 Spring St., Suite 506, New York, NY 10012
New York Center for Law and Justice, Inc.	2095 Broadway, Suite 411, New York, NY 10123
New York City Gay and Lesbian Anti-Violence Project	240 West 35th Street, Suite 200, New York, NY 10001
New York Civil Liberties Union	125 Broad Street, 19th floor, New York, NY 10004
New York County Defender Services	225 Broadway, Suite 1100, New York, NY 10007
New York County Lawyers' Association	14 Vesey Street, New York, NY 10007
New York Law School	185 West Broadway, New York, NY 10013
New York Lawyers for the Public Interest	151 West 30th Street, New York, NY 10001
New York Legal Assistance Group (NYLAG)	450 West 33rd Street, 11th floor, New York, NY 10001
New York Society for the Prevention of Cruelty to Children	161 William Street, 12th floor, New York, NY 10038
New York State Access to Justice Program - Volunteer Attorney Program	111 Centre Street, New York, NY 10013
New York State Association of Criminal Defense Lawyers	2 Wall Street, Third Floor, New York, NY 10005
New York University Family Defense Clinic	245 Sullivan Street, 5th Floor, New York, NY 10012
New York University School of Law	40 Washington Sq. South, New York, NY 10012
Northern Manhattan Improvement Corporation	76 Wadsworth Avenue, New York, NY 10033
Partnership for Children's Rights	271 Madison Avenue, 17th Floor, New York, NY 10016
Project FAIR (Fair hearing, Assistance, Information and Referral)	199 Water Street, 3rd Floor, New York, NY 10038
Resilience Advocacy Project (RAP)	262 West 38th Street, Suite 1104, New York, NY 10018
Safe Horizon	Confidential address, New York, NY 10013

New York Legal Services Providers and Law Schools – 1st Judicial District

New York County

Sanctuary for Families' Center for Battered Women's Legal Services	P.O. Box 1406, Wall Street Station, New York, NY 10268
Selfhelp Community Services, Inc. -Evelyn Frank Legal Resources Program	520 Eighth Avenue, 5th Floor, New York, NY 10018
Service Fund of the National Organization for Women (NOW-NYC)	150 West 28th Street, Room 304, New York, NY 10001
Sylvia Rivera Law Project	147 W. 24th St., 5th Floor, New York, NY 10011
The Door - A Center of Alternatives	121 Avenue of the Americas, New York, NY 10013
The Family Center	315 West 36th Street, 4th Floor, New York, NY 10018
The Puerto Rican Bar Association	303 Park Avenue South, #1405, New York, NY 10010
Transgender Legal Defense & Education Fund, Inc.	151 West 19th Street, Suite 1103, New York, NY 10011
Unemployment Action Center, Inc.	240 Mercer Street, New York, NY 10012
Urban Justice Center	123 William Street, 16th Floor, New York, NY 10038
Urban Justice Center - Harm Reduction Law Project	666 Broadway, 10th floor, New York, NY 10012
Volunteer Lawyers for the Arts	1 East 53rd Street, 6th floor, New York, NY 10022
Volunteers of Legal Service (VOLS)	281 Park Avenue South, New York, NY 10010
Women's Bar Association of New York	Post Office Box 936, New York, NY 10024
Workers Defense League, Inc.	PO Box 618 Madison Square Station, New York, NY 10159
Youth Represent	346 Boradway, Suite 601, New York, NY 10013

New York Legal Services Providers and Law Schools – 2nd Judicial District

Kings County

Law Schools:

- Brooklyn

Legal Service Providers[1]:

Brooklyn Bar Association	123 Remsen Street Brooklyn, NY 11201
Brooklyn Law School	250 Joralemon Street, Brooklyn, NY 11201
Kings County District Attorney's Office	350 Jay Street, Brooklyn, NY 11201
Legal Aid Society: Brooklyn Neighborhood Office	111 Livingston Street, 7th floor, Brooklyn, NY 11201
Legal Aid Society: Juvenile Rights Practice- Queens	153-01 Jamaica Ave, Jamaica, NY 11201
Legal Services NYC - Brooklyn Branch	180 Livingston Street, Suite 302, Brooklyn, NY 11201
Legal Services NYC - Brooklyn Branch - Brighton Office	3049 Brighton 6th Street, Brooklyn, NY 11235
Legal Services NYC - Brooklyn Branch - Williamsburg Outreach Office	32 Penn Street, Brooklyn, NY 11211
Make the Road New York	301 Grove St. , Brooklyn, NY 11237
Neighbors Helping Neighbors, Inc.	443 39th Street, #202 , Brooklyn, NY 11232
Osborne Association, Inc.	175 Remsen Street, 8th Floor, Brooklyn, NY 11201
Safe Horizon: Domestic Violence Law Project	210 Joralemon Street, Suite 608, Brooklyn, NY 11201
Safe Horizon: Immigration Law Project	50 Court Street, 8th Floor, Brooklyn, NY 11201
South Brooklyn Legal Services (A Program of Legal Services NYC)	105 Court Street, 4th Floor, Brooklyn, NY 11201

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 11th Judicial District

Queens County

Law Schools:

- CUNY
- St. John's

Legal Service Providers[1]:

City University of New York School of Law at Queens College	65-21 Main Street, Flushing, NY 11367
Fortune Society	29-76 Northern Blvd , Long Island City, NY 11101
Immigrant Advocacy Services Inc.	24-40 Steinway Street, Astoria, NY 11103
inMotion, Inc. - Queens Program	126-02 82nd Avenue, Kew Gardens, NY 11415
Korean Immigrant Services of New York, Inc.	142-01 38th Avenue, 2nd floor, Flushing, NY 11354
Latino Lawyers Association of Queens County	Forest Hills Station, P.O.Box 751235, Forest Hills, NY 11375
Legal Aid Society: Queens Neighborhood Courthouse Office	89-17 Sutphin Blvd., Room 160, Jamaica, NY 11435
Legal Aid Society: Queens Neighborhood Office	120-46 Queens Blvd., 3rd floor, Kew Gardens, NY 11415
Legal Services for the Elderly in Queens (part of Jewish Association for Services for the Aged - JASA)	97-77 Queens Blvd., Suite 600, Rego Park, NY 11374
Main Street Legal Services, Inc.	65-21 Main Street, Flushing, NY 11367
Make the Road New York Jackson Heights Office	92-10 Roosevelt Avenue, Jackson Heights, NY 11372
New York Urban League-Queens	89-25 Parsons Boulevard (YMCA Rm 444), Jamaica, NY 11432
Queens Community House - Eviction Prevention Program	165-08 88th Avenue, Jamaica, NY 11432
Queens County Bar Association	90-35 148th Street, Jamaica, NY 11435
Queens Legal Services	89-00 Sutphin Blvd. 2nd Floor, Jamaica, NY 11435
Queens Volunteer Lawyers Project, Inc.	90-35 148th Street, Jamaica, NY 11435
St. John's University School of Law	8000 Utopia Parkway, Queens, NY 11439

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 12th Judicial District

Bronx County

Law Schools: *none*

Legal Service Providers[1]:

Bronx Bar Association	NYS Supreme Court Bldg., Room 124, 851 Grand Concourse, Bronx, NY 10451
Eviction Prevention, Concourse Public Assistance Center #45	1365 Jerome Avenue, 2nd flr., Bronx, NY 10452
inMotion, Inc. - Bronx Office	198 East 161st Street, 2nd Floor, Bronx, NY 10451
Legal Aid Society: Bronx Courthouse Office	1118 Grand Concourse, Bronx, NY 10456
Legal Aid Society: Bronx Neighborhood Office	260 East 161st St. , Bronx, NY 10451
Legal Aid Society: Juvenile Rights Practice - Bronx	900 Sheridan Avenue, Bronx, NY 10451
Legal Services NYC - Bronx Office	579 Courtlandt Avenue, Bronx, NY 10451
Legal Services NYC-Bronx - Housing Unit	329 E. 149th Street 3rd Floor, Bronx, NY 10451
Neighborhood Association for Intercultural Affairs (NAICA)	1075 Grand Concourse, Suite 1, Bronx, NY 10452
South Bronx Action Group	384 E.149th Street, #220, Bronx, NY 10455
The Bronx Defenders	860 Courtlandt Avenue, Bronx, NY 10451

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 13th Judicial District

Richmond County

Law Schools: *none*

Legal Service Providers[1]:

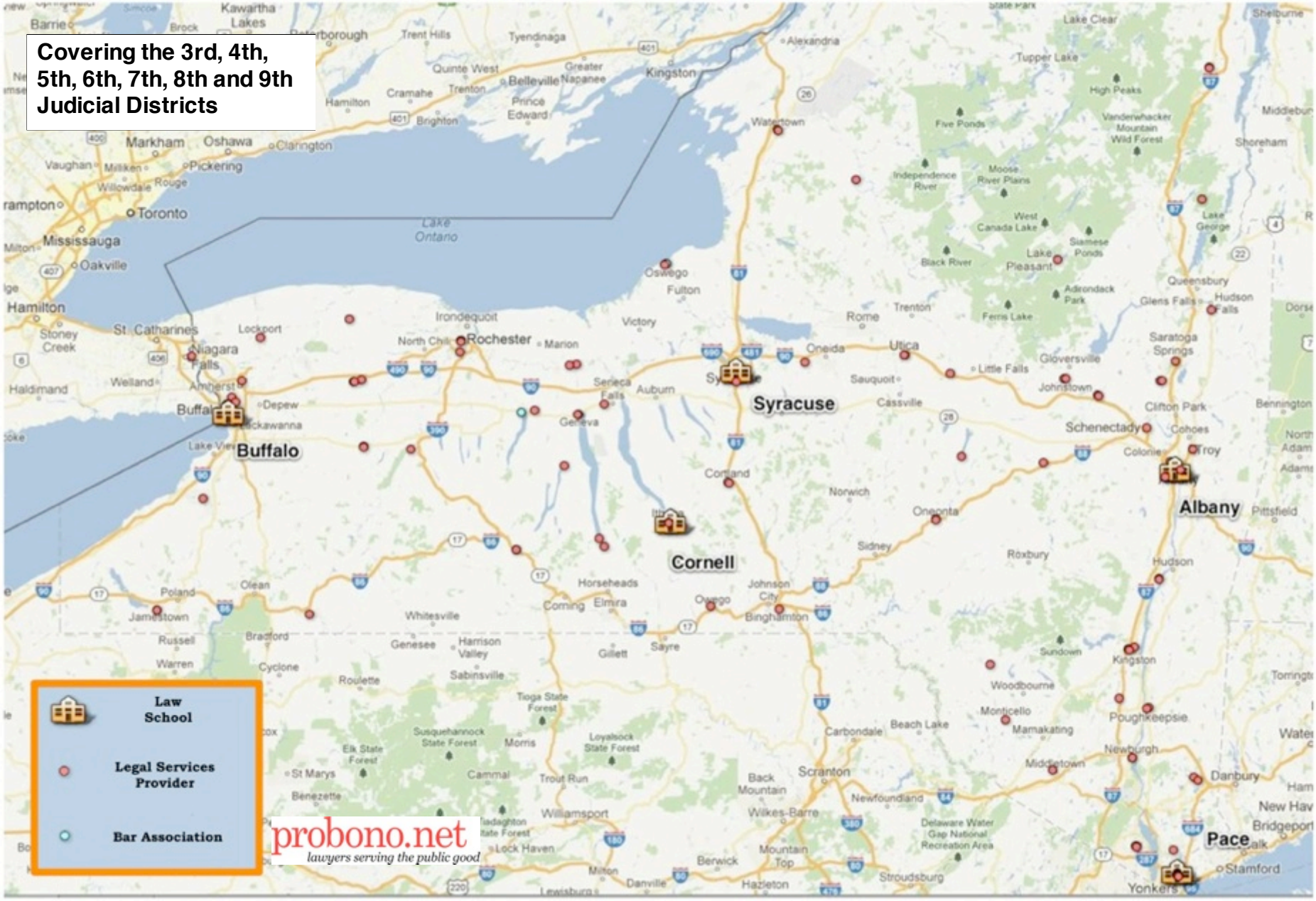
Legal Aid Society: Staten Island Office	60 Bay Street, Staten Island, NY 10301
Make the Road New York Staten Island	479 Port Richmond Avenue, Staten Island, NY 10302
Project Hospitality, Inc. - Legal Advocacy Program	100 Park Avenue, Staten Island, NY 10302
Richmond County Bar Association Volunteer Lawyers' Project	152 Stuyvesant Place, Staten Island, NY 10301
Staten Island Legal Services	36 Richmond Terrace, Suite 205, Staten Island, NY 10301

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

EXHIBIT 5-B

MAP OF 3RD, 4TH, 5TH, 6TH, 7TH AND 9TH JUDICIAL DISTRICTS and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

Law Schools and Legal Service Providers: Upstate



New York Legal Services Providers and Law Schools – 3rd Judicial District

Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan & Ulster Counties

Law Schools:

- Albany

Legal Service Providers[1]:

Albany County Bar Association	The Stedman House, 1 Lodge Street, 2nd Floor, Albany, NY 12207
Albany Law School	80 New Scotland Avenue, Albany, NY 12208
Empire Justice Center	119 Washington Avenue, Albany, NY 12210
Greene County Public Defender	411 Main St. 2nd Fl., Catskill, NY 12414
Legal Aid Society of Northeastern New York	55 Colvin Avenue, Albany, NY 12206
Legal Aid Society: Mid-New York - Farmworker Law Project	52 S. Manheim Blvd., New Paltz, NY 12561
Legal Services of the Hudson Valley - Kingston	101 Hurley Avenue, Suite 3, Kingston, NY 12401
New York State Academy of Trial Lawyers	39 North Pearl Street, 6th Floor, Albany, NY 12207
New York State Bar Association	One Elk Street, Albany, NY 12207
New York State Defenders Association	194 Washington Ave, Suite 500, Albany, NY 12210
New York State Defenders Association - Criminal Defense Immigration Project	194 Washington Avenue, Suite 500, Albany, NY 12210
NYSARC, Inc.	393 Delaware Ave, Delmar, NY 12054
Prisoners' Legal Services of New York	41 State Street, Suite M112, Albany, NY 12207
Public Utility Law Project of NY, Inc.	194 Washington Avenue Suite 420, Albany, NY 12210
Sullivan County Conflict Legal Aid Bureau	P.O. Box 157, Breezy Hill Road, Parksville, NY 12768
Ulster County Public Defender	P.O. Box 1800, 18 Lucas Avenue, Kingston, NY 12401
Unity House Law Project	504 Broadway, Troy, NY 12180
Workers' Justice Center of New York, Inc.	101 Hurley Avenue, Suite 5, Kingston, NY 12401

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 4th Judicial District

Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren & Washington Counties

Law Schools:

-

Legal Service Providers[1]:

Essex County Public Defender	7551 Court Street, P.O. Box 217, Elizabethtown, NY 12932
Franklin County Conflict Defender	355 West Main Street, Suite 237, Malone, NY 12953
Franklin County Public Defender	Franklin County Courthouse, 355 West Main Street, Malone, NY 12953
Fulton County Public Defender	55 East Main Street, Suite 310, Johnstown, NY 12095
Hamilton County Assigned Counsel Program	P.O. Box 205, Lake Pleasant , NY 12108
Legal Aid Society of Northeastern New York - Amsterdam office	1 Kimball Street, Amsterdam, NY 12010
Legal Aid Society of Northeastern New York - Canton Office	17 Hodskin St : P.O. Box 648, Canton, NY 13617
Legal Aid Society of Northeastern New York - Plattsburgh Office	100 Court Street, P.O. Box 989, Plattsburgh, NY 12901
Legal Aid Society of Northeastern New York - Saratoga Springs office	112 Spring Street, Saratoga Springs, NY 12866
Rural Law Center of New York, Inc.	22 U.S. Oval, Suite 203, Plattsburgh, NY 12903
Saratoga County Public Defender	40 McMaster Street, Ballston Spa, NY 12020
Schenectady County Senior & Long Term Care Services	Shaffer Heights, 107 Nott Terrace, Suite 202, Schenectady, NY 12308
Warren County Assigned Counsel Office	1340 State Route 9, Lake George , NY 12845

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 5th Judicial District

Herkimer, Jefferson, Lewis, Oneida, Onondaga & Oswego Counties

Law Schools:

- Syracuse

Legal Service Providers[1]:

Frank H. Hiscock Legal Aid Society	351 South Warren St., 3rd Floor, Syracuse, NY 13202
Legal Aid Society of Mid-New York - Utica office	255 Genesee St, 2nd Floor, Utica, NY 13501
Legal Aid Society: Mid-New York - Oswego office	108 W. Bridge Street, Oswego, NY 13126
Legal Aid Society: Mid-New York - Syracuse Office	472 South Salina Street; Suite 300, Syracuse, NY 13202
Legal Aid Society: Mid-New York, Inc. - Watertown Office	44 Public Square, Watertown, NY 13601
Legal Services of Central New York, Inc - Syracuse office (Main office)	472 S. Salina St. Suite 300B, Syracuse, NY 13202
Onondaga County Bar Association	1000 State Tower Building, 109 South Warren Street, Syracuse, NY 13202
Oswego County Assigned Counsel Plan	46 East Bridge Street, Oswego, NY 13126
Oswego County Bar Association	PO Box 5453, Oswego, NY 13126
Syracuse University College of Law	Syracuse University College of Law, Suite 440, Syracuse, NY 13244

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 6th Judicial District

Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga & Tompkins Counties

Law Schools:

- Cornell

Legal Service Providers[1]:

Cornell Law School (Legal Information Institute)	477 Myron Taylor Hall, Ithaca, NY 14853
Cortland Co. Bar Association	P. O. Box 5381, Cortland, NY 13045
Legal Aid Society: Mid-New York - Binghamton office	30 Fayette Street, Binghamton, NY 13901
Legal Aid Society: Mid-New York - Oneonta office	, Oneonta, NY 13820
Legal Services of Central New York, Inc.	111 Port Watson St., Cortland, NY 13045
Otsego County Public Defenders Office	48 Dietz Street, Suite E, Oneonta, NY 13820
Schuyler County Public Defender	105 Ninth Street, Unit 7, Watkins Glen, NY 14891
Tompkins/Tioga Neighborhood Legal Services (A Division of Legal Assistance of Western New York, Inc. - LawNY)	215 N. Cayuga St, Ithaca, NY 14850

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 7th Judicial District

Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne & Yates Counties

Law Schools: *none*

Legal Service Providers[1]:

Empire Justice Center - Rochester Office	One West Main Street, Suite 200, Rochester, NY 14614
Legal Aid Society of Rochester	One West Main Street, Suite 800, Rochester, NY 14614
Legal Assistance of the Finger Lakes - Do not remove	One Franklin Square, PO Box 487, Geneva, NY 14456
Legal Assistance of Western New York, Inc.Ã† - Geneva Office	361 South Main Street, Geneva, NY 14456
Monroe County Bar Association	1 West Main Street, 10th Floor, Rochester, NY 14614
Monroe County Conflict Defender	30 West Broad Street, Suite 306, Rochester, NY 14614
Monroe County Public Defender	10 North Fitzhugh Street, Rochester, NY 14614
Ontario County Bar Association	P.O. Box 381, Canandaigua, NY 14424
Southern Tier Legal Services - Bath (A Division of Legal Assistance of Western New York - LawNY)	104 East Steuben Street, Bath, NY 14810
Volunteer Legal Services Project of Monroe County, Inc.	1 West Main Street Suite 500, Rochester, NY 14614
Wayne County Public Defender	County Courthouse Building, 26 Church Street, 2nd floor, Lyons, NY 14489

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 8th Judicial District

Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans & Wyoming Counties

Law Schools:

- Buffalo

Legal Service Providers[1]:

Bar Asscociation of Erie County	438 Main Street (Sixth Floor), Buffalo, NY 14202
Erie County Bar Association Volunteer Lawyers Project, Inc.	Main-Seneca Building. 237 Main St., Suite 1000, Buffalo, NY 14203
Erie County Department of Senior Services	95 Franklin Street, Room 1329, Buffalo , NY 14202
Erie County Department of Social Services: Legal Advocacy for the Disabled (LAD):	43 Court Street, 4th Floor, Buffalo, NY 14202
Genesee County Public Defender	Genesee County Courts Facility, 1 West Main Street, Batavia, NY 14020
International Institute of Buffalo	864 Delaware Avenue, Buffalo, NY 14209
Journey's End Refugee Services	2495 Main Street, Suite 317, Buffalo, NY 14214
Legal Aid Bureau of Buffalo, Inc.	237 Main Street #1602, Buffalo, NY 14203
Legal Aid Bureau of Buffalo, Inc. - Public Defender Unit	Buffalo City Court Building, 50 Delaware Avenue, Buffalo, NY 14202
Legal Aid of Chautauqua Region, Inc.	111 West 2nd Street, Suite 250, Jamestown, NY 14701
Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc.	237 Main Street, Suite 1015, Buffalo, NY 14203
Neighborhood Legal Services, Inc.	237 Main Street, 4th Floor, Buffalo, NY 14203
Niagara County Legal Aid Society	775 Third St, P.O. Box 844, Niagara Falls, NY 14302
Oak Orchard Legal Services, Inc. A Division of Neighborhood Legal Services, Inc.	5073 Clinton Street Road, Batavia, NY 14020
Southern Tier Legal Services- Jamestown office (A Division of	106 West Third Street, Suite One, Jamestown, NY 14701

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 8th Judicial District

Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans & Wyoming Counties

Legal Assistance of Western New York - LawNY)	
Southern Tier Legal Services- Olean office (A Division of Legal Assistance of Western New York - LawNY)	103 South Barry Street, Olean, NY 14760
University at Buffalo Law School	John Lord O'Brian Hall, Buffalo, NY 14260
VIVE, Inc.	50 Wyoming Avenue, Buffalo, NY 14215
Western New York Law Center	237 Main Street, Suite 1130, Buffalo, NY 14203
Wyoming County-Attica Legal Aid Bureau, Inc, (Wyoming County Public Defender)	18 Linwood Ave., Warsaw, NY 14569

New York Legal Services Providers and Law Schools – 9th Judicial District

Dutchess, Orange, Putnam, Rockland & Westchester Counties

Law Schools:

- Pace

Legal Service Providers[1]:

Empire Justice Center - Immigration (Mount Vernon Office)	100 East First Stree, 8th Floor, Mount Vernon, NY 10550
Empire Justice Center - Immigration (White Plains Office)	80 North Broadway, White Plains, NY 10603
Family Services' Battered Women's Services Program	29 North Hamilton Street, Poughkeepsie, NY 12601
Hopes Door	PO Box 203, Pleasantville, NY 10570
Legal Aid Society of Rockland County	2 Congers Road, New City, NY 10956
Legal Services of the Hudson Valley	90 Maple Avenue (Main Office), White Plains, NY 10601
Legal Services of the Hudson Valley - Mount Vernon	8th Floor, Suite 810, Mt. Vernon, NY 10550
Legal Services of the Hudson Valley - New City	120 N. Main Street, Fifth Floor, New City, NY 10956
Legal Services of the Hudson Valley - Newburgh	123 Grand Street, Newburgh, NY 12550
Legal Services of the Hudson Valley - Poughkeepsie	147 Union Street, Suite 101, Poughkeepsie, NY 12601
Legal Services of the Hudson Valley - Yonkers	30 South Broadway, 6th Floor, Yonkers, NY 10701
My Sisters' Place	1 Water Street, White Plains, NY 10601
New York State Access to Justice Program - Attorney-of-the-day Program for Uncontested Divorces in Westchester County	111 Dr. Martin Luther King, Jr., Blvd., White Plains, NY 10601
Pace Law School	78 North Broadway, White Plains, NY 10603
Pace Law School - Immigration Justice Clinic	80 North Broadway, White Plains, NY 10603
Pace Women's Justice Center	78 North Broadway *, White Plains, NY 10603
Pro Bono Partnership	237 Mamaroneck Avenue, Suite 300, White Plains, NY 10605
Putnam County Legal Aid Society, Inc.	20 Fair Street, Carmel, NY 10512
Rockland County Assigned Counsel Plan	Braunfotel & Frendel, LLC, 120 North Main St., New City, NY 10956

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

New York Legal Services Providers and Law Schools – 9th Judicial District

Dutchess, Orange, Putnam, Rockland & Westchester Counties

Rockland County Public Defender	11 New Hempstead Road, New City, NY 10956
Safe Homes of Orange County	P.O. Box 649, Newburgh, NY 12550
Westchester County Bar Association	One North Broadway, Suite 512, White Plains, NY 10601
Westchester County Department of Senior Programs & Services	9 South First Avenue, 10th Floor, Mt. Vernon, NY 10550
Westchester County District Attorney's Office- Economic Crimes Bureau	111 Dr. Martin Luther King Jr. Blvd., White Plains, NY 10601
Westchester Hispanic Coalition	46 Waller Ave, White Plains, NY 10605

EXHIBIT 5-C

MAP OF 10TH JUDICIAL DISTRICT and LIST OF LAW SCHOOLS, LEGAL SERVICES PROVIDERS AND BAR ASSOCIATIONS

Law Schools and Legal Service Providers: Long Island



New York Legal Services Providers and Law Schools – 10th Judicial District

Nassau & Suffolk Counties

Law Schools:

- Touro
- Hofstra

Legal Service Providers[1]:

Empire Justice Center - Tuoro Law School	225 Eastview Dr. Room 222, Central Islip, NY 11722
Hofstra University School of Law	121 Hofstra University, Hempstead, NY 11549
Hofstra University School of Law - Community Legal Assistance Corp., Child Advocacy Clinic	108 Hofstra University, Hempstead, NY 11549
Legal Aid Society of Nassau County	One Helen Keller Way, 3rd floor, Hempstead, NY 11550
Legal Aid Society of Suffolk County, Inc - Senior Citizen Division	400 Carleton Avenue, 4th Floor, Central Islip, NY 11722
Long Island Advocacy Center, Inc. - Nassau County	999 Herricks Rd. Suite 108, New Hyde Park, NY 11040
Long Island Advocacy Center, Inc. - Suffolk County	490 Wheeler Rd., Suite 165C, Hauppauge, NY 11788
Long Island Housing Services, Inc.	640 Johnson Ave. Suite 8, Bohemia, NY 11716
Mental Hygiene Legal Service, 2nd Judicial Department	170 Old Country Road Suite 500, Mineola, NY 11501
Nassau County Bar Association	15th & West Streets, Mineola, NY 11501
Nassau County CASA	40 Main Street, Hempstead, NY 11550
Nassau County Coalition Against Domestic Violence	15 Grumman Road West, Suite 1000, Bethpage, NY 11714
Nassau County Department of Senior Citizen Affairs	60 Charles Lindbergh Boulevard, Uniondale, NY 11553
Nassau/ Suffolk Law Services Committee, Inc	One Helen Keller Way, 5th Floor, Hempstead, NY 11550
Nassau/ Suffolk Law Services Committee, Inc - Pro Bono Project	1757 Veterans Highway, Suite 50, Islandia, NY 11749
Suffolk County Bar Association - Pro Bono Foreclosure Settlement Project	560 Wheeler Road, Hauppauge, NY 11788
Touro College Law Center	225 Eastview Drive, Central Islip, NY 11722

[1] Legal Services Provider information from LawHelp/NY – www.lawhelp.org/NY

APPENDIX 16:

Report of the Task Force's *Pro Bono* Involvement Working Group

THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

Private Bar Support for *Pro Bono*, Subcommittee Report

The Task Force to Expand Access to Civil Legal Services in New York
Private Bar Support for Pro Bono, Subcommittee Report

In its 2011 Report, the Task Force recognized the "long-standing tradition of *pro bono* efforts by private attorneys to expand the availability of civil legal assistance for low-income families and individuals."[1] Relying on the strength of that tradition, the Task Force concluded that, in 2012, it would "explore new efforts to increase the already high levels of *pro bono* assistance that the private bar provides."[2]

After study of current trends in *pro bono* participation by the private bar in New York, statewide average monetary contributions by individual lawyers to legal service providers and various means to increase private bar support for *pro bono* assistance to low-income families and individuals, the Task Force makes the following seven key recommendations:

- Revise New York Rule of Professional Conduct 6.1 to Encourage 50 Hours of *Pro Bono* Service Per Year
- Revision of the Biannual Attorney Registration Form to Include a *Pro Bono* Hours Reporting Requirement
- Revise New York Rule of Professional Conduct 6.1 to Include a Monetary Contribution Guideline for Donations to Legal Service Organizations that Serve Low-Income Populations
- Revision of the Biannual Attorney Registration Form to Include a Monetary Contribution Reporting Requirement for Donations to Legal Service Organizations that Serve Low-Income Populations
- Law Firm Participation in the Attorney Emeritus Program
- Revision of Part 522 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors of Law to Allow *Pro Bono* Service by Attorneys Registered in New York as In-house Counsel
- Exploration by the Continuing Legal Education Board of the Advisability of Allowing Newly Admitted, Unemployed Lawyers to Fulfill Some Portion of the Mandatory Continuing Legal Education Requirements for Skills, Law Practice Management and Professional Practice Credits through Qualified *Pro Bono* Work

[1] Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York at 36 [hereinafter 2011 Task Force Report].

[2] 2011 Task Force Report, *supra* note 1 at 40.

As was documented in the 2011 Task Force Report, while *pro bono* resources "are finite and cannot be expected to meet the extraordinary unmet need for civil legal help," IOLA's analysis of matters involving *pro bono* assistance continues to show a slightly positive trend in increasing numbers of civil legal matters that are handled with the benefit of *pro bono* assistance. Specifically, IOLA data shows that the number of cases closed by IOLA grantees involving *pro bono* assistance increased from 20,526 cases in 2010 to 20,653 in 2011.[3] Also, bar associations across the state are working diligently to stimulate and accelerate *pro bono* assistance; the New York City Bar Association reported 2,171 volunteers helped alongside the City Bar Justice Center Staff to assist nearly 20,000 people in 2012.[4] The Chief Judge's own initiative leading to a new rule requiring 50 hours of *pro bono* work as a condition of admission to the New York bar promises to inculcate a new generation of lawyers who understand the importance of *pro bono* work.

In an effort to obtain a broader picture of the baseline *pro bono* contributions of attorneys in New York—one that extends beyond the information that the IOLA data provides— the Task Force coordinated with the American Bar Association in its national study of the *pro bono* participation of America's lawyers.[5] By supplementing the ABA's survey instrument with

[3] 2011 Task Force Report, *supra* note 1 at 37 and IOLA 2011 *Pro bono* Report.

[4] *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey Dunne, New York City Bar Association, President, at 2).*

[5] The ABA Standing Committee on *Pro Bono* and Public Service contracted with The Research Intelligence Group ("TRIG") to conduct its third national study on the *pro bono* participation of America's attorneys. The Task Force submitted additional questions for the New York survey that focused on: 1) the county in which the lawyer conducts the preponderance of legal work, 2) monetary donations to legal service providers, 3) total *(cont'd)*

additional New York specific interview questions, the Task Force has the first statewide *pro bono* data available since 2002 when a statewide survey of the *pro bono* activities of the New York bar was last conducted.[6] The 2012 ABA Survey ("New Survey") indicates that almost three-quarters of New York attorneys performed at least some *pro bono* work in 2012 and that a majority performed over 20 hours last year, with the average number of *pro bono* hours totaling 66 or 4.7% of the billable hours reported by the attorneys for the year.[7] These are significant improvements from the 2002 survey which indicated only 46% of attorneys performed any *pro bono* work in 2001, and only 27% met the 20 hours of *pro bono* which Section 6.1 "strongly encourages" each New York admitted attorney to perform.[8]

While the increase over the decade is encouraging, the problem of unrepresented poor litigants in the New York courts has grown inexorably, exceeding 2 million in 2010 and 2011.[9] Consequently, the Task Force urges that Section 6.1 be amended to increase the requested number of *pro bono* hours per attorney from 20 to 50 annually which, as the New Survey shows, is fewer hours than the average New York attorney now performs. It is proposed by the Task Force that the goal cited in Section 6.1 should remain precatory, at least until results of the

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number of billable hours and 4) the number of hours worked fitting the definition of services provided in Rule 6.1. The New Survey is annexed as Exhibit 1.

[6] New York State Unified Court System, *Report on the 2002 Pro bono Activities of the New York State Bar* (January 2004) [hereinafter 2002 *Pro Bono* Report].

[7] TRIG reported that the portion of their survey related to New York attorneys' *pro bono* efforts had a 6.5% margin of error at the standard 95% level of confidence.

[8] 2002 *Pro Bono* Report, *supra* note 6 at iii.

[9] 2011 Task Force Report, *supra* note 1 at 16; *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey Dunne, New York City Bar Association, President, at 1).*

change in Section 6.1 upon the number of *pro bono* performed can be assessed. While there would continue to be no enforcement consequences imposed with the revision for failure to meet the increased goal, we urge that reporting of those hours be required in the biannual attorney re-registration process.[10]

The New Survey also asked the respondents about their monetary contributions in 2011 to legal service providers for the poor; but, while the survey required responses related to *pro bono* services performed, the respondent could elect not to answer the contribution question and 45% of respondents chose not to answer this query. Of the 55% who did respond, they reported contributions to legal service providers equal to, on average $522 per lawyer, despite the fact that 47% of the responders contributed no money to such organizations in 2011.[11] However, given the limited response rate and the effect of one outlier respondent on the calculation of the average, a more representative figure may be the median contribution of $250 per attorney. Lawyers in practice over 20 years or more contributed almost twice as much ($1271) as those who had not practiced for 20 years ($633).[12] We note that the likelihood that the 45% of those polled who did not answer this question, were quite likely to have contributed less than those who voluntarily responded to the question; and, this implies that average giving to civil legal services is considerably lower than the $522 overall average of those who did choose to respond.

[10] Proposed Biannual Attorney Registration questions related to *pro bono* hours are annexed as Exhibit 2. The New York City Bar Association has supported a reporting requirement for *pro bono* hours since 1997. *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Oct. 1, 2012 (testimony of Carey Dunne, New York City Bar Association, President, at 2).*

[11] New Survey, *supra* note 5 at 11.

[12] New Survey, *supra* note 5 at 11.

Another indicator of the level of financial support by the private bar for legal service providers can be found by looking at private bar contributions to IOLA grantees, which total over $12,000,000 in 2011. That data shows that law firms contributed $11,239,251, bar associations contributed $656,514, bar funds and the Campaign for Justice contributions amounted to $56,000 and individual lawyers donated $181,528.[13]

There have been significant cutbacks in funding for the legal service providers in the State emanating principally from the over 85% reduction in IOLTA funding in the State given the persistently low interest rates being paid on bank deposits. The resulting lay-offs from the reduction in revenues of the legal service providers for the poor, despite the additional funding added (through the initiatives of the Chief Judge) to the budget of $25 million 2010 and an additional $12.5 million in 2011, has exacerbated the plight of the millions of unrepresented poor involved in court proceedings each year.

The Task Force is mindful of the fact that assistance from the private bar is an "essential mechanism for narrowing the justice gap, *especially where efforts to engage pro bono lawyers are adequately resourced and supported*."[14] Leaders of the private bar affirmed the importance of properly supporting *pro bono* work in testimony during the Chief Judge's 2011 hearings on Civil Legal Services by indicating that *pro bono* efforts of private lawyers require additional resources for civil legal services programs in order for those civil legal services programs to

[13] The IOLA Fund of the State of New York, 2011 Report on Funding for IOLA Grantees.

[14] The Legal Services Corporation Report of the *Pro Bono* Task Force at 3 (July 2012) (emphasis added).

screen cases and train and supervise *pro bono* attorneys.[15] Additional resources supportive of *pro bono* work call for increased financial support. We trust that the "strong recommendation" of Section 6.1 has encouraged the contributions being made by the private bar; but, clearly more needs to be done.

To foster greater contributions from a larger percentage of attorneys, the Task Force recommends that a guideline be added to Section 6.1 that quantifies the minimum contribution annually which is urged to be made to legal services providers for the poor.[16] The Task Force recommends that attorneys in private practice annually contribute to legal services providers for the poor a donation at least equivalent to the amount of the individual attorney's typical billing rate for one hour of time. Lawyers working at for-profit entities are strongly urged to contribute annually an aggregate amount equal to at least the amount typically paid by their organization for one hour of legal work for attorneys of the seniority of the reporting lawyer, or if not known to the lawyer, an amount equal to at least one-tenth of one percent of the lawyer's salary. Lawyers who work solely on a contingency basis would be asked to contribute at least the equivalent of the value of an hour of legal work as is typical in their community. For underemployed lawyers, the request would not be expected to exceed one-tenth of 1% of the attorney's fee revenue. The request for monetary contribution under these specific guidelines would not extend mutually to lawyers working for entities primarily engaged in the provision of legal services to the poor, lawyers working for the government or those who primarily work for other not-for-profit entities.

[15] 2011 Task Force Report, *supra* note 1 at 10.

To encourage compliance with this voluntary request, the Task Force again recommends that the registration rules require that attorneys in private practice or working at for-profit entities biannually report aggregate annual contributions to legal services providers for the poor in New York State.[17] At least initially, this reporting requirement would be optional for government personnel and those working for not-for-profit entities. Attorneys employed by entities primarily engaged in the provision of legal services to the poor would be exempt from this reporting requirement.

In recognition of the positive impact that reporting requirements are anticipated to have on both *pro bono* hours and monetary contributions, the Task Force recommends that the existing Rule of the Chief Administrator of the Courts Part 118.2(a) concerning public access to attorney registration information remain in effect. This rule allows information contained in attorney registration statements to be made available to the public upon submission of a written request, with some limited exceptions.[18] The Task Force expects and intends that the public availability of reported *pro bono* hours and monetary contributions will serve to encourage greater giving and higher participation.

Support for the contention that reporting requirements promote increased *pro bono* work by the private bar can be found by examining the effect of Florida's adoption of a rule requiring

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[16] Proposed revisions to New York Rule 6.1 (a) (2) concerning suggested monetary contributions are annexed at Exhibit 3.

[17] Proposed Biannual Attorney Registration questions related to monetary contributions to legal service providers in New York are annexed as Exhibit 2.

[18] A payment of a charge for production is required.

attorneys to report their *pro bono* services. Florida's Rule 4-6.1 of the Rules of Professional Conduct requires members of the bar to annually report whether the lawyer has satisfied the member's professional responsibility to the poor. The reporting system elicited 90% response rates in 1997 and 1998, 87% in 1999 and 88% in 2000. Florida credits the reporting requirement in part with bringing about significant increases in participation, the number of volunteer hours and monetary contributions.[19] Notably, in contrast, 2002 data from states with voluntary reporting requirements indicates that response rates are low, ranging from 3% to a high of 35%.[20]

While the Task Force focused the above recommendations on affecting the participation of individual lawyers, the Task Force does, however, urge that law firms be encouraged to monitor their lawyers' *pro bono* participation and to create and support opportunities for their lawyers to meet the 50 hour *pro bono* commitment request.

The Task Force further recommends encouragement of law firm participation in the Attorney Emeritus Program ("AEP") by any law firm with a New York office that has 50 or more attorneys in that office. In 2010, as an initiative of the Chief Judge, the New York State Unified Court System established an "Attorney Emeritus" status for attorneys in good standing,

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[19] In a 2008 report prepared for the Florida Supreme Court that studied the state of *pro bono* in Florida, researchers found that approximately 17 percent of attorneys in 2006 did not complete the required *pro bono* report. The study recommended revisions to the *pro bono* reporting section of the Florida Bar's annual membership form to simplify it and recommended the creation of a system to send follow up notices to attorneys who did not complete the form. The report noted that while *pro bono* reporting is required, implementation of a consequence for non-compliance had not been adopted and might be advisable. The report cited to data from other states with reporting requirements, including Nevada, Illinois and Maryland that experienced a 99 or 100 percent compliance rate. In those states, the consequence for non-reporting is a fine or decertification. Kelly Carmody and Associates, *Pro Bono: Looking Back, Moving Forward* (September 2008), *available at*: *www.flabarfndn.org/downloads/pdf/**pro-bono**.pdf.*

[20] Guide for Bar Leaders and Others on the Reporting of *Pro bono* Service, *available at:* http://apps.americanbar.org/legalservices/probono/reportingguide.html (*updated August 2002).*

who are at least 55 years old, with a minimum of 10 years of legal experience and who are willing to provide at least 30 hours annually of unpaid legal assistance. The courts, legal services providers, bar associations, and law schools work in partnership to provide emeritus attorney volunteers with opportunities to provide *pro bono* assistance to New Yorkers who cannot afford counsel.

As an indicator of their commitment to supporting *pro bono* work by eligible firm attorneys and retired firm attorneys, law firms should be asked to sign the Attorney Emeritus Program Statement of Participation and return it to the AEP Program/New York State Access to Justice Programs.[21] The Statement of Participation details means by which law firms can support experienced volunteer attorneys, including attorneys retired from the law firm, by providing work space and professional support, secretarial and technology support, and malpractice insurance coverage, and by ensuring that there will be no effect on a retired attorney's compensation or retirement benefits because of participation by that attorney performing *pro bono* work under the AEP. To date, seven law firms have already signed the Statement of Participation.[22]

The Task Force also examined the New York State Bar Association proposal to amend §522.8 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors of

[21] The Attorney Emeritus Program Statement of Participation is annexed as Exhibit 4.

[22] As of the date of this Report, the following firms have agreed to Attorney Emeritus Program participation: Davis Polk & Wardwell LLP; Hiscock & Barclay LLP; Proskauer Rose LLP; Simpson Thacher & Bartlett LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Sullivan & Cromwell LLP; and Weil, Gotshal & Manges LLP.

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Law concerning *pro bono* services by attorneys registered in New York as in-house counsel and Resolution 11 adopted by the Conference of Chief Judges in July 2012 in support of practice rules that enable in-house counsel to provide *pro bono* services. The potential for in-house counsel to contribute in a meaningful way to resolving the crisis in access to justice is compelling.[23] The simplified rule proposed by the New York State Bar Association removes unnecessary obstacles to *pro bono* service by in-house counsel and allows registered in-house counsel to meet their own ethical obligations while still subjecting them to the same ethical and disciplinary rules that apply to attorneys licensed to practice in New York. The Task Force recommends adoption of this revision to §522.8 to allow registered in-house counsel to contribute to the unmet legal needs of New Yorkers.

Finally, the Task Force is cognizant of the financial burden that mandatory continuing legal education requirements may place upon newly admitted, unemployed lawyers. These requirements, often referred to as "bridge the gap" or transitional programs, dictate that newly admitted attorneys acquire sixteen credits per year within the first two years of admission to the bar as follows: three hours of ethics and professionalism, six hours of skills and seven hours of law practice management and areas of professional practice. While heedful of the importance of the role continuing legal education plays in preparing newly admitted attorneys to become competent to deliver legal services, particularly in cultivating an understanding of ethical obligations, the Task Force recommends that the Continuing Legal Education Board examine the advisability of allowing newly admitted, unemployed lawyers to fulfill some number of the skills,

[23]Right to Practice Reform: Registered In-House Counsel and *Pro bono* Service, Report of the Corporate Counsel Section of the New York State Bar Association (June 2012).

practice management and professional practice credit requirements (but not the ethics and professionalism credits) with *pro bono* service.

EXHIBIT 1

ABA/New York Pro Bono Survey 2012 Prepared for The Chief Judge of the State of New York's Task Force to Expand Access to Civil Legal Services



Leger
THE RESEARCH INTELLIGENCE GROUP

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THE RESEARCH INTELLIGENCE GROUP

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Background

In August 2011, the **ABA Standing Committee on Pro Bono and Public Service** contracted with The Research Intelligence Group (TRIG) to conduct its third national study on the pro bono participation of America's attorneys. For this version of the study, the Committee worked with TRIG and an advisory group of pro bono and legal services professionals from around the country on revising the study methodology and created a new and improved survey instrument. The study also changed from a primarily phone based survey to an email based one which will allowed a larger sampling of over 2,500 attorneys.

For the first time, **the ABA offered the use of its data to states to conduct their own data collection studies**. The states were also able to supplement the national survey interviews with attorneys in their states with their own specified number of attorney interviews to achieve a representative state sample. Furthermore, states were able to add on specific questions of interest which would be asked of their state respondents.

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Objectives

The Chief Judge of the State of New York's Task Force to Expand Access to Civil Legal Services in New York opted to take advantage of this opportunity with the specific study objectives to understand the following about New York attorneys:

- How many years have they been practicing?
- How many pro bono legal matters were handled in 2011?
- How many hours of pro bono were provided in 2011?
- What are the referral sources for a typical Tier 1 case?
- How much money was given to legal service providers that assist the poor in New York?
- Total number of billable hours and the number of hours dedicated to clients in 2011 that met the definition of pro bono under Rule 6.1 of the New York Rules of Professional Conduct?

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Methodology & Sample

In New York, 230 surveys were completed as part of the national web study. This sample is associated with a maximum margin of error of +/- 6.5% at the 95% confidence level. In total, 46,637 emails were sent to New York attorneys inviting them to take the survey.

New York completes were weighted to the proportions of actual attorneys by county, resulting in the following proportions by judicial department...

Judicial Department	Percent of Surveys
Department 1	54%
Department 2	34%
Department 3	4%
Department 4	8%

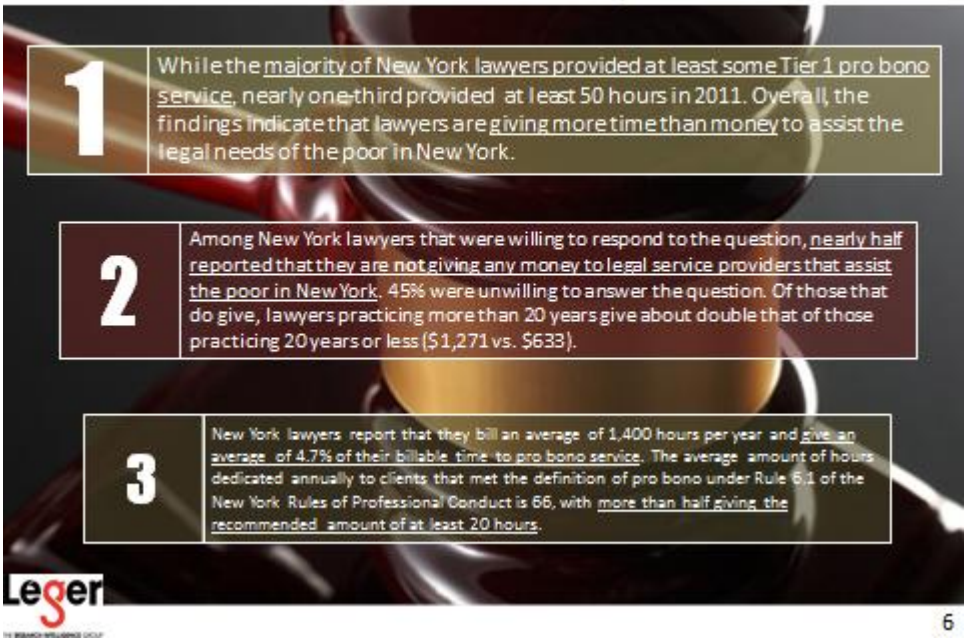
The 230 completed surveys fell out across practice settings as follows...

Practice Setting	Percent of Surveys
Private Practice	**88%**
Solo	17%
2 to 10	23%
11 to 50	17%
51 to 100	8%
101+	24%
Corporate Counsel	**8%**
Government	**4%**

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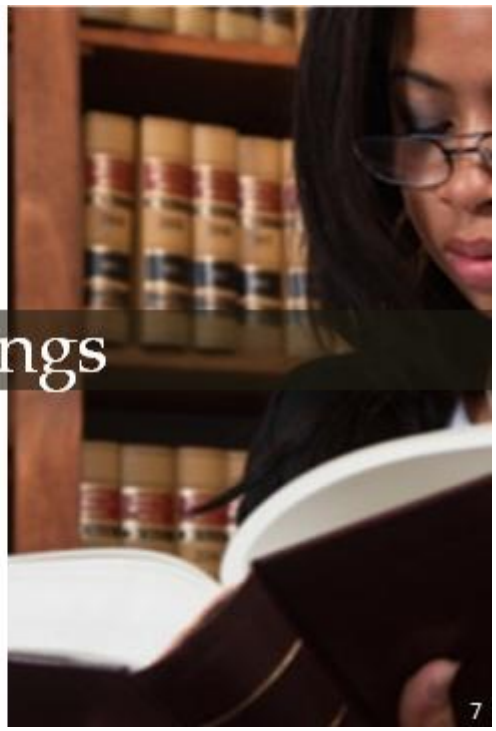
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Executive Summary



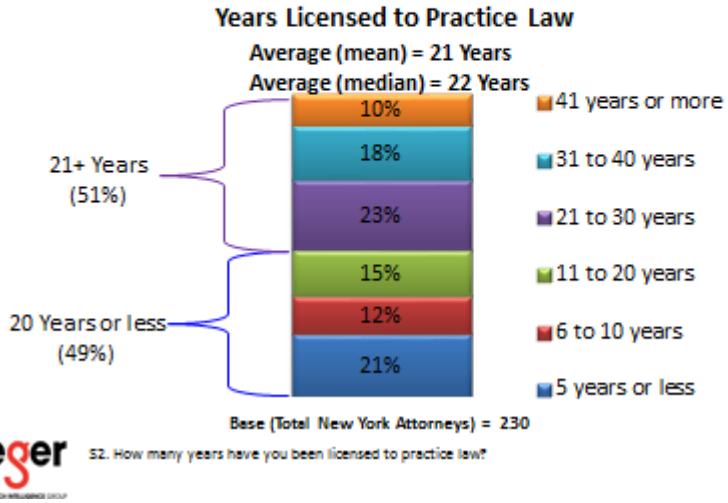
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Years Practicing

- The average (mean) number of years New York attorneys have been practicing law is 21 years.
- The median number of years is 22.

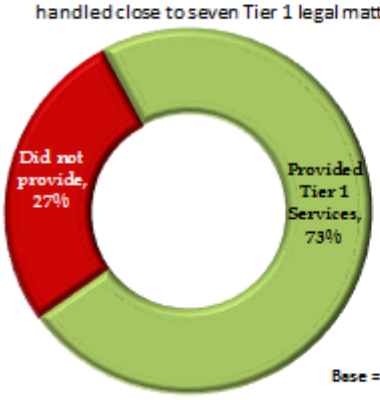


Leger S2. How many years have you been licensed to practice law?

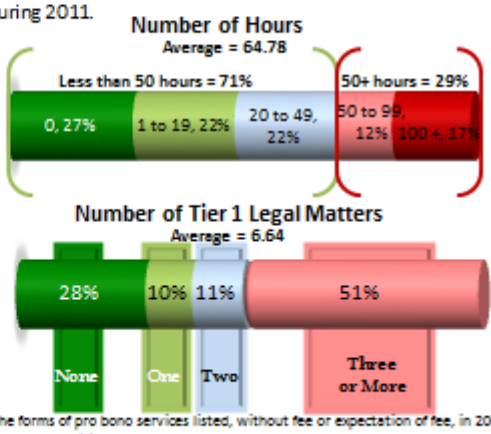
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Tier 1 Pro Bono*: Legal Matters and Hours

- Nearly three-quarters of practicing attorneys in New York provided at least one hour of free legal service to persons of limited means or organizations that address the needs of persons of limited means in 2011.
- Nearly one-third (29%) provided at least 50 hours and the majority provided at least 20 hours, with an average nearly 65 hours per attorney.
- Additionally, five in ten handled at least three Tier 1 legal matters. On average, a New York attorney handled close to seven Tier 1 legal matters during 2011.



Base = 230

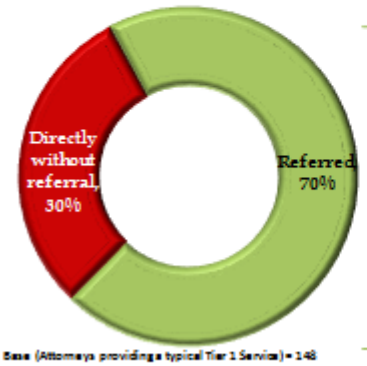


Q2A1. Please record whether or not you provided the forms of pro bono services listed, without fee or expectation of fee, in 2011.
Q2A2. How many legal matters you handled for that type of activity.
Q2A3. How many hours you spent in 2011.

* See Appendix for Definition

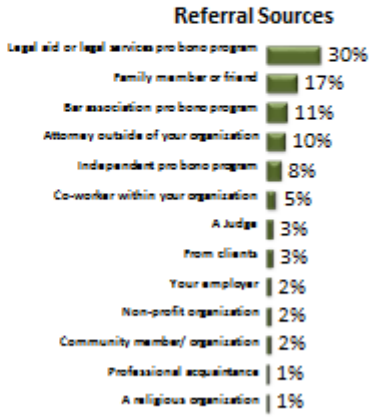
Referral Sources for Typical Service

- Among those attorneys that provided Tier 1 pro bono in 2011 that they considered "typical", seven in ten indicated that the client was referred to them.
- The referral source was most often a legal aid or legal services pro bono program (30%), followed by a family member or friend (17%). About one in ten also received referrals from a bar association pro bono program or an attorney outside their organization.



Base = 94

Base (Attorneys providing a typical Tier 1 Service) = 148

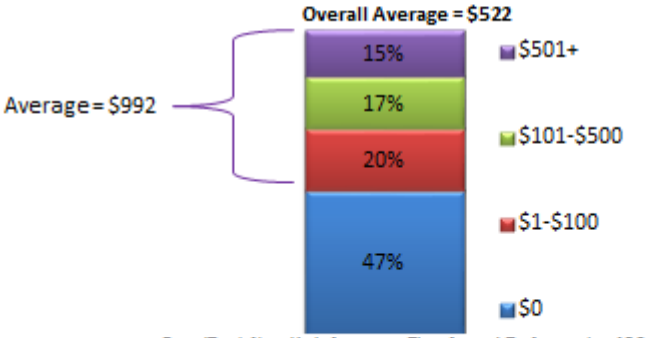


Q11. Was the [client] referred to you or did they come directly to you without a referral?
Q12. Was the referring party…?

Monetary Giving

- Of those that were willing to respond to the question, nearly half of the attorneys reported that they are not giving any money to legal service providers that assist the poor in New York.
- Of those that did report giving any money, the average among them is $992 per year.
- Lawyers practicing more than 20 years give about double that of those practicing 20 years or less ($1,271 vs. $633).

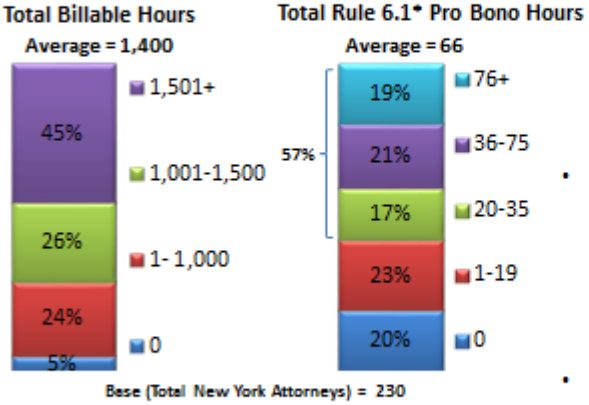
Amount Given to Legal Service Providers that Assist Poor



Base (Total New York Attorneys That Agreed To Answer) = 126
Note: 45% preferred not to answer

Q70. On average, how much money do you give per year to legal service providers that assist the poor in New York?

Billable Hours and Rule 6.1* Pro Bono Hours

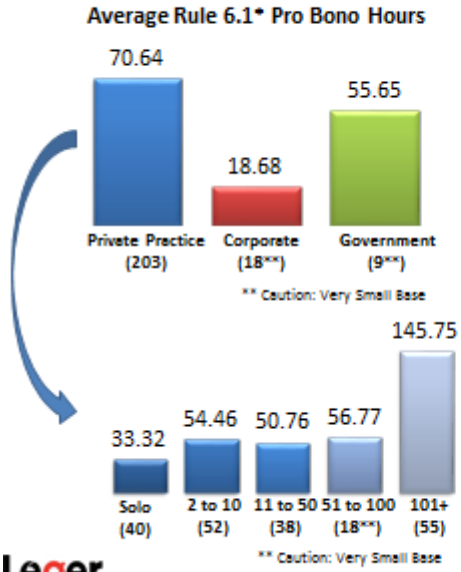


Base (Total New York Attorneys) = 230

- The average amount of billable hours among attorneys in New York per year is 1,400, including the five percent of attorneys that report having no billable hours. The 11 lawyers that reported having no billable hours were Government attorneys (5), solos (3), corporate counsel (2) and one was from a 2 to 10 attorney sized firm.
- The average amount of hours dedicated annually to clients that met the definition of pro bono under Rule 6.1 of the New York Rules of Professional Conduct* is 66, with more than half giving the recommended amount of at least 20 hours.
- As a percentage, attorneys overall give an average of 4.7% of their billable time to pro bono.

Q71. What was your total number of billable hours (including pro bono hours) in 2011?
Q72. What was the total number of hours you dedicated to clients in 2011 that met the definition of pro bono under Rule 6.1 of the New York Rules of Professional Conduct*?
* See Appendix for Definition

Average Rule 6.1* Pro Bono Hours by Practice Setting



- Lawyers in private practice dedicate more hours on average to pro bono than either Corporate or Government lawyers.
- Within private practice, the lawyers working in the largest firms tend to provide the most pro bono hours, while solos tend to provide the least.

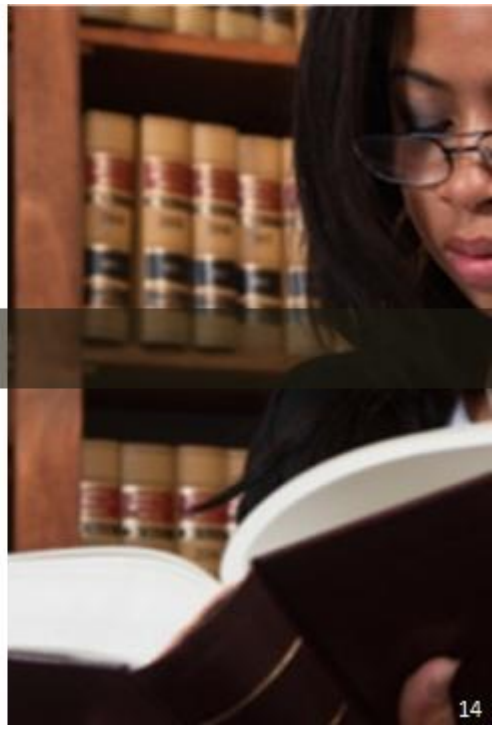
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Q72. What was the total number of hours you dedicated to clients in 2011 that met the definition of pro bono under Rule 6.1 of the New York Rules of Professional Conduct*?

* See Appendix for Definition

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Appendix



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Definition of Terms

Tier 1 Pro Bono:

The ABA Rule 6.1 says that "a lawyer should aspire to render at least 50 hours of pro bono publico legal services per year." It indicates further that "a substantial majority of the 50 hours" should be to persons of limited means or to organizations that support the needs of persons of limited means. The survey qualified that the following activities be considered Tier 1: Free legal services to persons of limited means or organizations that address the needs of persons of limited means through full case representation, limited scope representation, legal advice, or representation in mediation.

Rule 6.1 of the New York Rules of Professional Conduct :

Lawyers are strongly encouraged to provide pro bono legal services to benefit poor persons.

(a) Every lawyer should aspire to:

(1) provide at least 20 hours of pro bono legal services each year to poor persons; and

(2) contribute financially to organizations that provide legal services to poor persons.

(b) Pro bono legal services that meet this goal are:

(1) professional services rendered in civil matters, and in those criminal matters for which the government is not obliged to provide funds for legal representation, to persons who are financially unable to compensate counsel;

(2) activities related to improving the administration of justice by simplifying the legal process for, or increasing the availability and quality of legal services to, poor persons; and

(3) professional services to charitable, religious, civic and educational organizations in matters designed predominantly to address the needs of poor persons.

(c) Appropriate organizations for financial contributions are:

(1) organizations primarily engaged in the provision of legal services to the poor; and

(2) organizations substantially engaged in the provision of legal services to the poor, provided that the donated funds are to be used for the provision of such legal services.

(d) This Rule is not intended to be enforced through the disciplinary process, and the failure to fulfill the aspirational goals contained herein should be without legal consequence.

Leger

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EXHIBIT 2

Proposed Biannual Attorney Registration Questions

Proposed Biannual Attorney Registration Questions

Specify which of the following categories best describes your legal practice or employment that you have been principally engaged in since you last registered as an attorney practicing in New York: (Select Only One)

☐ Employment by or service with a governmental (federal, state or local) entity (inclusive of a judicial or legislative branch or an administrative agency, unit or division thereof)

☐ Employment by or service with an entity primarily engaged in the provision of legal services to the poor

☐ Employment with other not-for-profit entities

☐ Private practice (whether self-employed or practicing in a law firm, or employment by a corporation or other entity engaged in for profit activity. [If selected, complete questions A and B below.]

☐ Other [If selected, complete questions A and B below.]

A. During the last 12 months, did you perform at least 50 hours of pro bono legal services as defined in Section 6.1(b) of the Rules of Professional Conduct ("RPC")?

(Select One): Yes ☐ No ☐

Please specify the approximate number of such pro bono hours performed in such 12-month period: _____ hours.

B. During the last 12 months, did you contribute financially to organizations specified in Section 6.1 (c) of the RPC in an aggregate amount at least equal to that specified in section 6.1 (a) (2)?:

(Select One): Yes ☐ No ☐

Please specify the aggregate amount so contributed in such 12 month period: $ _____.

EXHIBIT 3

Proposed Revisions to Rule 6.1 (a) (2)

Revised Section 6.1 (a) (2)

6.1(a)(2) contribute financially to organizations that provide legal services to poor persons. Lawyers in private practice or who are employed by a for-profit entity should aspire to contribute annually in an amount at least equivalent to (i) the amount typically billed by the lawyer (or the firm with which the lawyer may be associated) to paying clients for one hour's worth of the lawyer's time, (ii) if work is done on a contingency basis, an amount at least equivalent to the value of an hour's worth of the lawyer's time as is typical in that community, or (iii) the amount typically paid by the organization which the lawyer is employed for an hour of the time of the lawyer's seniority, or an amount at least equivalent to 0.1 percent of the salary of the lawyer.

EXHIBIT 4

Attorney Emeritus Program Statement of Participation

Attorney Emeritus Program
Statement of Participation

New York's lawyers have a proud history of helping those in need. It is in that spirit that the Court System created a new attorney registration status – Attorney Emeritus – to encourage experienced attorneys to volunteer their legal skills and experience to help the growing number of New Yorkers who cannot afford counsel. It is also in that spirit that our firm is pleased to join the Attorney Emeritus Program as a participating member firm and pledges to make best efforts to accomplish the following voluntary goals:

1. Our firm will encourage and support eligible firm attorneys and retired firm attorneys resident in New York to participate in the Attorney Emeritus Program. We understand that eligibility for Attorney Emeritus status requires that:

   (a) whether active or retired, an attorney must have practiced for at least 10 years and be at least 55 years old, and

   (b) that attorneys participating in the program will commit to doing at least 30 hours per year of pro bono work on behalf of low-income persons in civil matters under the auspices of qualified legal services providers, bar associations and/or court-sponsored volunteer lawyer programs.

2. While there is no requirement that an attorney be retired in order to register for Attorney Emeritus status, our firm recognizes that many participants in the program will be retired from our firm; and, we will further demonstrate support for these attorneys (who have not practiced law after retiring from our firm, except solely to do pro bono work) and for the Attorney Emeritus Program by providing:

   (a) Work Space and Professional Support. We understand that reasonable work space availability can be a significant issue for many legal service organizations and that it may well be more comfortable for a retired attorney to continue to work with associates and other lawyers in his or her former firm in conducting post retirement pro bono matters. Accordingly, we agree to provide appropriate space for our Attorneys Emeritus to continue to perform pro bono work at the firm itself and to encourage other attorneys of the firm to work with our Attorneys Emeritus on pro bono matters, except where conflicts issues limit our firm's involvement in a matter.

(b) Secretarial and Technology Support. In an effort to facilitate the pro bono work of our Attorneys Emeritus, our firm will provide continued access to appropriate secretarial help and to technology and similar support within the firm; provided, that, after an attorney's retirement, appropriate limitations may be required to be imposed on access to certain proprietary or confidential client related information.

(c) Malpractice Insurance Coverage. We will provide assurance that the retired attorney will continue to be covered by the firm's malpractice insurance program in doing pro bono work under the aegis of the firm, subject to the terms of the firm's then existing insurance policies. Where permitted under the firm's malpractice insurance policies, the coverage provided by such policies shall respond even if under the Attorney Emeritus Program malpractice coverage is available through a legal service provider for the poor with which the lawyer may associate.

(d) No Effect On Retirement Benefits/Compensation. Finally, should a retired attorney wish to participate in the Attorney Emeritus Program, our firm will arrange that the retired attorney's practice of pro bono work as an Attorney Emeritus will not affect the entitlement (if any) by the former attorney to compensation or other form of benefits which otherwise would be due from our firm to the retired attorney if she or he had retired fully from the practice of law.

Firm:
Partner Executing on Behalf of Firm:
Address:
City/State/Zip:
Phone/Email:
Date:

Please return the signed Statement of Participation to: AEP Program/New York State Access to Justice Programs
111 Centre Street, Room 1240 · New York, NY 10013 · Telephone: 877-800-0396 · Email: AEP@nycourts.gov
Website: http://www.nycourts.gov/attorneys/volunteer/emeritus/rsaa/index.shtml

APPENDIX 17:

Research Memorandum Prepared for the Task Force's Working Group on Non-Lawyer Involvement

RESEARCH MEMORANDUM PREPARED FOR THE TASK FORCE'S WORKING GROUP ON NON-LAWYER INVOLVEMENT

Use of Non-Lawyer Advocates: Background

Outline

I. The Problem
- A. Unmet Legal Needs, Generally and within New York
- B. Range of Needs for Legal Assistance
- C. Current Options for Information & Assistance Are Limited
- D. Various Proposals to Address This Problem (Other Than the Expansion of Non-Lawyer Advocates' Roles)

II. The Law as a Licensed Profession
- A. Current Framework Governing Practice of Law in New York
- B. Licensing Requirements in New York
- C. General Rationale for Restrictions on UPL

III. Expanding the Role of Non-Lawyer Advocates: Implementation Considerations

IV. Current Allowances for Non-Lawyer Advocates
- A. Generally
- B. Public Benefits
- C. Workers' Compensation
- D. Unemployment

V. Areas with More Limited Use of Non-Lawyer Advocates
- A. Housing
- B. Family Law
- C. Immigration

VI. Other Areas to Be Considered

VII. Paralegals

Selected Resources

Addenda
- A. Washington State Proposal
- B. Workers' Compensation Rules & Regulations

I. The Problem

A. Unmet Legal Needs, Generally and Within New York

- The ABA Commission on Nonlawyer Practice found in 1995 that "as many as 70% to 80% or more of low-income persons are unable to obtain legal assistance even when they need and want it." Cost is a primary reason.

- As a consequence, many litigants either fail to address their legal problems or they engage in proceedings unrepresented by counsel.

    - Without the benefit of counsel, litigants make choices typically without understanding the range of options available to them or the pros/cons of each option.

    - Nevertheless, the legal system often deems these low-income, unrepresented litigants as informed, rational actors, even if they have unknowingly waived important rights in the course of settling or otherwise resolving their matters. There is arguably a large "justice gap" between those able to secure representation and those who cannot.

- Within New York, the unmet need for legal services is significant.

    - Each year, more than 2.3 million New Yorkers try to navigate the state's civil justice system without a lawyer. *See* The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York, November 2010.

    - Within New York City, 99% of tenants proceed unrepresented, 99% of borrowers in consumer credit cases proceed unrepresented, and 97% of parents in child support matters proceed unrepresented. *Id.*

B. Range of Needs for Legal Assistance

Those seeking legal assistance have a range of needs:

- *Information*: Many are in need of information that is not specific to their individual problems or cases. Rather, they need information to help them understand basic issues and procedures: "Where do I go . . .?" "What should I expect . . .?"

    - Current sources of such information are various websites, "know your rights" literature, court-provided resources, etc.

- *Advice*: Many others are in need of guidance on <u>*how*</u> to handle a particular issue, *e.g.*, what documents need to be filled out, how to go about completing/submitting them, how to advance/defend a particular issue.

- Current sources of such advice include certain online resources; phone hotlines (that do not rise to the level of an attorney-client consultation); *pro se* clinics offered by legal services non-profit organizations; court-based assistance programs; etc.

- *Assistance*: Others seeking legal assistance need actual, one-on-one individualized consultations. This sort of guidance can range from assistance with completing documents and developing a strategy of how to proceed vs. full representation in court or at an administrative proceeding

C. Current Options for Information & Assistance Are Limited

- Low-income New Yorkers seeking various types of legal assistance have several sources for information and assistance, but these sources are often either limited or ill-suited to address their specific legal needs. These include: (1) judges, mediators, or clerks; (2) legal services offices and non-profits; (3) courthouse information services; (4) opposing counsel; (5) *pro bono* services of private attorneys; or (6) laypersons or other self-guided research.

1. Judges/Mediators/Clerks

- By and large, the most common courthouse interactions low-income litigants will have are with judges, clerks, and mediators (who are increasingly being used to negotiate settlements between litigants, thereby reducing dockets). These court employees can provide basic information and general assistance in understanding court procedures, but are not allowed to give legal advice in the interest of impartiality. Moreover, some claim that judges and clerks often exhibit an antagonistic attitude towards *pro se* litigants.

- On many occasions, courthouse clerks might be the first legal employees unrepresented litigants encounter. Although clerks are prohibited from offering legal advice, sometimes they indirectly do, *e.g.*, by providing a defendant in housing court with a form for filing an answer when other actions or filings may be preferable.

2. Legal services offices and non-profit groups

- These offices provide a variety of legal services and typically have dedicated staff attorneys who have demonstrated expertise in several fields. However, these offices have limited resources and must turn away clients every day. One report found that the number of legal aid attorneys providing civil legal services was calculated to be a little over one-half of one percent of all U.S. lawyers.

- Some legal services offices and non-profits offer *pro se* assistance programs or telephone hotlines, but these programs typically are not designed for in-depth one-on-one assistance and offer extremely limited access to attorneys.

3. **Courthouse Information Services** (*e.g.*, information kiosks)

- These services provide useful information, but litigants do not get a meaningful opportunity to understand their options, evaluate the pros/cons of each, and assess how the law applies to their own situation. Moreover, some of the written brochures and pamphlets provided may be too difficult for litigants to understand without the aid of someone to explain what various terms and concepts mean.

- Even when attorneys staff these information kiosks or tables, they are typically prohibited from giving legal advice.

4. **Opposing counsel**

- Given that most court employees are prohibited from offering legal advice, unrepresented litigants sometimes turn to opposing counsel for legal information. However, these scenarios can lead to attorney misconduct in the form of impermissible advice-giving or the misleading presentation of facts or law.

5. ***Pro bono* services of Private Attorneys**

- According to some reports, *pro bono* work accounts for 1-2% of legal effort in the United States, what some call "mere drops in the bucket." Some, like Professor Gillian Hadfield, argue that "even if every lawyer in the country did 100 more hours a year of pro bono work, this would amount to an extra thirty minutes per U.S. person a year, or about an hour per dispute-related (potentially litigation-related) problem per household." This does not "even begin to address" the realistic demands that ordinary households have for legal assistance.

6. **Laypersons or Self-Guided Research**

- Unrepresented litigants can turn to laypersons for advice. However, given that laypersons presumably lack formal training and experience, litigants must take such advice with caution.

- Unrepresented litigants can perform legal research on their own, especially given the wealth of information available to them over the Internet. Websites such as lawhelp.org are helpful resources. However, some of the written material available over the Internet may be too difficult to understand without the aid of someone to explain what various terms and concepts mean. Litigants may not fully appreciate the complexity that their particular situation presents. Moreover, the Web is not a consistently reliable source of accurate information.

- Whether through online searches or contacts with laypersons offering legal advice, unrepresented litigants can be the target of scams. For instance, aliens from other countries have been defrauded by persons calling themselves "notaries" or specialized

travel agents, who present themselves as experts in immigration law. *See* Section V.C *infra*.

D. Various Proposals to Address This Problem (Other Than the Expansion of Non-Lawyer Advocates' Roles)

The following are alternative proposals that have been offered to address the large unmet need for civil legal services:

- Trial judges and mediators should be allowed to take on more active roles in ensuring that unrepresented litigants understand their legal options as well as the consequences of various legal actions. Impartiality and passivity, the argument goes, are not one and the same.

- The role of courthouse clerks should be expanded.

- States could permit the "unbundling" of legal services. This is also known as "discrete task" representation.

    - In such a system, attorneys could provide a "menu" of discrete legal services to an otherwise *pro se* party and charge the client accordingly. Low-income individuals who cannot afford full-fledged representation could purchase or "order" certain legal services from that menu.

    - The current, "traditional" model is that once an attorney agrees to represent a client, that attorney is then bound legally and ethically to perform the entire bundle of activities involved with that representation, *e.g.*, gathering facts, advising the client, researching the law, drafting correspondence, and representing the client in court.

- More broadly, some commentators argue that the existing regulatory structure of the legal profession is the ultimate problem. Professor Gillian Hadfield, for instance, has argued that because the American legal profession is largely regulated by the bar and by state judiciaries, it is a "politically unaccountable regular, which lacks the funding levers and policymaking apparatus needed for a sector that is a huge share of the American economy and one that plays an increasingly important role in a rapidly changing and decentralized economic system."

II. The Law as a Licensed Profession

A. Current Framework Governing Practice of Law in New York

- *Legislation.* Two sections of the New York Judiciary Law set out the general prohibitions in New York State against the unauthorized practice of law[1]:

    - § 478: "It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself in a court of record in this state, or to furnish attorneys or counsel or an attorney and counsel to render legal services, or to hold himself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he is a legal practitioner of law or in any manner to advertise that he either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of law, without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath."

    - § 484: "No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state."

- Individuals violating these sections can be found guilty of a misdemeanor. N.Y. Judiciary Law § 485.[2] Also, § 478 can be enforced in civil actions by the Attorney

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[1] Note that state laws are assumed to be gender-neutral and as they are revised and rewritten, these changes will be incorporated. A Nov. 6, 2001 amendment to the New York Constitution rendered the entire Constitution gender-neutral.

[2] Note that the New York State Bar Association's Special Committee on the Unlawful Practice of Law prepared and supported legislation that would make the unauthorized practice of law a felony. *See* http://www.nysba.org/AM/Template.cfm?Section=Home&ContentID=49811&Template=/CM/ContentDisplay.cfm. This legislation was first introduced in February 2005 but has failed to progress through the legislature.

General or a bar association formed in accordance with the laws of New York. N.Y. Judiciary Law § 476-a.

- The general prohibitions in §§ 478, 484 do not apply to three categories of individuals:
    - Certain law students (or graduates who have not yet passed the bar exam) who are working under the supervision of an approved legal aid organization[3]
    - Certain law students (or graduates who have not yet passed the bar exam) who are working under the supervision of a state officer or agency
    - Duly appointed officers of "societies for the prevention of cruelty to animals" who are exercising the special powers conferred upon such organizations – *see also* N.Y. Not-For-Profit Corporation Law § 1403.
- *Case Law*. New York courts have also provided some explanation of what constitutes the practice of law. The following are excerpts from Court of Appeals decisions:
    - "The 'practice' of law reserved to duly licensed New York attorneys includes the rendering of legal advice as well as appearing in court and holding oneself out to be a lawyer." *El Gemayel v. Seaman*, 533 N.E.2d 245, 248 (N.Y. 1988) (citing *Spivak v. Sachs*, 211 N.E.2d 329 (N.Y. 1965)).
    - "Whether a person gives advice as to New York law, Federal law, the law of a sister State, or the law of a foreign country, he is giving legal advice. Likewise, when legal documents are prepared for a layman by a person in the business of preparing such documents, that person is practicing law whether the documents be prepared in conformity with the law of New York or any other law. To hold otherwise would be to state that a member of the New York Bar only practices law when he deals with local law, a manifestly anomalous statement." *In re Roel*, 144 N.E.2d 24, 26 (N.Y. 1957).
- *Rules of Professional Conduct*. There is no rule that directly addresses the unauthorized practice of law. However, Rule 5.5(b) states: "A lawyer shall not aid a nonlawyer in the unauthorized practice of law."
    - The comment to that provision notes: "The definition of the 'practice of law' is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating

[3] Such a program must be approved by the Appellate Division of the Supreme Court of the Department in which such activities are taking place. *See, e.g.*, N.Y. Comp. Codes R. & Regs. tit. 22, § 805.5 (3d Dep't).

functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work."

B. Licensing Requirements in New York

- N.Y. Judiciary Law § 53 states that the Court of Appeals may adopt, amend, or rescind rules regulating the admission of attorneys and counselors at law. The Court of Appeals has set forth the following requirements[4]:

- *Education & Testing Requirements*. To be admitted, an applicant must:

    - Pass the written bar examination (§§ 520.7, 520.8)

    - Pass the Multistate Professional Responsibility Examination ("MPRE") (§§ 520.7, 520.9)

    - Have graduated from an ABA-approved law school (§ 520.3)

    - Have completed a minimum of 83 credit hours, 64 of which must have been earned by attendance in regularly scheduled classroom courses at the law school, or be admitted to practice law in a foreign state and take a minimum of 24 credit hours at a law school in the US. (§§ 520.3(c), 520.6(b))

        - Alternatively, an applicant who commences the study of law after his or her 18th birthday can sit for the bar if he or she completes one year of law school and then studies law in a law office in New York state for three years. *See* §520.4.

    - Be over 21 years of age and provide the date and place of his or her birth. (§ 520.2)

- *Continuing Education Requirements*.[5]

    - Newly admitted attorneys: During the first two years after his or her admission to the bar of New York, an attorney must complete a minimum of 32 credit hours of accredited transitional education. §§ 1500.10, 1500.12(a). In each of the first two years: (i) three of those credit hours must relate to ethics and professionalism; (ii) six of those hours must relate to skills; and (iii) seven of those hours must relate to practice management and/or professional practice. § 1500.12(b).

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[4] Citations in this sub-section refer to the Rules of the Court of Appeals for the Admission of Attorneys and Counselors-at-law. N.Y. Comp Codes R. & Regs., tit. 22.

[5] Citations in this sub-section refer to the Mandatory Continuing Legal Education Program for Attorneys in the State of New York. N.Y. Comp. Codes R. & Regs., tit. 1500.

- Attorneys other than newly admitted attorneys: Each attorney shall complete a minimum of 24 credit hours of accredited continuing legal education each biennial reporting cycle in ethics and professionalism, skills, law practice management or areas of professional practice, at least four credit hours of which shall be in ethics and professionalism (but the ethics and professionalism can be intertwined with other courses). § 1500.22(a).

- *Other Requirements.* An applicant must also:

  - File multiple affidavits of reputable persons stating that the applicant possesses the good moral character and general fitness requisite for an attorney and counselor-at-law

C. General Rationale for Restrictions on UPL

- *Competency*. UPL laws provide assurance to the public that when it hires an attorney, there is a level of quality in the services to be provided. Having such assurances is especially important in the legal profession because people hire lawyers often for matters of the utmost personal concern.

  - "Its purpose is to protect the public in this State from the dangers of legal representation and advice given by persons not trained, examined and licensed for such work, whether they be laymen or lawyers from other jurisdictions." *El Gemayel v. Seaman*, 533 N.E.2d 245, 248 (N.Y. 1988) (internal quotations omitted).

- *Protecting Administration of Justice.* UPL laws ensure that participants in the judicial system comply with court rules and standards of professional conduct, thereby facilitating the efficient and fair operation of the judicial system.

- *Protecting the Public from Unscrupulous Conduct.*

- *Supplying a system of discipline to regulate lawyers.*

III. Expanding the Role of Non-Lawyer Advocates: Implementation Considerations

The following are some general issues that may need to be addressed if a program expanding the use of non-lawyer advocates were to be implemented.[7]

- *Regulatory Type, generally.* If implemented, New York State would have to determine what type of regulatory regime would be best-suited for non-lawyers. These regimes fall into two general categories:

    - Licensing – This is the most restrictive (and expensive) regime. Licensing is a non-voluntary process by which a government agency regulates a profession. To obtain a license, a non-lawyer would need to prove his or her competency through state-run standardized testing and coursework, continuing and otherwise. A state agency would then need to police unlicensed providers.

    - Certification/Registration – Certification is typically offered by private, non-governmental agencies and is voluntary. Certificates are statements or declarations that a person has completed a certain course of study or met other qualifications. Some professions maintain registries of individuals who have been certified.

- *Scope of Practice.* What legal-related work will non-lawyer advocates be permitted to perform? Will their legal-related work be restricted to specific legal areas (housing, family law)? What legal acts will be allowed and/or prohibited?

    - *Note:* Under the Washington State rule, LLLTs are not be permitted to represent a client in court proceedings, formal administrative adjudicate proceedings or other formal dispute resolution process, or negotiations involving the client's legal rights and responsibilities.

    - California and Arizona have even more limited rules regulating legal technicians. California and Arizona license legal document assistants ("LDAs") and legal document preparers ("LDPs), respectively, to assist clients with preparation of legal documents. Under California law, LDAs are prohibited from offering legal advice to consumers about possible rights or even advising consumers on the kinds of forms to use.[8] Arizona law provides for similar limitations with respect to how much advice LDPs can provide to consumers.

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[7] For information about how the implementation and administration of such a program could work in actual practice, please see: (i) Addendum A, which describes the rule adopted in the State of Washington regarding "limited license legal technicians"; and (ii) Addendum B, which lists the laws and regulations relating to "licensed representatives," non-attorney individuals who are permitted to appear before the Workers' Compensation Board.

[8] California also licenses and regulates other non-attorney representatives who can offer a limited scope of services: Immigration consultants who can translate consumers answers

- *Supervision Requirements.* What of the non-lawyer advocates' work, if any, needs to be supervised by a practicing New York attorney?

- *Professional Duties and Requirements.* If implemented, this program might require that non-lawyer advocates:

    - Clearly disclose they are not lawyers

    - Sign any documents submitted to a court and disclose their role

    - Explain the risks and benefits of non-lawyer practice to potential and current clients

    - Have a principal place of business in the state of New York.

- *Disciplinary & Consumer Protection Measures.* If implemented, a state might, with respect to discipline, consider whether:

    - Non-lawyers should be brought under the highest court's regulatory authority, which would minimize some of the costs associated with regulating lay practice.

    - Non-lawyers should be held liable for negligent advice that does not meet the appropriate standard of care.

    - The law of malpractice, contract and fiduciary limits on fee charges, and agency rules requiring loyalty to a principal would also apply. (Some argue that these laws would protect clients almost as well as the attorney disciplinary system.)

    - Non-lawyers would be required to carry malpractice insurance.

    - Non-lawyers would be required to place client funds in interest-bearing accounts, with the interest paid to the appropriate New York fund.

    - Non-lawyers who have prior criminal convictions would be barred from practice.

    - Rules of professional and ethics conduct will need to be developed.

- *Confidentiality.* To what extent will communications between non-lawyer advocates and clients be protected by something akin to the attorney-client privilege?

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to questions on U.S. Citizenship and Immigration Services (USCIS) forms; get copies of supporting documents and submit forms to the government; and unlawful detainer assistants who can assist a person involved in an unlawful detainer claim and in bankruptcy petitions that involve unlawful detainers.

- *Educational Requirements.* What educational requirements will be imposed on potential non-lawyer advocates?

    - Will a bachelor's or associate's degree be required? If so, must that degree be in a particular field?

    - Can a potential non-lawyer advocate get a post-baccalaureate certificate instead? What educational institutions would be permitted to offer those certificate programs?

    - *Note:* Under the Washington State rule, limited license legal technicians (LLLTs) must possess a degree or post-baccalaureate certificate in paralegal/legal assistant studies *and* have at least 2-3 years as a paralegal or legal assistant doing substantive law-related work.

    - The California and Arizona laws require a high school diploma or an equivalency diploma and at least two years of law-related experience, a bachelor's degree with at least one year of law-related experience, or completion of certain paralegal training programs. In addition, the Arizona law permits qualification through a legal document preparer training program or a law degree.

- *Examination Requirement.* Will applicants be required to take and pass an examination?

    - What will the examination cover? Ethics and professional responsibility? General legal principles? Assuming that non-lawyer advocates will be licensed for a particular legal area (*e.g.*, housing, consumer debt), will applicants be required to take an examination in that specific legal area?

- *Training or Experience Requirements.* In addition to educational requirements, what, if any, practical training or experience will be required?

    - As noted above, under the Washington State rule, LLLTs must have at least 2-3 years of experience as a paralegal or legal assistant doing substantive law-related work.

    - *Note:* The California and Arizona laws require at least 1-2 years of law related experience.

- *Pro bono.* Will non-lawyer advocates be required to commit a minimum number of *pro bono* hours?

- *Moral Character & Fitness.* Will applicants be required to demonstrate (through affidavits or other methods) their moral character and fitness to practice? Will applicants be required to take a formal oath?

- *Administration.* Broadly speaking, some administrative body will likely need to be created to make many of the decisions described above.

    - How many members will be in this group? How many members need to be licensed attorneys? Non-attorneys?

    - How will the rules and regulations affecting non-lawyer advocates be promulgated?

    - How will these rules and regulations be enforced?

IV. Current Allowances for Non-Lawyer Advocates

A. Generally

- Within New York, federal and state law currently allow non-lawyer advocates to participate in legal-type hearings and proceedings dealing with certain areas of administrative law. These primarily relate to "life essentials" and include (1) public benefits; (2) workers' compensation; and (3) unemployment insurance.

B. Public Benefits

1. OTDA Fair Hearings (Welfare/Medical Assistance/Food Stamps)

- *Background:* The benefits at issue in these types of hearings include: Public Assistance (welfare or income assistance, child care support, access to education and employment services), Medical Assistance (Medicaid, Child Health Plus, Family Health Plus and other public health benefits), Food Stamps, and HEAP benefits (home energy assistance). If a local Department of Social Services denies someone's application for assistance or otherwise takes an action that the applicant disagrees with, the applicant has the right to request a fair hearing before an Administrative Law Judge from the New York State Office of Temporary and Disability Assistance (OTDA).

- *Common types of Matters:*

    - Denial of benefits
    - Discontinuance of benefits
    - Imposition of Sanctions
    - Changes in benefits (*e.g.*, reduction in benefits)
    - Terms of the benefits (*e.g.*, start date of benefits, incorrect amount)

- *The Current Need:*

    - Reports from 1990 and 1995 show that twice as many applicants are represented at fair hearings by lay advocates than by attorneys. *See* Letter from Empire

Justice Center to Jeanine S. Behuniak, New York State Office of Temporary and Disability Assistance (Mar. 30, 2012), *available at* http://www.empirejustice.org/policy-advocacy/comments/comments-fair-hearing-defaults.html.

- *Non-Lawyer advocates allowed?* Yes.[9]
    - Every applicant or recipient of public assistance has the right to representation by "legal counsel, or by a relative, friend, or other spokesmen." *See* N.Y. Social Services Law § 22-12(c). *See also* N.Y. Comp. Codes R. & Regs. tit. 18, § 358.2-.5; 7 C.F.R. § 273.15 (regarding food stamps); 42 C.F.R. § 431.206 (regarding Medicaid).
    - *Note:* There are certain non-profit organizations that provide advocacy in these hearings, including Project FAIR (Brooklyn) and the Medicare Rights Center.
- *Appeals Process.*
    - If an applicant disagrees with a fair hearing decision, he or she can appeal the decision to the New York courts (the New York State Supreme Court) as part of an Article 78 proceeding. The applicant must typically file an appeal within four months of receiving the fair hearing decision. A non-lawyer cannot represent an applicant as part of an Article 78 proceeding, as § 478 of the Judiciary Law prohibits individuals who are not licensed and not admitted to practice from representing someone in a "court of record in this state."
- *Other Issues & Considerations:*
    - There are pending amendments to Title 18 of the New York Codes, Rules and Regulations that would affect the ability of non-attorney representatives to appear without the applicant. The amendment would add language requiring default if a non-attorney representative appears without the applicant present. For more information, visit http://www.empirejustice.org/policy-advocacy/comments/comments-fair-hearing-defaults.html.

2. Social Security Administration Benefits – SSI, SSD, Medicare

- *Background:* The benefits at issue in these types of hearings include:
    - SSI (Supplemental Security Income), a federal income program based on financial need for older adults and people with disabilities

[9] For an extensive list of laws and regulations that mention the role of non-attorney advocates in the fair hearing process, please visit: http://www.empirejustice.org/policy-advocacy/comments/comments-fair-hearing-defaults.html.

- SSD, a federal income program for people with disabilities who have the required work history

- Medicare, a health insurance program for older adults and people with disabilities who have the required work history.

If an applicant's claim for disability benefits is denied, the applicant can request a hearing before an Administrative Law Judge at the Office of Disability Adjudication and Review (ODAR), which is part of the federal Social Security Administration.

- *Common Types of Matters*

  - Denial of benefits
  - Discontinuance of benefits
  - Changes in benefits
  - Terms of the benefits (*e.g.*, start date of benefits, incorrect amount)

- *Non-Lawyer advocates allowed?* Yes.

  - For a description of the process by which an applicant appoints a representative, see http://www.ssa.gov/online/ssa-1696.pdf. *See also* SSA Publication No. 05-10075, February 2010, ICN 468000; 45 C.F.R. § 205.10(a)(3)(iii); 42 U.S.C. § 406(a)(1).

  - To charge a fee for services, the representative first must file either a fee agreement or a fee petition with the Social Security Administration. The representative cannot charge more than the fee amount authorized by the SSA.

- *Qualifications required: See* 20 C.F.R. § 404.1705. There are no "hard" requirements. The representative must be:

  - Generally known to have a good character and reputation
  - Capable of giving valuable help in connection with the claim
  - Not disqualified from acting as a representative before the SSA
  - Not prohibited by any law from acting as representative

- *Appeals Process.*

  - Applicants may ask the Appeals Council to review their claim if they disagree with the ALJ's decision. This appeal is by letter. The representative before the ALJ can submit this letter on an applicant's behalf. Often it takes more than a year or two for the Appeals Council to rule on a claim. Applicants may then appeal to a federal district court if they disagree with the Appeals Council's decision (or if the Appeals Council denied the applicant's request to review the ALJ's decision).

C. Workers' Compensation[10]

- *Background:* Claimants apply for cash wage replacement benefits and/or medical care in connection with on-the-job injuries and illnesses. Employers pay for this insurance and cannot (by law) require the employee to contribute to the cost of compensation. If the claim is determined to be compensable, the Workers' Compensation Law Judge determines the amount and duration of the compensation award. The benefits and medical care are paid by the employer's insurance carrier.

- *Common Types of Matters*

    - Denial of benefits
    - Discontinuance of benefits
    - Changes in benefits
    - Terms of the benefits (*e.g.*, start date of benefits, incorrect amount)

- *Non-Lawyers Advocates allowed?* Yes.

    - Under New York law, clients can hire "licensed representatives" to appear on someone's behalf in connection with any hearing, investigation, or inquiry. *See* N.Y. Workers' Compensation Law § 24-a.

- *Qualification Requirements: See* Workers' Compensation Board Rules & Regulations § 302 (12 NYCRR § 302).

    - These regulations set out requirements relating to: (i) examinations; (ii) oaths; (iii) license fees and bonds; (iv) discipline and misconduct; (v) training; (vi) duties to clients and to the Board; (vii) advertising.

    - *Note:* In a list provided on the Workers' Compensation Board's website (that was last updated Jan. 9, 2012), there are 62 licensed claimants' representatives listed. *See* http://www.wcb.ny.gov/content/main/Reps/LisRepListing-Sec24a.pdf.

- *Appeals process*:

    - Claimants may appeal the decision in writing within 30 days of the WCL Judge's decision. A three-member Board Panel will review the application.

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[10] It should be noted that workers' compensation law is one area in which licensed non-lawyers can, by law, appear in matters or proceedings before the Workers' Compensation Board. For a full list of the laws and regulations relating to these licensed representatives, please consult Addendum B.

- Appeals of Board Panel decisions may be taken to the Appellate Division, Third Department. However, the licensed representative cannot represent their client at the Appellate Division.

D. Unemployment

- *Background:* Unemployment insurance is temporary income for eligible workers who become unemployed through no fault of their own and who are ready, willing, and able to work and have sufficient wages in covered employment. In New York, the funding for unemployment insurance benefits comes from taxes paid by employers. If an applicant applies but disagrees with the determination, then he or she has the right to a hearing before an ALJ (upon written request to the New York State Department of Labor). Employers also may request a hearing on an applicant's claim.

- *Common Types of Matters*

  - Denial of benefits
  - Challenge of the benefit amount

- *Non-Lawyer Advocates allowed?* Yes.

  - *See* N.Y. Labor Law § 538; *Unemployment Insurance: Information for Claimants*. Applicants have the right to bring to the hearing an attorney or anyone else to represent them. With respect to fees, any attorney or a representative who has registered with the Unemployment Insurance Appeal Board may charge a fee for representation. However, fees can be charged only after an applicant has won his or her case (including any appeal), and the amount of the fee has to be approved by the Board. It is a misdemeanor for an attorney or a registered representative to accept payment without the approval of the Board.

  - *Note:* In a list of organizations, attorneys, and registered (non-attorney) representatives published by the Appeal Board, only four are listed.

- *Qualification requirements: See* N.Y. Comp. Codes R. & Regs., tit. 12, § 460.5-6. Qualifications include:

  - High school diploma (or equivalent)
  - 16 hours of experience in legal or administrative proceedings. Applicants may substitute post-secondary credit hours in courses such as administrative law, labor law, etc.
  - Good moral character
  - Submission of a corporate surety bond in amount of $500
  - *Note*: The Board reserves the right to administer exams to non-attorneys to establish competency.

- *Appeals process:*

- Appeals of the ALJ's decision may be made to the Unemployment Insurance Appeal Board. It appears this appeal is made in writing. If the applicant disagrees with the decision of the Unemployment Insurance Appeal Board or if the employer or the Commissioner of Labor disagrees, the case may be taken to the Appellate Division of the State Supreme Court, Third Department.

V. Areas with More Limited Use of Non-Lawyer Advocates

A. Housing

- *Common types of matters*
  - Residential holdover proceedings
  - Residential non-payment proceedings
  - Rent withholding
  - Housing code enforcement
  - Foreclosures

- *The Current Need:*
  - According to a November 2010 Task Force report, 99% of tenants are unrepresented in eviction cases in New York City, while 98% of tenants are unrepresented outside the City.

- *Non-lawyer advocates allowed?* Yes, though limited.

  - In *New York City*, the Administrative Office of the Civil Court of the City of New York administers the Housing Court Guardian Ad Litem (GAL) Program. The program recruits and trains GALs. A Judge will often appoint a GAL when there is concern that a tenant is unable to advocate for himself/herself primarily due to mental illness or age. The pool of GALs consists of attorneys and non-attorneys. Some GALs are compensated for their services by the Human Resources Administration (HRA), while others serve on a volunteer basis.

  - In *New York City*, litigants can also turn to two sources for legal information inside the courthouse:

    - *The Volunteer Lawyers Program*: Volunteer lawyers provide free legal and procedural information and advice in the Help Centers. They help create a plan to defend or prosecute a case, but they will not represent a party in court or file papers on someone's behalf.
    - *Housing Court Help Center*: These court attorneys work for the Civil Court. They are not permitted to give legal advice to either owners or tenants. They cannot interpret the law as it relates to a situation or recommend a specific course of action. They provide referrals and can explain court procedures and legal terminology.

  - In *Albany*, the Albany County Bar Association and the Legal Aid Society of Northeastern New York sponsor an "Attorney For A Day" project in Albany City Court. Volunteer attorneys represent tenants being evicted from their apartments on a first-come, first-served basis. *See* http://www.albanycountybar.com/pro_bono/.

- In *Rochester*, the Legal Aid Society of Rochester in partnership with Volunteer Legal Services Project of Monroe County sponsors a Tenant Advocacy Program that provides direct representation to low- to moderate-income residents of Rochester who are facing eviction in Rochester City Court. Legal Aid Society and pro bono attorneys are located onsite.

- *Qualifications required:*

  - To become a GAL, applicants must submit a completed application, resume, and two professional references. They must also attend a training. *See* http://nycourts.gov/courts/nyc/housing/GALprospective.shtml

    - Once a prospective GAL completes the training, the Office of the Deputy Chief Administrative Judge for NYC Courts contacts the prospective GAL's references. Assuming the prospective GAL then gets placed on the GAL list, that GAL's name is then provided to all Supervising Judges in the boroughs identified by the GAL.

- *Foreclosures:* Currently, individuals facing foreclosure (*e.g.*, preparing for mandatory settlement conferences) can seek advice from housing counseling agencies, *pro bono* attorneys or *pro se* clinics. These are sometimes staffed by non-lawyers.

- *Other Issues & Considerations:*
  - Some argue that housing (specifically, eviction) is an area of the law where non-lawyer advocates would benefit low-income residents. The belief is that because there is so great an economic imbalance between powerful, represented landlords and less powerful, unrepresented tenants, the fairness of outcomes must be doubted.

B. Family Law

- *Common Types of Matters*
  - Abuse or neglect (child protective proceedings)
  - Child custody
  - Child/spousal support
  - Paternity
  - Orders of protection
  - Divorces
  - Delinquency
  - Dependency
  - Guardianship
  - Emancipation
  - Placement

- *The Current Need:*

    - The number of unrepresented litigants in family law cases has increased nationwide. Some reports indicate that 80% or more of family law cases involve at least one *pro se* litigant. Many of those cases involve an unrepresented party against a party with counsel.

- *Non-Lawyer Advocates Allowed?* Not really.

    - N.Y. Family Court Act § 838 allows, for certain "family offense" proceedings (*e.g.*, assault, sexual misconduct, or sexual abuse between family members) the petitioner and respondent to have a "non-witness friend, relative, counselor or social worker present in the court room." However, the law does not authorize any such person to take part in the proceedings unless the court decides to call such person as a witness.

    - In certain types of cases, state law requires courts to appoint an attorney to represent minors. *See* N.Y. Family Court Act § 249.

- *Other Issues & Considerations:*

    - Some argue that divorce cases are a specific area of the law where non-lawyers can competently practice. *See* Deborah J. Cantrell, *The Obligation of Legal Aid Lawyers to Champion Practice by Nonlawyers*, 73 Fordham L. Rev. 883, 885-86 (2004-05) (citing Rhode/Cavanagh study).

C. Immigration

- *Background*: The U.S. Citizenship and Immigration Services (USCIS) and the Executive Office of Immigration Review (EOIR) are the administrative agencies that adjudicate cases involving immigration matters. The USCIS accepts and adjudicates applications for immigration benefits, such as visa petitions and asylum applications. The EOIR adjudicates cases related to the removal of aliens from the U.S. for various grounds of deportation and inadmissibility.

- *Common Types of Matters*
    - Petitions for immigrant and non-immigrant visas
    - Applications for adjustment of status to lawful permanent residency
    - Asylum applications from aliens lawfully in the U.S.
    - Removal proceedings

- *Non-Lawyer Advocates allowed?* Yes, though with many restrictions.

    - Clients can be represented by several different types of individuals including attorneys; law students in certain situations; "reputable individuals of good moral

character" who will not be directly or indirectly paid; and "accredited representatives" from recognized organizations. 8 C.F.R. § 292.1.

- Accredited representatives must come from a non-profit religious, charitable, social service, or similar organization established in the U.S. that has been approved for recognition. Individuals from a recognized organization then apply for accreditation.

- *Other Issues & Considerations:*

  - With respect to the potential expansion of non-lawyer advocates' roles, immigration might be an area of law that is particularly prone to exploitation.

  - From *Legal Ethics in Immigration Matters*: "In recent years, the media, legal professional organizations, and immigrant advocacy groups have focused increased attention on the issue of the unauthorized practice of law. Much of the focus is on so-called 'notarios,' persons who may be licensed as notary publics in a state but hold themselves out to be qualified to perform certain legal functions, taking advantage of confusion about the differences between notary publics in the United States and notarios publicos in Latin American countries. In countries with a legal system based on a Latin civil law model, notario publico is a term that refers to persons who are licensed to perform certain legal services. Therefore, aliens from countries where a notario is understood to be authorized to provide legal services may be easily defrauded by persons calling themselves notarios and presenting themselves as experts in immigration law and authorized to represent aliens in immigration matters. Similarly, aliens from certain Eastern European countries may mistakenly believe that travel agents may perform certain immigration-related services because in their home countries travel agents are authorized to assist in applying for visas."[11]

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[11] For a description of some New York-related enforcement in this area, see Media Center, Office of the Attorney General, Attorney General Cuomo Shuts Down Three New York Companies Providing Fraudulent Legal Services To Immigrant Communities Across NYC And Long Island, August 20, 2009, at http://www.oag.state.ny.us/media_center/2009/aug/aug20a_09.html; Cuomo Launches Sweeping Investigation Into Immigration Fraud Across The New York City Area, May 28, 2009, at http://www.oag.state.ny.us/media_center/2009/may/may28a_09.html; Attorney General Cuomo Sues To Stop Immigration Ripoff Scheme That Falsely Promised Green Cards And Citizenship, May 13, 2009, at http://www.oag.state.ny.us/media_center/2009/may/may13a_09.html. The last press release describes the lawsuit brought against a businesswoman who allegedly defrauded immigrants with false promises of obtaining lawful permanent residence; see People v. Hernandez, (May 12, 2009), civil enforcement petition at http://www.oag.state.ny.us/bureaus/civil_rights/pdfs/Hernandez%20Verified%20Petition.pdf. Allegedly, she defrauded several victims of at least $82,500, collectively.

VI. Other Areas to Be Considered

A. Bankruptcy

B. Debt Collection / Consumer Protection

C. Education Issues

D. Elder Law

E. Taxes

F. Small Claims

G. Probate Law; Trusts & Estates

H. Real estate

VII. Paralegals

A. Generally

- The ABA defines a paralegal or legal assistant as follows: "A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible."

- According to the U.S. Department of Labor, paralegals held about 256,000 jobs as of May 2010.

B. Certification

- In the United States, paralegals are generally not required to obtain a specialized degree or certification.

- Nevertheless, individuals interested in becoming a paralegal often enroll in some type of specialized program and earn an associate's degree (or, in some cases, a bachelor's or master's degree) in paralegal studies.

- In New York State, there are several ABA-approved paralegal education programs[12], including:

[12] *See* http://apps.americanbar.org/legalservices/paralegals/directory/ny.html

- Berkeley College of New York City, New York
- Bronx Community College, Bronx
- Finger Lakes Community College, Canandaigua
- Genesee Community College, Batavia
- Hilbert College, Hamburg
- Hofstra University, Hempstead
- LaGuardia Community College/CUNY, Long Island City
- LIU Brooklyn, Brooklyn (on probation)
- LIU Post, Brookville
- Marist College, Poughkeepsie
- Mercy College, Dobbs Ferry
- Monroe Community College, Rochester
- Nassau Community College, Garden City
- New York City College of Technology/CUNY, Brooklyn
- New York University, New York
- Queens College/CUNY, Flushing
- Schenectady County Community College, Schenectady
- St. John's University, Jamaica
- Suffolk County Community College, Selden
- SUNY Rockland Community College, Suffern
- Syracuse University, Syracuse
- Westchester Community College, Valhalla

- Paralegals can also, on a voluntary basis, become formally certified by completing a certification exam or fulfilling other requirements as administered by:

  - A national paralegal organization (such as the National Association of Legal Assistants (NALA) or the National Federation of Paralegal Associations (NFPA));

  - A state or local organization (such as the Florida Bar Registered Paralegal Program, the North Carolina State Bar Certified Paralegal Program, or the Ohio State Bar Association Paralegal Certification Program)

  There are no statewide voluntary certification programs in New York State. Some groups such as the Empire State Alliance of Paralegal Associations (a group comprising seven local paralegal associations) have called for the creation of a certification program in New York under the auspices of an unspecified regulatory body.[13] Individuals who qualify would be certified as a "New York State Certified Paralegal."

C. Roles; Constraints

- Paralegals take on a variety of duties and tasks, such as:

[13] *See* http://empirestateparalegals.org/position_papers.

- Organizing and maintaining information and documents;
- Conducting research;
- Preparing documents such as employee contracts, shareholder agreements, financial reports, etc.;
- Coordinating affidavits and other similar documents;
- Assisting attorneys with trials.

- Nevertheless, paralegals are constrained by laws prohibiting the unauthorized practice of law. *E.g.*, N.Y. Judiciary Law §§ 478, 484.

- Although there are few if any statutory or regulatory provisions in New York State or elsewhere that explicitly mention paralegals or legal assistants, several ethics opinions published by the New York State Bar Association discuss what paralegals can and cannot do.

    - "An attorney may employ non-lawyers to do any task for him except counsel clients about law matters, engage directly in the practice of law, appear in court or appear in formal proceedings a part of judicial process, so long as it is he who takes the work and vouches for it." N.Y.S.B.A. Comm. on Prof'l Ethics, Op. 343 (1974) (concluding that an attorney may not delegate to his paralegal the supervision over the execution of a will).

    - "[I]t is permissible for lawyers to delegate attendance at a real estate closing to a paralegal, where the delegating lawyer is available by telephone as necessary, the particular closing is 'ministerial' and several other conditions are satisfied." N.Y.S.B.A. Comm. on Prof'l Ethics, Op. 693 (1997) (noting that all tasks assigned to a paralegal must be "clearly limited to those functions not involving independent discretion or judgment").

    - Paralegals may not use the titles "Legal Associate," "Public Benefits Advocate," "Legal Advocate," Family Law Advocate," "Public Benefits Specialist" or the like because the public "would in all likelihood be confused by use of the term[s]." N.Y.S.B.A. Comm. on Prof'l Ethics, Op. 640 (1992).

- New York courts have also addressed the role of paralegals. *E.g.*, *Carter v. Flaherty*, No. 2011-1348, 2012 WL 3239431 (N.Y. App. Div. Aug. 6, 2012) (finding that a paralegal's contract to provide legal advice to a prisoner was unenforceable because it constituted the unauthorized practice of law); *Sussman v. Grado*, 746 N.Y.S.2d 548 (N.Y. Dist. Ct., Nassau County 2002) (concluding that a defendant "crossed the line between filling out forms and engaging in the practice of law by rendering legal services").

D. Mandatory Licensing Efforts

- There have been efforts in various states to institute mandatory licensing programs for anyone holding themselves out as a "paralegal."[14] These efforts have generally failed:

    - In 2006, a Florida state bill entitled the "Paralegal Profession Act" set forth educational and other requirements for all paralegals.[15] This bill died in committee.

    - In 2008, the Wisconsin Supreme Court denied a State Bar petition to establish a system for licensure and regulation of paralegals in Wisconsin.[16] One justice noted: "No other state has adopted a program similar to what is proposed here. A number of states have adopted a voluntary certification program. I believe those states are Delaware, Florida, Louisiana, New Mexico, North Carolina, Ohio, and Texas. It is my understanding that Florida has a voluntary certification program that went into effect recently and is tied into the State Bar of Florida. That seems to be a solution that would meet the needs of the paralegals."

- It should be noted that in 2006, California enacted legislation that defined the occupational title "paralegal," set standards for individuals to use "paralegal" and comparable job titles, and enumerated the functions that paralegals can perform. Cal. Bus. & Prof. Code § 6450-56. Among other things, the law:

    - Set forth educational requirements for paralegals;
    - Established continuing legal education requirements for paralegals; and
    - Explicitly stated that it is unlawful for a paralegal "to perform any services for a consumer except as performed under the direction and supervision of" an attorney, law firm, corporation, etc.

  Notably, however, the law does not establish a licensing or certification program and does not require paralegals to register with any state or local government entity. It appears the impetus for the law was that consumers were getting defrauded by "legal document assistants," individuals who were only permitted to complete documents in a

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14 In 2008, the National Federation of Paralegal Associations published a "Model Act for Paralegal Licensure." *See* http://paralegals.org/associations/2270/files/Licensed_Paralegal_Plan.pdf.

15 *See* http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=32147&BillNumber=395

16 *See* http://www.wisbar.org/AM/Template.cfm?Section=News&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=76386

ministerial manner and to file/serve documents at the direction of a customer. Some of these LDAs were using the title "paralegal."[17]

E. Expanded Role?

- In some jurisdictions outside the United States, some paralegals are licensed to perform certain legal tasks that go far beyond the scope of what is permitted in the U.S..

- In Ontario, Canada,[18] licensed paralegals are allowed to represent someone:

    - in Small Claims Court
    - in the Ontario Court of Justice under the *Provincial Offences Act*
    - on summary conviction offences where the maximum penalty does not exceed six months' imprisonment
    - before administrative tribunals, including the Financial Services Commission of Ontario and the Immigration Review Board.

- Licensed paralegals in Ontario are also allowed in such matters to:

    - give legal advice concerning legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding;
    - draft or assist with drafting documents for use in a proceeding; and
    - negotiate on behalf of a person who is a party to a proceeding.

- Licensed paralegals in Ontario are *not* allowed to appear in Family Court; draft wills; or handle real estate transactions or estates.

- To become a licensed paralegal in Ontario, one must, among other things: (a) take a licensing examination that focuses on the Paralegal Rules of Conduct, professional responsibility, ethics, and practice management issues; (b) graduate from an accredited legal services program; and (c) submit a statement of good character.

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17 *See* http://apps.americanbar.org/legalservices/paralegals/update/cacannon.html.

18 *See generally* http://rc.lsuc.on.ca/jsp/paralegal/QandA.jsp#s2q2. This licensing program began in 2008.

Selected Resources

A. Articles & Commentaries

American Bar Association, Commission on NonLawyer Practice, *NonLawyer Activity in Law-Related Situations* (Aug. 1995).

Deborah J. Cantrell, *The Obligation of Legal Aid Lawyers to Champion Practice by Nonlawyers*, 73 Fordham L. Rev. 883 (2004-05)

Committee on Professional Responsibility, *Prohibitions on Nonlawyer Practice: An Overview and Preliminary Assessment*, 50 The Record 190 (1995).

Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 Fordham L. Rev. 2581 (1999)

Derek A. Denckla, *The Use of Nonlawyers*, 67 Fordham L. Rev. 1813 (1999).

Russell Engler, *And Justice For All – Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators, and Clerks*, 67 Fordham L. Rev. 1987 (1998-99)

Gillian Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 Fordham Urb. L.J. 129 (2010).

Alex J. Hurder, *Nonlawyer Legal Assistance and Access to Justice*, 67 Fordham L. Rev. 2241 (1999)

Margaret M. Lee, *Legal Ethics in Immigration Matters: Legal Representation and Unauthorized Practice of Law*, CRS Report for Congress (Sept. 18, 2009).

Marcus J. Lock, *Increasing Access to Justice: Expanding the Role of Nonlawyers in the Delivery of Legal Services to Low-Income Coloradans*, 72 U. Colo. L. Rev. 459 (2001).

Daniel Pearlstein, Memorandum to David Udell, *Filling the Justice Gap with Nonlawyers* (April 15, 2011).

Karlee M. Phelps, *Broadening Access to Justice in Nevada by Defining the Practice of Law*, 11 Nev. L.J. 224 (2010)

Deborah L. Rhode, *Professionalism in Perspective: Alternative Approaches to Nonlawyer Practice*, 22 N.Y.U. Rev. L. & Soc. Change (1996).

Deborah L. Rhode, *Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 Stan. L. Rev. 1 (1981).

The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York, November 2010.

B. Legislation, Regulations & Case Law

N.Y. Family Court Act §§ 249, 838.

N.Y. Judiciary Law §§ 53, 476-a, 478, 484, 485.

N.Y. Labor Law § 538.

N.Y. Social Services Law § 22-12(c)

N.Y. Workers' Compensation Law § 24-a.

N.Y. Comp. Codes R. & Regs., tit. 12.

N.Y. Comp Codes R. & Regs., tit. 22.

N.Y. Comp. Codes R. & Regs., tit. 1500.

El Gemayel v. Seaman, 533 N.E.2d 245, 248 (N.Y. 1988)

In re Roel, 144 N.E.2d 24, 26 (N.Y. 1957).

Spivak v. Sachs, 211 N.E.2d 329 (N.Y. 1965).

Addendum A:

Washington State: Limited Practice Rule for Limited License Legal Technicians

Background: History of Washington Limited Practice Rule for Limited License Technicians

- **2001:** The Practice of Law Board (POLB) is created under General Rule 25.
    - The POLB had two primary mandates: 1) to oversee unauthorized practice of law – deal with complaints, etc. and 2) to provide recommendations to the WA Supreme Court regarding the provision of legal and law-related services by non-lawyers.
    - The text of GR 25 can be found at: http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr25.
- **Sept. 2003:** The Task Force on Civil Equal Justice Funding releases *The Civil Legal Needs Study* (the "Study").
    - Among other things, the Study found that more "than three-quarters of all low-income households in Washington state experience at least one civil (not criminal) legal problem each year." Moreover, the Study concluded that "[l]ow-income people face more than 85 percent of their legal problems without help from an attorney," primarily because of affordability or lack of access.
    - The Study is available at: http://www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf
- **2005:** The POLB begins to consider developing a rule that that would allow non-lawyers to provide some form of legal services.
- **2006:** The POLB completes its drafting of a proposed rule. In March 2006, the POLB presents the proposed rule to the Washington State Bar Association's ("WSBA") Board of Governors.
    - The WSBA hears testimony for and against the proposed rule and ultimately votes to oppose the rule as drafted.
    - The WSBA's concerns included: attorney-client privilege issues; the staffing and cost impacts on WSBA, which it believed would have to shoulder the economic burden of the rule; fears that the rule wouldn't produce a true lower-cost

alternative; insurance issues; and a lack of specificity about which practice areas (family law, etc.) the rule would affect.

- **2006-2008:** The POLB works on revising the rule by holding hearings, soliciting input, etc.

    - To address some concerns, the POLB determines that the rule should focus on family law for possible application. The POLB also starts to develop a set of regulations to effectuate the rule.

- **Jan. 2008:** The POLB submits its proposed rule to the WA Supreme Court.

    - Notably, the POLB submitted the general rule, *not* a family-law-oriented rule.

- **Feb. 2008:** The WSBA asks the Supreme Court not to act on the proposed rule so that the WSBA can have more time to solicit input and get its members' reactions.

- **Sept. 2008:** The WSBA Board of Governors again votes to oppose the rule.

- **Jan. 2009:** The rule is published for comment by Court. The Court begins receiving several comments on the rule.

    - For a list of the comments received, visit: http://www.courts.wa.gov/court_rules/?fa=court_rules.commentDisplay&ruleId=154

- **Nov. 2010:** The rule is placed on the Supreme Court's agenda, but the Court later decides to table its consideration until November 2011.

- **Nov./Dec. 2011:** The Supreme Court meets with the WSBA and decides to table the rule again. The Court asks the WSBA for any administrative comments.

    - The WSBA sends in its comments and revisions, though it still maintains its opposition to the rule.

- **February 2012: The WSBA held a town hall discussion about the then-proposed rule.** Here's a link to the video: http://www.wsba.org/llptownhall.

- **June 2012:** The WA Supreme Court adopts the revised APR 28, the "Limited Practice Rule for Limited License Technicians," effective September 1, 2012.

    - Here's a press release: http://www.courts.wa.gov/newsinfo/?fa=newsinfo.pressdetail&newsid=2136

The text of the adopted rule can be found below. It is organized into the following sections:

A. Purpose
B. Definitions
C. Limited License Technician Board
D. Requirements for Applicants
E. Licensing Requirements
F. Scope of Practice Authorized by Limited Practice Rule
G. Conditions Under Which A Limited License Legal Technician May Provide Services
H. Prohibited Acts
I. Continuing License Requirements
J. Existing Law Unchanged
K. Professional Responsibility and Limited License Legal Technician-Client Relationship

Supreme Court of Washington

Order, In the Matter of the Adoption of New APR 28 – Limited Practice Rule for Limited License Legal Technicians

The Practice of Law Board having recommended the adoption of New APR 28—Limited Practice Rule for Limited License Legal Technicians, and the Court having considered the revised rule and comments submitted thereto, and having determined by majority that the rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

That we adopt APR 28, the Limited Practice Rule for Limited License Legal Technicians. It is time. Since this rule was submitted to the Court by the Practice of Law Board in 2008, and revised in 2012, we have reviewed many comments both in support and in opposition to the proposal to establish a limited form of legal practitioner. During this time, we have also witnessed the wide and ever-growing gap in necessary legal and law related services for low and moderate income persons.

We commend the Practice of Law Board for reaching out to a wide spectrum of affected organizations and interests and for revising the rule to address meritorious concerns and suggestions. We also thank the many individuals and organizations whose suggestions to the language of the rule have improved it. The Limited License Legal Technician Rule that we adopt today is narrowly tailored to accomplish its stated objectives, includes appropriate training, financial responsibility, regulatory oversight and accountability systems, and incorporates ethical and other requirements designed to ensure competency within the narrow spectrum of the services that Limited License Legal Technicians will be allowed to provide. In adopting this rule we are acutely aware of the unregulated activities of many untrained, unsupervised legal practitioners who daily do harm to "clients" and to the public's interest in having high quality civil legal services provided by qualified practitioners.

The practice of law is a professional calling that requires competence, experience, accountability and oversight. Legal License Legal Technicians are not lawyers. They are prohibited from engaging in most activities that lawyers have been trained to provide. They are, under the rule adopted today, authorized to engage in very discrete, limited scope and limited function activities. Many individuals will need far more help than the limited scope of law related activities that a limited license legal technician will be able to offer. These people must still seek help from an attorney. But there are people who need only limited levels of assistance that can be provided by non-lawyers trained and overseen within the framework of the regulatory system developed by the Practice of Law Board. This assistance should be available and affordable. Our system of justice requires it.

I. The Rule

Consistent with GR 25 (the Supreme Court rule establishing the Practice of Law Board), 1 the rule2 establishes a framework for the licensing and regulation of non-attorneys to engage in discrete activities that currently fall within the definition of the "practice of law" (as defined by GR 24) and which are currently subject to exclusive regulation and oversight by this Court. The rule itself authorizes no one to practice. It simply establishes the regulatory framework for the consideration of proposals to allow non-attorneys to practice. As required by GR 25, the rule establishes certification requirements (age, education, experience, pro bono service, examination, etc.), defines the specific types of activities that a limited license legal technician would be authorized to engage in, the circumstances under which the limited license legal technician would be allowed to engage in authorized activities (office location, personal services required, contract for services with appropriate disclosures, prohibitions on serving individuals who require services beyond the scope of authority of the limited license legal technician to perform), a detailed list of prohibitions, and continuing certification and financial responsibility requirements.

In addition to the rule, we are today acting on the Practice of Law Board's proposal to establish a Limited License Legal Technician Board. This Board will have responsibility for considering and making recommendations to the Supreme Court with respect to specific proposals for the authorization of limited license legal technicians to engage in some or all of the activities authorized under the Limited License Legal Technician Rule, and authority to oversee the activities of and discipline certified limited license legal technicians in the same way the Washington State Bar Association does with respect to attorneys. The Board is authorized to recommend that limited license legal technicians be authorized to engage in specific activities within the framework of – and limited to – those set forth in the rule itself. We reserve the responsibility to review and approve any proposal to authorize limited license legal technicians to engage in specific activities within specific substantive areas of legal and law related practice, and our review is guided by the criteria outlined in GR 25.

Today we adopt that portion of the Practice of Law Board's proposal which authorizes limited license legal technicians who meet the education, application and other requirements of the rule be authorized to provide limited legal and law related services to members of the public as authorized by this rule.

II. The Need for a Limited License Legal Technician Rule

Our adversarial civil legal system is complex. It is unaffordable not only to low income people but, as the 2003 Civil Legal Needs Study documented, moderate income people as well (defined as families with incomes between 200% and 400% of the Federal Poverty Level). One example of the need for this rule is in the area of family relations which are governed by a myriad of statutes. Decisions relating to changes in family status (divorce, child residential placement, child support, etc.) fall within the exclusive province of our court system. Legal practice is required to conform to specific statewide and local procedures, and practitioners are required to use standard forms developed at both the statewide and local levels. Every day across this state, thousands of unrepresented (pro se) individuals seek to resolve important legal matters

in our courts. Many of these are low income people who seek but cannot obtain help from an overtaxed, underfunded civil legal aid system. Many others are moderate income people for whom existing market rates for legal services are cost-prohibitive and who, unfortunately, must search for alternatives in the unregulated marketplace.

Recognizing the difficulties that a ballooning population of unrepresented litigants has created, court managers, legal aid programs and others have embraced a range of strategies to provide greater levels of assistance to these unrepresented litigants. Innovations include the establishment of courthouse facilitators in most counties, establishment of courthouse-based self-help resource centers in some counties, establishment of neighborhood legal clinics and other volunteer-based advice and consultation programs, and the creation of a statewide legal aid self-help website. As reflected most recently in a study conducted by the Washington Center for Court Research, some of these innovations – most particularly the creation of courthouse facilitators – have provided some level of increased meaningful support for pro se litigants.

But there are significant limitations in these services and large gaps in the type of services for pro se litigants. Courthouse facilitators serve the courts, not individual litigants. They may not provide individualized legal advice to family law litigants. They are not subject to confidentiality requirements essential to the practitioner/client relationship. They are strictly limited to engaging in "basic services" defined by GR 27.13 They have no specific educational/certification requirements, and often find themselves providing assistance to two sides in contested cases. Web-based self-help materials are useful to a point, but many litigants require additional one-on-one help to understand their specific legal rights and prerogatives and make decisions that are best for them under the circumstances.

From the perspective of pro se litigants, the gap places many of these litigants at a substantial legal disadvantage and, for increasing numbers, forces them to seek help from unregulated, untrained, unsupervised "practitioners." We have a duty to ensure that the public can access affordable legal and law related services, and that they are not left to fall prey to the perils of the unregulated market place.

III. Specific Concerns and Responses

A number of specific issues that have been raised both in support of and in opposition to this rule deserve additional discussion and response.

Proponents have suggested that the establishment and licensing of limited license legal technicians should be a primary strategy to close the Justice Gap for low and moderate income people with family related legal problems. While there will be some benefit to pro se litigants in need of limited levels of legal help, we must be careful not to create expectations that adoption of this rule is not intended to achieve.

By design, limited license legal technicians authorized to engage in discrete legal and law related activities will not be able to meet that portion of the public's need for help in family law matters that requires the provision of individualized legal representation in complex, contested family law matters. Such representation requires the informed professional assistance of

attorneys who have met the educational and related requirements necessary to practice law in Washington. Limited purpose practitioners, no matter how well trained within a discrete subject matter, will not have the breadth of substantive legal knowledge or requisite practice skills to apply professional judgment in a manner that can be consistently counted upon to meet the public's need for competent and skilled legal representation in complex legal cases.

On the other hand, and depending upon how it is implemented, the authorization for limited license legal technicians to engage in certain limited legal and law related activities holds promise to help reduce the level of unmet need for low and moderate income people who have relatively uncomplicated family related legal problems and for whom some level of individualized advice, support and guidance would facilitate a timely and effective outcome.

Some opposing the rule believe that limited licensing legal technicians to engage in certain family related legal and law related activities poses a threat to the practicing family law bar.

First, the basis of any regulatory scheme, including our exercise of the exclusive authority to determine who can practice law in this state and under what circumstances, must start and end with the public interest; and any regulatory scheme must be designed to ensure that those who provide legal and law related services have the education, knowledge, skills and abilities to do so. Protecting the monopoly status of attorneys in any practice area is not a legitimate objective.

It is important to observe that members of the family law bar provide high levels of public and pro bono service. In fact, it is fair to say that the demands of pro bono have fallen disproportionately on members of the family law bar. As pointed out in the comments to the Practice of Law Board's proposal, young lawyers and others have been working for years to develop strategies to provide reduced fee services to moderate income clients who cannot afford market-rate legal help. Over the past year, these efforts have been transformed into the Washington State Bar Association's newly established Moderate Means program, an initiative which holds substantial promise to deliver greater access to legal representation for greater numbers of individuals between 200% and 400% of the federal poverty guideline being provided services at affordable rates.

In considering the impact that the limited licensing of legal technicians might have on the practicing family law bar it is important to push past the rhetoric and focus on what limited license legal technicians will be allowed to do, and what they cannot do under the rule. With limited exception, few private attorneys make a living exclusively providing technical legal help to persons in simple family law matters. Most family law attorneys represent clients on matters that require extended levels of personalized legal counsel, advice and representation – including, where necessary, appearing in court – in cases that involve children and/or property.

Stand-alone limited license legal technicians are just what they are described to be – persons who have been trained and authorized to provide technical help (selecting and completing forms, informing clients of applicable procedures and timelines, reviewing and explaining pleadings, identifying additional documents that may be needed, etc.) to clients with'

fairly simple legal law matters. Under the rule we adopt today, limited license legal technicians would not be able to represent clients in court or contact and negotiate with opposing parties on a client's behalf. For these reasons, the limited licensing of legal technicians is unlikely to have any appreciable impact on attorney practice.

The Practice of Law Board and other proponents argue that the limited licensing of legal technicians will provide a substantially more affordable product than that which is available from attorneys, and that this will make legal help more accessible to the public. Opponents argue that it will be economically impossible for limited license legal technicians to deliver services at less cost than attorneys and thus, there is no market advantage to be achieved by creating this form of limited practitioner.

No one has a crystal ball. It may be that stand-alone limited license legal technicians will not find the practice lucrative and that the cost of establishing and maintaining a practice under this rule will require them to charge rates close to those of attorneys. On the other hand, it may be that economies can be achieved that will allow these very limited services to be offered at a market rate substantially below those of attorneys. There is simply no way to know the answer to this question without trying it.

That said, if market economies can be achieved, the public will have a source of relatively affordable technical legal help with uncomplicated legal matters. This may reduce some of the demand on our state's civil legal aid and pro bono systems and should lead to an increase in the quality and consistency of paperwork presented by pro se litigants.

Further, it may be that non-profit organizations that provide social services with a family law component (e.g., domestic violence shelters; pro bono programs; specialized legal aid programs) will elect to add limited license legal technicians onto their staffs. The cost would be much less than adding an attorney and could enable these programs to add a dimension to their services that will allow for the limited provision of individualized legal help on many cases – especially those involving domestic violence. Relationships might be extended with traditional legal aid programs or private pro bono attorneys so that there might be sufficient attorney supervision of the activities of the limited license legal technicians to enable them to engage in those activities for which "direct and active" attorney supervision is required under the rule.

Some have suggested that there is no need for this rule at all, and that the WSBA's Moderate Means Program will solve the problem that the limited licensing of legal technicians is intended to address. This is highly unlikely. First, there are large rural areas throughout the state where there are few attorneys. In these areas, many attorneys are barely able to scrape by. Doing reduced fee work through the Moderate Means program (like doing pro bono work) will not be a high priority.

Second, limited licensing of legal technicians complements, rather than competes with, the efforts WSBA is undertaking through the Moderate Means program. We know that there is a huge need for representation in contested cases where court appearances are required. We know further that pro se litigants are at a decided disadvantage in such cases, especially when the adverse party is represented. Limited license legal technicians are not permitted to provide this

level of assistance; they are limited to performing mostly ministerial technical/legal functions. Given the spectrum of unmet legal needs out there, Moderate Means attorneys will be asked to focus their energy on providing the help that is needed most – representing low and moderate income people who cannot secure necessary representation in contested, often complex legal proceedings.

Opponents of the rule argue that the limited licensing of legal technicians presents a threat to clients and the public. To the contrary, the authorization to establish, regulate and oversee the limited practice of legal technicians within the framework of the rule adopted today will serve the public interest and protect the public. The threat of consumer abuse already exists and is, unfortunately, widespread. There are far too many unlicensed, unregulated and unscrupulous "practitioners" preying on those who need legal help but cannot afford an attorney. Establishing a rule for the application, regulation, oversight and discipline of non-attorney practitioners establishes a regulatory framework that reduces the risk that members of the public will fall victim to those who are currently filling the gap in affordable legal services.

Unlike those operating in the unregulated marketplace, limited license legal technicians will practice within a carefully crafted regulatory framework that incorporates a range of safeguards necessary to protect the public, The educational requirements are rigorous. Unlike attorneys, legal technicians are required to demonstrate financial responsibility in ways established by the Board. There is a testing requirement to demonstrate professional competency to practice, contracting and disclosure requirements are significant, and there will be a robust oversight and disciplinary process. This rule protects the public.

Another concern that has been raised is that attorneys will be called upon to underwrite the costs of regulating non-attorney limited license legal technicians against whom they are now in competition for market share. This will not happen. GR 25 requires that any recommendation to authorize the limited practice of law by non-attorneys demonstrate that "[t]he costs of regulation, if any, can be effectively underwritten within the context of the proposed regulatory regime." The Practice of Law Board's rule expressly provides that the ongoing cost of regulation will be borne by the limited license legal technicians themselves, and will be collected through licensing and examination fees. Experience with the Limited Practice Board demonstrates that a self-sustaining system of regulation can be created and sustained. The Court is confident that the WSBA and the Practice of Law Board, in consultation with this Court, will be able to develop a fee-based system that ensures that the licensing and ongoing regulation of limited license legal technicians will be cost-neutral to the WSBA and its membership.

IV. Conclusion

Today's adoption of APR 28 is a good start. The licensing of limited license legal technicians will not close the Justice Gap identified in the 2003 Civil Legal Needs Study. Nor will it solve the access to justice crisis for moderate income individuals with legal needs. But it is a limited, narrowly tailored strategy designed to expand the provision of legal and law related services to members of the public in need of individualized legal assistance with non-complex legal problems.

The Limited License Legal Technician Rule is thoughtful and measured. It offers ample protection for Members of the public who will purchase or receive services from limited license legal technicians. It offers a sound opportunity to determine whether and, if so, to what degree the involvement of effectively trained, licensed and regulated non-attorneys may help expand access to necessary legal help in ways that serve the justice system and protect the public.

IT IS FURTHER ORDERED:

(1) That a new rule, APR 28, as attached hereto is adopted.

(2) That the new rule will be published in the Washington Reports and will become effective September 1, 2012.

Text of New Admission to Practice Rule 28:
Limited Practice Rule for Limited License Legal Technicians

A) **Purpose.** The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribes the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.

B) **Definitions.** For purposes of this rule, the following definitions will apply:

1) "APR" means the Supreme Court's Admission to Practice Rules.

2) "Board" when used alone means the Limited License Legal Technician Board.

3) "Lawyer" means a person licensed and eligible to practice law in any U.S. jurisdiction.

4) "Limited License Legal Technician" means a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations. The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.

5) "Paralegal/legal assistant" means a person qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive law-related work for which a lawyer is responsible.

6) "Reviewed and approved by a Washington lawyer" means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer's signature and bar number.

7) "Substantive law-related work" means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.

8) "Supervised" means a lawyer personally directs, approves and has responsibility for work performed by the Limited License Legal Technician.

9) "Washington lawyer" means a person licensed and eligible to practice law in Washington and who is an active or emeritus member of the Washington State Bar Association.

10) Words of authority:

a) "May" means "has discretion to," "has a right to," or "is permitted to".
b) "Must" or "shall" mean "is required to.
c) "Should" means recommended but not required.

C) **Limited License Legal Technician Board.**

1) Establishment. There is hereby established a Limited License Legal Technician Board. The Board shall consist of 13 members appointed by the Supreme Court of the State of Washington, nine of whom shall be active Washington lawyers, and four of whom shall be non-lawyer Washington residents. At least one member shall be a legal educator. The members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three year terms. No member may serve more than two consecutive full three year terms.

2) Board Responsibilities. The Board shall be responsible for the following:

(a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) Processing applications and fees, and screening applicants;

(c) Administering the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to Limited License Legal Technicians, rules relating to the attorney-client privilege, procedural rules and substantive law issues related to one or more approved practice areas;

(d) Determining LLLT Continuing Legal Education (LLLT CLE) requirements and approval of LLLT CLE programs;

(e) Approving education and experience requirements for licensure in approved practice areas;

(f) Establishing and over-seeing committees and tenure of members;

(g) Establishing and collecting examination fees, LLLT CLE fees, annual license fees, and other fees in such amounts approved by the Supreme Court as are necessary to carry out the duties and responsibilities of the Board; and

(h) Such other activities and functions as are expressly provided for in this rule.

3) Rules and Regulations. The Board shall propose rules and regulations for adoption by the Supreme Court that:

(a) Establish procedures for grievances and disciplinary proceedings;

(b) Establish trust account requirements and procedures;

(c) Establish rules of professional and ethical conduct; and

(d) Implement the other provisions of this rule.

D) **Requirements for Applicants.** An applicant for licensure as a Limited License Legal Technician shall:

1) Age. Be at least 18 years of age.

2) Moral Character and Fitness to Practice. Be of good moral character and demonstrate fitness to practice as a Limited License Legal Technician.

3) Education and Experience. Have the following education and experience:

a) (i) An associate degree or equivalent program, or a bachelor degree, in paralegal/legal assistant studies approved by the American Bar Association or the Board, together with a minimum of two years experience as a paralegal/legal assistant doing substantive law-related work under the supervision of a lawyer, provided that at least one year is under a Washington lawyer; or

(ii) A post-baccalaureate certificate program in paralegal/legal assistant studies approved by the Board, together with a minimum of three years experience as a paralegal/legal assistant doing substantive law-related work under the supervision of a lawyer, provided that at least one year is under a Washington lawyer; and

b) Complete at least 20 hours of pro bono legal service in Washington as approved by the Board, within two years prior to taking the Limited License Legal Technician examination. In all cases, the paralegal/legal assistant experience must be acquired after completing the education requirement, unless waived by the Board for good cause shown.

4) Application. Execute under oath and file with the Board two copies of his/her application, in such form as the Board requires. An applicant's failure to furnish information requested by the Board or pertinent to the pending application-may be grounds for denial of the application.

5) Examination Fee. Pay, upon the filing of the application, the examination fee and any other required application fees as established by the Board and approved by the Supreme Court.

E) **Licensing Requirements.** In order to be licensed as a Limited License Legal Technician, all applicants must:

1) Examination. Take and pass the examinations required under these rules;

2) Annual License Fee. Pay the annual license fee;

3) Financial Responsibility. Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rules. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and

4) Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.

F) **Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. It if is not, the LLLT shall not provide the services required on this issue and shall inform the client that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:

1) Obtain relevant facts, and explain the relevancy of such information to the client;

2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;

3) Inform the client of applicable procedures for proper service of process and filing of legal documents;

4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;

5) Review documents or exhibits that the client has received from the opposing side, and explain them to the client;

6) Select and complete forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the Board; and advise the client of the significance of the selected forms to the client's case;

7) Perform legal research and draft legal letters and p-leadings documents beyond what is permitted in the previous paragraph, if the work is reviewed and approved by a Washington lawyer;

8) Advise a client as to other documents that may be necessary to the client's case (such as exhibits, witness declarations, or party declarations), and explain how such additional documents or pleadings may affect the client's case;

9) Assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

G) **Conditions Under Which A Limited License Legal Technician May Provide Services.**

1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;

2) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a non-licensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;

3) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician that includes the following provisions:

(a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b);

(b) Identification of all fees and costs to be charged to the client for the services to be performed;

(c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;

(d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the face-first page of the contract in minimum twelve-point bold type print;

(e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by'the client and the Limited

License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;

(f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and

(g) Any other conditions required by the rules and regulations of the Board.

4) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client requires should seek the services of a lawyer.

5) A document prepared by an LLLT shall include the LLLT's name, signature and license number beneath the signature of the client.

H) **Prohibited Acts.** In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;

2) Retain any fees or costs for services not performed;

3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client; or

4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;

5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24;

6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party; unless permitted by GR 24(b).

7) Provide services to a client in connection with a legal matter in another state, unless permitted by.the laws of that state to perform such services for the client.

8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;

9) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.

I) **Continuing Licensing Requirements.**

1) Continuing Education Requirements. Each Limited License Legal Technician annually must complete the Board-approved number of credit hours in courses or activities approved by the Board; provided that the Limited License Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially licensed.

2) Financial Responsibility. Each Limited License Legal Technician shall annually provide proof of financial responsibility in such form and in such amount as the Board may by regulation prescribe.

3) Annual Fee. Each Limited License Legal Technician shall pay the annual license fee established by the Board and approved by the Supreme Court.

J) **Existing Law Unchanged.** This rule shall in no way modify existing law prohibiting non-lawyers from practicing law or giving legal advice other than as authorized under this rule or associated rules and regulations.

K) **Professional Responsibility and Limited License Legal Technician-Client Relationship.**

1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.

2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technicians' Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.

3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

Addendum B:

Selected Workers' Compensation Laws & Regulations

N.Y. Workers' Compensation Law § 24-a

Representation before the workers' compensation board

1. No person, firm or corporation, other than an attorney and counsellor-at-law, shall appear on behalf of any claimant or person entitled to the benefits of this chapter, before the board or any officer, agent or employee of the board assigned to conduct any hearing, investigation or inquiry relative to a claim for compensation or benefits under this chapter, unless he or she shall be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, and shall have obtained from the board a license authorizing him or her to appear in matters or proceedings before the board. Such license shall be issued by the board in accordance with the rules established by it. Any person, firm or corporation violating the aforesaid provisions shall be guilty of a misdemeanor. The board, in its rules, shall provide for the issuance of licenses to representatives of charitable and welfare organizations, and to associations who employ a representative to appear for members of such association, upon certification of the proper officer of such association or organization, which licenses shall issue without charge; and may provide for a license fee in the case of all other persons, firms or corporations in an amount to be fixed by said rules, not exceeding the sum of one hundred dollars a year. All license fees collected under the provisions of this section shall be paid into the state treasury. The board shall have such tests of character and fitness with respect to applicants for licenses, and such rules governing the conduct of those licensed, as aforesaid, as it may deem necessary.

2. There shall be maintained in each office of the board a registry or list of persons to whom licenses have been issued as provided herein, which list shall be corrected as often as licenses are issued or revoked. Absence of a record of a license issued as herein provided shall be prima facie evidence that a person, firm or corporation is not licensed to represent claimants. Any such license may be revoked by the board, for cause, after a hearing before the board. No license hereunder shall be issued for a period longer than three years from the date of its issuance.

3. No fee or allowance, in accordance with the provisions of section twenty-four of this chapter, shall be made for services rendered by any such person, firm or corporation who has received a license hereunder without payment of a license fee.

4. Refusal by any person to whom a license has been issued authorizing him to appear on behalf of any claimant to answer, upon request of the board, or other duly authorized officer, board or committee of the state, any legal question or to produce any relevant book or paper concerning his conduct under such license, shall constitute adequate cause for revocation thereof.

5. Only an attorney, or a representative licensed in accordance with rules established by the board pursuant to subdivisions three-b and three-d of section fifty of this chapter, shall appear on behalf of an employer or an insurance carrier regarding a claim for compensation or any benefits under this chapter before the board or any officer, agent or employee of the board assigned to conduct any hearing relative to a claim for compensation or benefits under this chapter. The provisions of this subdivision shall not apply to a designated regular employee of a self-insured employer, or of an insurance carrier appearing on behalf of his or her employer, but the board may prohibit the appearance of any such employee for cause.

N.Y. Comp. Codes R. & Regs. tit. 12, § 302 et seq.

Licensing Representatives of Claimants and Self-insurers

Regulations

Section 302-1.1. Practice before board

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Section 302-1.3. Applications for a license
Section 302-1.4. Examination
Section 302-1.5. Oath required
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Section 302-2.11. Rules may be suspended or modified
Section 302-3.1. Form of oath

Section 302-1.1. Practice before board
(a) No person except an attorney-at-law of this State, a law school graduate or senior law student as permitted by the Judiciary Law and these rules, a representative licensed by the board, an authorized employee of a licensed representative of self-insurers, or a regular employee of a self-insured employer or insurance carrier may practice before the board.

(b) No officer, director, trustee or employee of a group self-insurer, as defined in subdivision 3-a of section 50 of the Workers' Compensation Law, may represent or participate, directly or indirectly, on behalf of an injured worker or his dependents in any workers' compensation proceeding in which the group or any member of the group is a party.

(c) The board shall be deemed to include any bureau, office, unit, section, or employee, as well as the referees of the board.

Section 302-1.2. Qualifications of applicants to be licensed
(a) An applicant, and if a corporation, an officer thereof, shall show that he or she:

(1) is over 18 years of age;

(2) is a citizen of the U.S.A. or an alien lawfully admitted for permanent residence in the U.S.A.;

(3) is a permanent resident of the State of New York or has a regular place of business in the State of New York;

(4) is a person of good moral character;

(5) has a high school diploma or the equivalent thereof;

(6) has a competent knowledge of the law and regulations relating to workers' compensation matters and the necessary qualifications to render service to his or her client.

(b) The applicant shall furnish as reference the names and addresses of at least five persons who have been acquainted with his or her character and reputation for the past five years.

Section 302-1.3. Applications for a license
(a) Applications shall be made on a form prescribed and furnished by the board.

(b) A representative of a bona fide charitable or welfare organization, labor union or other organization of employees, designated by it for that purpose, may apply to be licensed to represent its members, which license shall be revoked upon certification by such organization to the board that the individual so licensed is no longer authorized to represent its members.

(c) Persons, firms or corporations other than attorneys and counselors-at-law, soliciting self-insurers as clients, or representing self-insurers at any hearing, investigation or inquiry, relative to a claim for compensation, shall apply for a license. The application of a corporation shall be made and verified by a duly authorized and qualified officer.

(d) Employees, other than attorneys, of any person, firm or corporation licensed to represent self-insurers and insurance carriers may practice before the board on behalf of such clients, provided that they have the qualifications required herein for a license and have obtained authorization from the board to appear on behalf of the employer-licensee. All such employees shall be required to pay a fee for authorization payable upon the filing of application for authorization. The employer-licensee shall provide such employees with credentials evidencing their employment, and shall promptly notify the board of termination of such employment.

(e) All applicants are required to be fingerprinted and a name search with fingerprint verification obtained from the Division of Criminal Justice Services, Executive Department, State of New York. Applicants are to submit with their application a check or money order payable to “New York State Division of Criminal Justice Services” in the amount charged by that division for such services.

Section 302-1.4. Examination
An applicant shall be required to evidence his or her fitness, knowledge and understanding of the Workers' Compensation Law, Disability Benefits Law, Volunteer Ambulance Workers' Benefit Law and Volunteer Firefighters' Benefit Law and the procedures established thereunder, by submitting to written examination and oral review at the board's discretion. Prescribed written examinations shall be given at reasonable intervals and times as fixed by the board. An applicant for renewal of a license shall not be required to submit to written examination and shall be required to submit to oral review at the board's discretion. Oral review, if required by the board, for applicants who receive a raw score grade of 70 or better on the written examination shall be scheduled within 90 days after the completion and grading of the written examination, or when required by the board in cases of a renewal application, within 90 days after the submission of the completed application.

Section 302-1.5. Oath required
An applicant shall be required to take the oath or affirmation in form prescribed by the board before the issuance of a license or renewal thereof, and filed with the board.

Section 302-1.6. Attorney admitted to practice in another state and law school graduates and senior law students permitted to practice in this State
(a) An attorney duly admitted to practice in another state may be permitted to represent any party in interest before the board, on a particular matter, upon proof submitted with his or her application that reciprocal privileges are accorded attorneys of this State.

(b) Law school graduates and senior law students permitted to practice law pursuant to the Judiciary Law under a program of activities approved by the Appellate Division as provided in such law, and designated as law interns or legal interns by a legal aid organization whose program of activities has been so approved, may represent any party in interest before the board, on a particular matter, upon compliance with this subdivision. Such legal aid organization shall submit to the board secretary a certified copy of the order of the Appellate Division granting approval of such program of activities together with a list of law school graduates or senior law students designated as law interns or legal interns by such legal aid organization. Such law interns may, under the general supervision of an attorney, file forms and make applications as required and appear at hearings before Workers' Compensation Law judges in noncontroverted claims or at such hearings, other than trial hearings, in controverted claims. Such law interns may, under the immediate supervision of an attorney, appear before Workers' Compensation Law judges at trial hearings in controverted claims and at all hearings before board panels. "Immediate supervision" of a law intern shall mean that the supervising attorney shall be personally present throughout the hearing. An attorney supervising such law interns shall be admitted to practice law in this State, shall have two years experience in this State or another state, and shall be associated with the legal aid organization which has designated such law interns. Any such supervising attorney shall be the attorney of record in each case, shall assume personal professional responsibility for any work undertaken by a law intern, and shall supervise the preparation of such work. A law intern may appear before the board, in accordance with the foregoing supervision requirements, on behalf of any party in interest where such party gives written consent to such appearance and representation and provided further that the supervising attorney also gives written consent to such appearance. The written consents herein shall be filed in the board case file. All legal papers in the case shall be endorsed by the supervising attorney as attorney of record, and may contain the name of the law intern who participated in their preparation. Law interns may represent a party only when such party is not otherwise represented by an attorney or licensed representative and is eligible to qualify for free legal services in accordance with the standards and guidelines of the organization or program in which the law intern is engaged. Such representation of claimants by law interns shall be without fee or any other remuneration, and no law intern or supervising attorney shall request or receive any fee or remuneration for such representation. Failure to comply with this subdivision shall be a sufficient basis for denial or revocation of permission to engage in such representation by law interns.

Section 302-1.7. License fees and bonds

(a) Licenses and authorizations shall be issued for terms of up to three years.

(b) The fee for a license with fee under section 24-a, a license under section 50(3-b) or (3-d), or an authorization under section 50(3-d) shall be $100 per year, payable to the chairman of the board. Upon application for such license or authorization, a fee of $100 shall be payable. If the license or authorization is granted, the application fee shall be applied toward the payment of the license or authorization fee. The balance of the license or authorization fee, if any, shall be payable upon the granting of the license or authorization.

(c) A surety bond in form prescribed by the chairman in the sum of $5,000 per year shall be filed by each applicant for a license to represent self-insured employers.

Section 302-1.8. List of licensed representatives

(a) A list of all individuals who make applications for license or who are licensed or whose applications have been rejected or denied or whose licenses have been suspended, revoked or discontinued shall be kept in the office of the secretary.

(b) The secretary shall furnish, upon request, information as to whether an individual, firm or corporation is licensed to practice before the board.

(c) The secretary shall issue an identification card to each licensed representative and authorized employee, who shall exhibit it upon request of any official or employee of the board.

Section 302-1.9. Conduct

Each licensee shall observe the rules and regulations of the board, and mere failure or neglect to observe such rules or regulations shall be sufficient cause for invoking disciplinary proceedings as herein provided.

Section 302-1.10. Procedure for the suspension or revocation of licenses

(a) Processing of complaint. All complaints against licensed representatives or authorized employees of a licensed representative shall be referred to the secretary of the board. For purposes of this section the term representative shall include holders of licenses under section 24-a and section 50, subdivisions 3-b and 3-d of the Workers' Compensation Law, and duly designated and authorized employees under section 302-1.3(b) of this Subpart.

(b) Preliminary inquiry. The secretary's office, in consultation with board counsel, shall conduct a preliminary inquiry of all complaints received. The secretary may also conduct a preliminary inquiry on his or her own initiative. If the board secretary concludes that there exists evidence that violations of the Workers' Compensation Law or board rules which might warrant disciplinary action have occurred the secretary shall refer the complaint or the results of an inquiry undertaken at his or her own initiative to the chair.

(c) Investigation. The chair may designate a committee, comprised of a board member, the secretary and an officer or employee of the board, to conduct an investigation.

(1) The investigation shall be carried out by the designated committee and shall be assisted by board counsel. A representative has no right to be present or have legal representation present during the investigation. If, however, the committee directs the representative to appear before it during the investigation, the representative may have legal representation present.

(2) The committee may require witnesses to appear before it during the course of the investigation and may also require the production of books, papers or other documents deemed to be material. The committee may issue or cause to be issued subpoenas for documents and the appearance of witnesses before it.

(3) The committee shall report its findings to the full board.

(d) Institution of charges. The full board shall determine whether formal charges or other appropriate action should be brought against the licensed representative.

(e) Disciplinary hearing.

(1) The chair shall designate a committee consisting of not less than three board members to conduct a hearing on formal charges brought against the licensed representative by the full board. No license or authorization shall be suspended or revoked unless the representative shall have been served with a copy of the charges and been given an opportunity to be heard. The hearing shall be preceded by service of a copy of the charges and 10 days prior written notice of the time and place of the hearing. The representative may submit to the secretary a written answer to the charges at least three days prior to the hearing. Board counsel may assist the committee at said hearing.

(2) The representative has the right to be present at the hearing, and may have legal representation and present witnesses and evidence.

(3) The board committee may require witnesses to appear before it during the course of the hearing and may also require the production of books, papers or other documents deemed to be material. The board committee may issue subpoenas for such documents and for the appearance of witnesses at the hearing as may be required by the board committee or by the representative proceeded against.

(4) The board committee shall not be bound by the formal rules of evidence in the conduct of the hearing.

(f) Board committee report. The board committee shall report its findings of fact and recommendations to the full board. No evidence taken during the investigation may be presented in the final committee report, or be made the basis of board action suspending or revoking a license, unless it was presented at the hearing at which the representative had a right to be present and the opportunity to have legal representation.

(g) Full board determination. The full board determination must be based on the record before the board committee and such record must contain evidence to sustain the same. The full board may suspend or revoke a license or authorization, or may take other appropriate action.

(h) Notification of board action. The secretary shall notify the representative and the complainant of the final action taken by the board.

Section 302-1.11. Orientation program
(a) Every applicant to become a licensed representative or, if such applicant is a corporation, the qualifying officer thereof unless such qualifying officer is an attorney-at-law duly admitted to practice in the State of New York, who applies for an initial license under section 24-a or section 50 of the Workers' Compensation Law and who has been approved by the board to become a licensed representative and every applicant who is a designated employee of a licensed representative who has been approved by the board to receive initial authorization under section 50 of the Workers' Compensation Law, shall be required to complete an orientation program, as set forth in this section, prior to the board's issuance of the license.

(b) The secretary of the board shall provide for and maintain an orientation program which shall consist of an overview of the following topics:

(1) procedures relating to practice before the board;

(2) provisions relating to the conduct of licensed representation and issues relating to the legal and ethical responsibilities of practitioners before the board; and

(3) any other topics which the secretary deems necessary.

(c) The orientation shall include such presentation and shall contain such requirements as the secretary's office deems necessary.

(d) The orientation shall be made available to applicants at reasonable intervals and times as fixed by the secretary.

(e) The secretary shall, upon completion of the orientation program by the applicant, provide written certification of completion of the program. This certification shall be conclusive evidence of the applicant's compliance with this section.

(f) The orientation program must be satisfactorily completed prior to the issuance of a license.

Section 302-2.1. Duty to his client
Every representative of claimants, employers and carriers should:

(a) have full knowledge of his client's case;

(b) ascertain and make a complete and accurate disclosure to his client of the facts and questions of law in the case;

(c) act promptly in protecting his client's interest;

(d) comply with the law; and any unintentional noncompliance, error or omission either on his or his client's part should be corrected promptly on notice or information thereof;

(e) exercise diligence in the preparation and handling of all matters involving his client's case, and assist in the prompt disposition thereof;

(f) disclose fully to his client in writing on a form prescribed by the board any adverse interest or relationship of the licensed representative or person authorized to represent the license holder with any of the parties. Adverse interest or relationship include, but are not limited to, ownership of stock or other financial interest in any party to the proceeding and representation of another party in this proceeding. Representation of more than one party in a proceeding is prohibited. Except with the consent of his client after the foregoing full disclosure, a representative shall not represent a client in a proceeding. If a duly designated employee of a licensed representative of self-insurers for reasons of adverse interests withdraws from representing a client, no other duly designated employee of the same licensed representative may represent that client in the same proceeding;

(g) fairly advise his client as to the merits of the case;

(h) transfer, or accept the transfer of, a case to or from another representative or lawyer only after disclosure and with the approval of the board or referee; and

(i) withdraw only after giving not less than five days' prior written notice to his client, and filing a copy thereof promptly with the board.

Section 302-2.2. Duty to board and referees

A representative should:

(a) conduct himself at all times in the same orderly manner as is required of lawyers in courts of law;

(b) produce promptly all records or evidence as required;

(c) submit promptly to the chairman the names of all regular employees and the names of other persons or agencies connected with him in representing clients, and all changes therein, together with a statement of his arrangements with them;

(d) keep a register in form approved by the board in his office available for inspection, showing all his cases;

(e) display his license at all times in a prominent place in his office; and

(f) appear only in those cases in which he is directly retained by his client or by his client's attorney-at-law.

Section 302-2.3. Partnership--names
An individual representative shall not:

(a) maintain any partnership except with another licensed representative and after full disclosure of the partnership terms to the board; and

(b) practice under an assumed or trade name.

Section 302-2.4. Compensation, commissions and rebates
(a) No representative licensed under section 24-a shall exact or accept any fee or other payment unless and until it shall have been authorized by order of the board or referee.

(b) Division of any fee with another licensed representative or a lawyer shall be based upon a division of service or responsibility and shall be improper unless fully disclosed to the board and referee before the fee is authorized.

(c) A representative shall not, directly or indirectly, receive any profit by credit or other valuable consideration as a commission, discount or gratuity in connection with any compensation case.

Section 302-2.5. Preparation, punctuality and expedition
A representative shall:

(a) thoroughly investigate and prepare his case; and

(b) be punctual and ready to proceed at hearings and avoid undue delay in the trial of the case by submitting all available evidence as promptly and fully as possible.

Section 302-2.6. Candor and fairness
A representative should:

(a) state all facts correctly, whether in writing or orally;

(b) perform punctually his written or oral commitments; and

(c) communicate with an adverse party who is represented by an attorney or licensed representative only through such attorney or representative.

Section 302-2.7. Advertising
(a) A representative may advertise as set forth in the provisions of this section. A representative shall not solicit, directly, indirectly or by implication, employment in compensation cases, except in connection with the representation of self-insured employers as specifically permitted by subdivision 3-b of section 50 of the Workers' Compensation Law.

(b) A licensed representative shall not use, disseminate or participate in the preparation of any public communication containing statements or claims that are false, deceptive or misleading.

(c) Advertising or other publicity by licensed representatives shall not contain puffery, self-laudation, or claims that cannot be measured or verified.

(d) If an advertisement is broadcast, it shall be prerecorded or taped and approved for broadcast by the licensed representative, and a recording or videotape of the actual transmission shall be retained by the licensed representative for a period of not less than three years following such transmission. All advertisements for services that are mailed, or are distributed other than by radio, television, directory, newspaper, magazine or other periodical, by a licensed representative shall also be subject to the following provisions:

(1) A copy of each advertisement shall at the time of its initial mailing or distribution be filed with the secretary of the board.

(2) Such advertisement shall contain no reference to the fact that such advertisement has been filed with the secretary.

(3) If such advertisement is directed to a predetermined addressee, a list, containing the names and addresses of all persons to whom the advertisement is being or will thereafter be mailed or distributed, shall be retained by the licensed representative for a period of not less than three years following the date of mailing or distribution.

(4) The requirements of this subdivision shall not apply to distribution of professional cards.

(e) A licensed representative shall not compensate or give anything of value to representatives of the press, radio, television or other communication medium in anticipation of or in return for professional publicity in a news item.

(f) All advertisements for services shall include the name, office address and telephone number of the licensed representative whose services are being offered, and shall clearly indicate the representative's identity as a Workers' Compensation Board licensed representative.

(g) Upon request, the secretary may issue an opinion as to whether an advertisement complies with this section. No advertisement shall mention the fact that such opinion has been issued.

(h) The above section applies solely to advertising for services rendered in connection with the license to represent parties before the Workers' Compensation Board.

Section 302-2.8. Unauthorized practices and intermediaries
A representative shall not:

(a) seek out those with claims, or employ agents or runners for like purpose, or pay or reward, directly or indirectly, those who recommend or refer cases to him/her;

(b) represent clients recommended to him/her by any individual who solicits business or obtains clients in violation of the preceding subdivision;

(c) directly or indirectly encroach in any way upon the retainers of another representative;

(d) knowingly, either directly or indirectly, employ or accept assistance from any person whose application for a license has been denied, or whose license has been suspended, or who has been suspended or disbarred as an attorney-at-law in any state; or

(e) accept private employment in a matter in which he/she had substantial responsibility while he/she was a public employee.

Section 302-2.9. Misconduct generally
The license of a representative may be suspended or revoked:

(a) if the representative shall be convicted of a crime in any court, State or Federal;

(b) if the representative gives false or substantially inaccurate information in any application for a license;

(c) if the representative conceals or attempts to conceal material facts in any case;

(d) if the representative solicits or procures the giving of false testimony;

(e) if the representative misappropriates funds or documents entrusted to him in any case; and

(f) if the representative violates any provision of the rules of the board governing the licensing of representatives of claimants and self-insurers of these rules of conduct.

Section 302-2.10. Corporation responsible for its employees; legal aid organizations responsible for law interns
(a) A corporation licensed as the representative of self-insurers shall be responsible for its employees and for their compliance with these rules.

(b) A legal aid organization whose program of activities for law school graduates and senior law students has been approved by the Appellate Division pursuant to the Judiciary Law shall be responsible for all law interns or legal interns selected by it to represent claimants in accordance with these rules. Such organization shall require supervision of such representation as required by these rules, by a supervising attorney who is admitted to practice in

this State and has two years' experience in this State or another state and who shall be the attorney of record in each case where a law intern engages in representation of a claimant pursuant to these rules. Such organization shall also comply with all other requirements for representation of claimants by law interns as set forth in these rules.

Section 302-2.11. Rules may be suspended or modified
The Workers' Compensation Board may in its discretion suspend or modify any provision of these rules.

Section 302-3.1. Form of oath
Each licensed representative shall be sworn by the following form of oath to be filed with secretary before being admitted to practice under his license, and any violation of his oath shall be grounds for disciplinary action.

I DO SOLEMNLY SWEAR:
I will support the Constitution of the United States and the Constitution of the State of New York.
I shall thoroughly and conscientiously handle cases entrusted to me.
I will not counsel or maintain any claim in behalf of a client which shall appear to me to be unjust, and shall accept only such as I believe to be honestly debatable under the Compensation Law.
I will employ, for the purpose of sustaining the matters confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the Board by any artifice or false statement of fact or law.
I will accept no compensation from a claimant in connection with his claim except as provided by the law.
I will abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged, SO HELP ME GOD.

Sworn to before me
this _____ day of _____ , 19____ .

_____

APPENDIX 18:

Report of the Task Force's Working Group on Town and Village Justice Courts

Summary Proceedings in New York's Town and Village Courts: Ideas for Improvement

Prepared for the Task Force to Expand Civil Legal Services
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On Behalf of the Fund for Modern Courts
November 5, 2012

*Not Admitted to Practice

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EXHIBITS

I. EXECUTIVE SUMMARY

The mission of the Chief Judge's Task Force to Expand Legal Services (the "Task Force") includes the expansion of access to civil legal services and the improvement of access to justice in the New York courts. The Task Force has been charged with the ongoing responsibility to: (a) study, analyze, and develop recommendations on all aspects of civil legal services to low-income New Yorkers; (b) issue recommendations for improvement; and (c) collaborate on access-to-justice issues. This Report is submitted to the Task Force both to address the difficulties faced by tens of thousands of litigants in summary proceedings in New York's suburban and rural towns and villages, and to generate practical recommendations to improve access to justice.

Every year, New York's Town and Village Courts preside over a large number of summary (i.e., eviction) proceedings, each of which can result in significant disruptions to families and the loss of a necessity of life: one's home. These proceedings, which are governed by strict statutory guidelines, can be complex, and adherence to the applicable guidelines is not always straightforward. The fact that litigants in summary proceedings are often unrepresented by counsel only compounds these difficulties. As a result, summary proceedings present challenges to Town and Village Court justices – many of whom have received little formal training relating to summary proceedings, and are therefore sometimes ill-equipped to address the thorny, complicated legal issues that arise.

In response to these challenges, we undertook a broad analysis of summary proceedings in the justice courts. Among other things, we examined reports, training materials, and memoranda; reviewed Judicial Conduct Commission complaints; analyzed the relevant statutes; and examined reports by working groups and other relevant bodies. We also interviewed a representative sample of more than a dozen civil legal services providers and others throughout the state who regularly practice in the justice courts, as well as representatives from both the Magistrates' Association and the Office of Court Administration ("OCA"). Additionally, a survey of Town and Village Court justices, conducted by the Fund for Modern Courts, provided input from justices from across the State.

This Report – which focuses solely on improvements that can be made under the existing justice court framework, and does not address the structural issues previously examined by the Special Commission on the Future of the New York State Courts – both sets forth our findings and identifies several potential areas for improvement.[1] The Report examines the most frequently cited and

[1] Likewise, this Report does not address whether Town and Village Courts should or should not have jurisdiction over summary proceedings in the first instance.

serious problems that arise when summary proceedings are litigated in Town and Village Courts: decisions that ignore statutory notice requirements; the lack of access to court records; uneven treatment of litigants; inadequate knowledge of the law by some justices; and insufficient knowledge of the unique questions raised by evictions from manufactured homes. The Report also acknowledges that many of the problems faced by litigants in Town and Village Courts stem from the two issues most often mentioned by practitioners: insufficient representation of litigants in summary proceedings, and inadequate training of justices. The consequence of these failings is a serious deprivation of rights for some litigants who appear in Town and Village Courts.

The Report then makes recommendations designed to address these and other problems. The recommendations include: better and more frequent training for justices; the creation of a reference guide, in the form of a checklist or flowchart, that justices can consult in real time during summary proceedings; increasing the availability of legal services through the use of an adjournment rule; providing increased information on litigants' rights and legal service providers at clerks' offices; scheduling days for summary proceedings; and requiring reporting on the number of summary proceedings commenced within a Town or Village Court.

It is our hope that these measures, as well as the others outlined herein, will help mitigate many of the problems currently associated with summary proceedings in the Town and Village Courts.

II. OVERVIEW OF SUMMARY PROCEEDINGS IN TOWN AND VILLAGE COURTS

A summary proceeding is an expedited process through which a landlord may evict a tenant. In New York, summary proceedings are governed by strict statutory guidelines that concern, among other things, notice, service, and the right to a jury trial.[2]

Summary proceedings are intended to protect the rights of *both* landlords and tenants. There are two types of summary proceedings: nonpayment proceedings, which concern the alleged nonpayment of rent, and holdover proceedings, which concern an alleged violation of some other aspect of a lease.[3] Both types of proceedings require the petitioner (i.e., the landlord) to give the respondent (i.e., the tenant) adequate notice through service of a petition and a notice of petition.[4] In either type of proceeding, a tenant is entitled to present

[2] *See generally* RPAPL §§ 731 *et seq.*

[3] RPAPL § 711.

[4] RPAPL §§ 731, 733, 735, 741.

legal defenses.[5] If a case raises a factual dispute, each party also has the right to demand a jury trial.[6]

Courts presiding over summary proceedings have jurisdiction to hear and decide claims to recover real property, to remove tenants, and to enter judgments for rent due.[7] In cities and in areas where District Courts exist, summary proceedings generally take place in City Courts and District Courts.[8] In other areas, summary proceedings are usually conducted in the justice courts (although the number of summary proceedings in justice courts is unfortunately not available on a statewide basis[9]). County Courts have appellate jurisdiction over justice courts' decisions in summary proceedings – although appeals are rare.

While some justice courts are well resourced, many more justice courts – all of which are locally funded – are stretched thin. Approximately seventy percent of Town and Village Court justices, further, are nonlawyers, and receive little or no annual training related to summary proceedings.[10] Given these realities, as well as the fact that individual justices often preside over no more than a handful of summary proceedings each year, the statutory requirements

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[5] *Recommendations Relating to Structure and Organization*, Task Force on Town and Village Courts, THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK (Oct. 2007). Among other defenses, a tenant may assert a warranty-of-habitability defense, pursuant to which a reduction in rent may be sought. Most often, however, tenants are unrepresented and therefore unaware of these defenses and unable to properly present them.

[6] RPAPL § 745(1).

[7] UJCA § 204; 29A Part 2 McKinney, Judiciary Law, Siegel, Practice Commentaries to UJCA § 204, at 309 (1989).

[8] The legislature is authorized to prescribe the jurisdiction of the Town and Village Courts. That jurisdiction cannot be more expansive than that of the District Courts and New York City Criminal and Civil Courts. The justice courts have concurrent jurisdiction over summary proceedings with County Courts, City Courts with civil jurisdiction, and District Courts where they exist. *See* N.Y. CONST. art. VI, § 17(a); N.Y. CONST. art. VI, § 16; N.Y. CONST. art. VI, § 15(a); RPAPL § 701.

[9] *See* New York State Office of the State of Comptroller Survey, attached hereto as Exhibit A. Notably, the data in this survey is imperfect because some justice courts do not report summary evictions separately – so the data likely represents a small fraction of the number of summary proceedings that took place in 2011.

[10] *Justice Most Local: The Future of Town and Village Courts in New York State*, A Report by the Special Commission on the Future of New York State Courts, at 7 (September 2008).

designed to protect litigants' interests in summary proceedings are not always enforced.[11]

III. SUMMARY PROCEEDINGS IN TOWN AND VILLAGE COURTS: AREAS FOR IMPROVEMENT

Because practitioners' experiences with summary proceedings differ from court to court and from region to region, in putting together this Report we interviewed a representative sample of practitioners from throughout the state in order to obtain a comprehensive understanding of the issues that litigants and justices regularly confront. Additionally, we spoke with representatives from OCA and the Magistrates' Association to obtain a more complete picture of the issues that summary proceedings present. A survey of magistrates by the Fund for Modern Courts, which was forwarded by the Magistrates Association to every county in the state, was also used in putting together this Report. [12]

Many with whom we spoke relayed positive experiences with summary proceedings in the justice courts. They mentioned, among other things, that litigants sometimes prefer justice courts because they provide easier access, and that some justices are eager to learn and participate in training above and beyond what is required. However, nearly every interviewee also agreed that there are aspects of summary proceedings that need improvement. Tenant-respondents, for example, do not always receive adequate notice. Justices and clerks are sometimes unaware that parties have a right to access court records, and therefore do not provide those records to litigants when requested. Justices sometimes lack an understanding of the basic laws governing summary proceedings due to limited training. And legal distinctions pertaining to cases involving manufactured (i.e., mobile) homes are ignored.

Justices who responded to Modern Courts' survey identified similar issues. For example, survey responses indicated that town and village justices are concerned about the lack of attorney representation in their courts; the inadequacy of notices; the high volume of cases in some courts and the rarity of cases in others; *pro se* parties' lack of procedural knowledge; the personal nature of

[11] The forms used for pleading in summary proceedings, additionally, can be difficult for a layperson to follow. For example, the form notice of petition informs the tenant-respondent to "take notice also that if you shall fail at such time to interpose and establish any defense that you may have to the allegations in the petition, you may be precluded from asserting such defenses or the claim on which it is based in any other action or procedure." Without access to representation by counsel, litigants may find it difficult to understand this instruction and, as a result, may be unaware of their rights and obligations.

[12] *See* Summary of interviews, attached hereto as Exhibit B and Summary of Magistrates Survey, attached hereto as Exhibit C.

certain disputes; and the short lead time before trial and eviction. Justices also gave feedback on the reference materials they use and the value of comprehensive training. Below is a summary discussion of the major problems identified by the individuals we interviewed and the justices who responded to the Modern Courts survey.

A. *Insufficient Notice*

Perhaps the most serious shortcoming regularly observed in summary proceedings is the failure to provide respondents with adequate notice.[13] Most problematic are cases in which notice is not served at all – which several practitioners reported is not uncommon. For example, one practitioner observed a case in which a justice court issued a warrant of eviction *immediately* upon a landlord's request, without prior notice to the tenant. Another practitioner reported, based on frequent client complaints, that notice requirements are routinely disregarded.

However, more common than cases in which notice is absent are cases in which a tenant receives informal "notice" that falls short of the statutory requirements. Under the applicable statutes, a petition and notice of petition must be personally served on the respondent (personal service) or to a person of suitable age residing at the property (substituted service) between five and twelve days before a court hearing.[14] Only if neither personal nor substituted service is possible can service be effected by leaving documents at the property and then mailing them to the respondent.[15]

According to practitioners, landlords routinely ignore these rules. In some cases, only a petition or a notice of petition, but not both, is served. In others, the only "notice" given to a tenant is oral notice from the landlord, which, not surprisingly, many tenants do not take seriously. Further, landlords fail to comply with restrictions related to service. Under New York's Civil Practice Law Rules ("CPLR"), a party to an action may not serve notice,[16] yet some landlords reportedly are regularly allowed to do so. New York case law also requires

[13] The statutory requirements related to notice are set out in RPAPL § 731 and RPAPL § 741, while the service requirements are set out in RPAPL § 735.

[14] RPAPL §§ 733, 735(1).

[15] RPAPL § 735(1).

[16] CPLR § 2103.

service on *each* respondent, even when the respondents are husband and wife[17] – yet practitioners report that justices sometimes require service on only one spouse.

These and other examples of defective notice would be less worrisome if practitioners were confident that justice courts were capable of readily identifying them. However, the opposite is often true. Furthermore, even in those cases where defective notice is brought to a justice court's attention, justice courts sometimes ignore the issue altogether. Multiple practitioners noted, for example, that some justices simply take the position that if a respondent is in court at all, notice was adequate. Other practitioners have observed justices tell respondents: "Well, you're here, so you obviously had notice." For their part, justices remarked on problems related to the paperwork required to provide adequate notice, the lack of proper signatures or verifications on notices, service issues, and the issue of parties seeking the court's advice on notice questions.

These shortcomings are troubling for several reasons. First and foremost, respondents who do not receive notice may have default judgments entered against them. Second, respondents who receive defective notice may be unable to adequately prepare a defense. For example, where a notice of petition, but not the petition itself, is served on a tenant, it may be difficult for the tenant to evaluate legal defenses. Finally, justice courts that accept subpar notice implicitly encourage such practices. If petitioners know that courts will condone shortcuts, that is, they are more likely to rely on those shortcuts in the future.[18]

B. *Lack of Access to Court Records*

Another problem that frequently arises in summary proceedings is that litigants, especially tenants, find obtaining copies of court records difficult. Indeed, many practitioners with whom we spoke pointed to a lack of access to court records as one of the problems most commonly encountered in the justice courts.

The barriers to access are several. First, justice courts generally convene infrequently, sometimes only for a few hours every few weeks. Because court records are available only when a court is in session, as a logistical matter it can

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[17] *World's Busiest Corner Corp. v. Cine 42nd Street Theater Corp.*, 134 Misc. 2d 281 (N.Y. City Civ. Ct. 1986).

[18] One problem closely related to the failure to provide notice is the practice of permitting petitioners to file their petition and notice of petition *before* service. Under the applicable statute, petitioners are not allowed to file a petition or notice of petition until after service. RPAPL § 735(2). Permitting petitioners to file before service is detrimental to respondents because it means that the affidavit of service may not be available before the court hearing. This prevents respondents from raising meritorious defenses based on defective service.

be difficult for tenants to obtain court documents far enough in advance of a hearing to be helpful. Second, justice court clerks often labor under the misunderstanding that parties are not entitled to court records, or are entitled to court records only with specific approval by the court. Finally, according to some practitioners, clerks may be more responsive to attorneys' requests for records than to requests from unrepresented respondents, including tenants.

C. *Uneven Treatment of Litigants*

The opportunity to be heard is crucial to our justice system. Yet summary proceedings are sometimes conducted so quickly that tenants are neither invited nor prepared to offer defenses. One practitioner with whom we spoke observed a justice preside over a summary proceeding that took place on the *same day* the landlord initiated the proceeding – so that the tenant was never notified and was never given the opportunity to be heard. Another practitioner reported that justices frequently ask tenants if they have money to pay rent – not if the tenants actually owe rent or have legal defenses. Some practitioners go further, and suggest that some justices are uninterested in hearing what tenants have to say and view assertions of legal defenses as attempts to avoid paying rent.[19]

Additionally, justices sometimes handle summary proceedings in ways that give landlords procedural advantages. For example, some justices reportedly will delay proceedings for tardy landlords, but will not do so for tenants. Other justices will reportedly schedule summary proceedings in accordance with landlords', but not tenants', schedules, or will require tenants to deposit the rent allegedly due into escrow before any defense may be raised. As one practitioner put it, it is not uncommon for landlords to "run the show" in Town and Village Court summary proceedings.[20] Notably, however, the justices who responded to Modern Courts' survey recognized the inequities in the system and the impropriety of giving landlords "advice" or allowing *ex parte* communications prior to hearings.

[19] In an extreme case, a practitioner reported that a justice denied a tenant's warranty-of-habitability argument despite being presented with uncontroverted evidence of a serious mold contamination.

[20] Because justice courts are often located in small municipalities, justices may have personal connections with the parties that can create conflicts of interest. Some justices are landlords themselves. Moreover, because justices are locally elected, they may rely on landlords and their lawyers for reelection. All of these relationships create conflicts of interest, but often there is not another court close enough for the parties to access, so a conflicted justice may not recuse himself or herself.

D. *Inadequate Knowledge of Applicable Law*

Because summary proceedings are a relatively small part of justice courts' dockets – a point that was confirmed via the Modern Courts survey – many justices are unfamiliar with the applicable law. Indeed, according to one practitioner, without an attorney present on either side, justices would have "zero guidance whatsoever." And one justice stated in response to the Modern Courts survey that the complicated nature of summary proceedings requires as many legal reference materials and as much training as possible. That justice also questioned the ability of many justices to fully understand the applicable statutes without a background in civil procedure or real property law.

Without adequate knowledge of the statutes governing summary proceedings, justice courts can misapply the law. For example, some interviewees suggested that justices improperly consider payments for security and utilities in nonpayment cases – even though the remedy provided in summary proceedings is limited only to the rent owed. One practitioner witnessed a justice repeatedly deny jury trials despite the existence of questions of fact.[21] And at the extreme end of the spectrum, a practitioner reported that a justice who was personally approached by a landlord issued a warrant of eviction without any proceeding whatsoever.[22]

Moreover, many practitioners regularly observed improper *ex parte* communications between justices and litigants – and particularly between justices and landlords. For example, landlords who are unsure about how to initiate a summary proceeding sometimes contact justices, who, attempting to be helpful, may aid landlords by directing them to the appropriate form or "opening a file" for them. Or, as one practitioner explained, if a landlord shows up first in court, the court may very well review the case with the landlord before the tenant has arrived, giving the landlord time to present his or her case without a possibility of a rebuttal. In these examples, the procedural and substantive unfairness of the *ex parte* communication is plain.

E. *Inadequate Training Opportunities for Justices*

While the training justices receive is not insubstantial, many believe that more comprehensive and frequent trainings are necessary. Newly elected justices are required to attend a six-day training session, which includes at least two or

[21] Likewise, justice courts reportedly often do not appreciate that many warranty-of-habitability issues present questions of fact that are appropriate for a jury.

[22] This decision was overturned on appeal in county court.

three hours on summary proceedings. Veteran justices, meanwhile, must participate in twelve hours of training annually, including six hours of "core" training and two hours of ethics training.[23] According to OCA, summary proceedings appear as a topic in one of the core programs roughly every other year, and one or two hours of training are typically devoted to summary proceedings when they are covered.[24] However, this "core" training relating to summary proceedings is not mandatory – and we received reports that some justices' only training on summary proceedings was the training they received when newly elected.

For this reason, many practitioners believe that, particularly given the legal complexities associated with summary proceedings, more training is needed. Many of the forty-two justices who responded to the Modern Courts survey agree, particularly given the complexity of the issues that arise; as one justice stated, "any training is always helpful."

Even so, there is less agreement regarding the utility of the reference materials relating to summary proceedings that are currently available to justices. Indeed, nearly every practitioner we interviewed noted that justices infrequently, if ever, appear consult such materials while summary proceedings are taking place – although all of the justices who responded to Modern Courts' survey did report some use of reference materials.[25]

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[23] The core programs are disseminated at three live training programs held throughout the state, at local training sites, and through web programming. After the training, nonattorney justices are tested on the materials covered, while attorney justices are not. For attorney justices, the core programs also count as continuing legal education credits. Justices who take only six hours of core credits may satisfy their other credits through elective courses. Elective courses are conducted by various local groups, including practitioners, and must be approved beforehand by the Office of Justice Court Support before credit will be given. Documentation of a justice's attendance at an elective course is also required. Most justices prefer to do their training locally because local electives tend to be tailored to problems that are seen in the justice's specific court.

[24] According to one interviewee, justices are very eager to attend trainings, receive materials, and put any materials they take home with them to good use. The justice courts also have at their disposal treatises, statute books, and other legal reference materials.

[25] At the trainings, justices are given materials and are encouraged to take these materials with them. The training materials (and trainings themselves) are also preserved and available through the Internet on a website accessible only to the justices. Additionally, the Office of Justice Court Support operates a legal-help hotline that is in most instances available 24/7 for questions on pending cases. According to OCA, the hotline receives a high volume of calls. Since about 2010, the hotline has fielded about 134,000 calls, of which more than 6,000 pertained to summary proceedings. According to one practitioner, justices may call before, during, or after a proceeding.

F. *Insufficient Knowledge of Special Issues Concerning Manufactured Homes*

Finally, according to many practitioners, justice courts are frequently unequipped to preside over manufactured (i.e., mobile) home proceedings. As a general matter, manufactured home proceedings are governed by the same statutes that apply to other homes.[26] However, mobile homes are subject to various additional regulations that can create problems for evicted tenants. Perhaps most notably, while it is against the law to move very old mobile homes, tenants can nevertheless be evicted from the land on which a mobile home they own sits. This creates a particular problem for manufactured home tenants – who may lose their homes if evicted from the land underneath.

As a protection against the above problem, a tenant in a summary proceeding may raise as a defense the impact that eviction would have on his or her ownership interest in an unmovable manufactured home.[27] However, some justices are unaware of this protection, and ignore the impact of tenants' ownership interest in their mobile homes.[28]

IV. PROPOSALS FOR IMPROVEMENT

As outlined above, summary proceedings in Town and Village Courts can be improved in several areas. We do not purport to offer a panacea. Our primary recommendation, instead, is the distribution of a plain-language, easy-to-follow reference guide for justices to use during summary proceedings. Our hope would be that justices will consult this guide while addressing the often-difficult legal issues that can arise during summary proceedings.

Aside from the reference guide, the additional proposals that follow represent further steps toward improving the accuracy and fairness of summary

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[26] RPL § 233.

[27] *Recommendations Relating to Structure and Organization*, Task Force on Town and Village Courts, THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, at 53 (Oct. 2007).

[28] Notably, the one justice who answered "yes" to the Modern Courts survey question asking whether yearly summary proceedings training would be helpful stated that "we have a great deal of evictions in my town involving trailer parks." Additionally, one upstate practitioner explained that some parties will make informal land grant arrangements, similar to rent-to-own transactions. When a party fails to make a payment, the owner of the land brings a nonpayment proceeding, which is conducted like a regular landlord-tenant proceeding. However, when the payee is evicted from the land, he or she loses the entirety of the investment, which may be close to the value of the premises. A summary proceeding is obviously not proper for this type of arrangement.

proceedings in the Town and Village Courts. Increased training would help justices understand the statutes governing summary proceedings. Increased provision of legal services would help litigants better comprehend their rights and obligations. An adjournment rule for unrepresented litigants would afford litigants time to seek out legal services and answers to questions. And creating specially scheduled days for summary proceedings would ensure that legal services providers are more readily available to assist litigants who need help. These proposals are discussed below.

A. *A Summary Proceedings Reference Guide*

In the first instance, we believe it would be helpful to create and distribute a reference guide, in the form of a checklist or flowchart, which justices could consult in real time during summary proceedings. As we envision it, this reference guide would take justices through each step of the summary proceeding process, highlighting the major issues that typically arise. It would aim to be accessible, rather than comprehensive, and would not address every conceivable scenario – only those that regularly arise.

A model guide is attached as an appendix to this Report. This guide incorporates the major substantive and procedural rules governing summary proceedings, from the initial decision to file a petition through the court appearance. We believe that it would prove helpful to Town and Village justices – and justices appear to agree. Indeed, Modern Courts' survey of justices included the following question:

> *We have been told that a reference guide or checklist, that takes the court through a summary proceeding from start to finish, could assist Justice Courts, especially those who do not frequently have eviction proceedings in their courts. Would such a guide be of use to your court? And if yes, what information would you like to see contained within it? If not, please explain.*

The responses were overwhelmingly in support of such a guide. "I never say no to information that is helpful, legally accurate and allows me to be more efficient," wrote one justice. "I would suppose that each judge already uses a self-created flowchart, but, a template would be a good resource that the judge can alter as needed for the individual circumstances," wrote another. And as one justice suggested,

> *Reference guides and checklists are always good, in any area formulaic and repetitive practice. Such devices are best if they also are accompanied by a manual that cross-references the checklist and provides an expansion on the statutory and case law provisions governing the checklist items.*

The attached model guide addresses several areas of concern identified in this Report. A significant portion of the guide is devoted to notice issues, including service requirements. The guide also alerts justices to the importance of representation by counsel, and encourages justices to adjourn in cases where a party would prefer to retain counsel. Additionally, the guide provides an easy-to-follow road map of the summary-proceeding process for justices who may be unfamiliar with it. Finally, the guide stresses the importance of affording *both* sides the opportunity to be heard.[29]

B. *Improved Training Relating to Summary Proceedings*

As discussed above, most Town and Village Court justices are not lawyers. As such, many justices lack experience dealing with the complicated legal issues that can sometimes arise during summary proceedings. And because summary proceedings take place relatively infrequently, justices often do not have the opportunity to build expertise in this area of law. Increased and improved training would help Town and Village Court justices obtain a better understanding of the rules governing summary proceedings.

With regard to the ways in which training can be improved, both training materials and trainings would be enhanced, as an initial matter, by input and review from a select group of lawyers and judges with expertise in landlord/tenant law. As such, it is recommended that the Task Force – along with experts in landlord/tenant law and individuals with expertise in training, the Office of Court Administration, and the Magistrates Association – work together to generate new training materials and resources to address the issues contained in this Report. One justice, additionally, recommended that video recordings be made of the entire training process; another noted that routine emails summarizing case law developments would be helpful; and yet another stated that "experience is always the best teacher," as is learning from "our fellow judges' experiences." As one justice succinctly stated, "[t]here is no substitute for learning the applicable law and having the opportunity to apply it."

Relatedly, our research and conversations with practitioners and justices also revealed that some justice court clerks do not always understand the rights of litigants in summary proceedings. Because court clerks are gatekeepers to the courts – and provide access to, among other things, critical court records – requiring clerks to participate in regular training would also help litigants in summary proceedings better access justice.

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[29] A draft reference guide is attached hereto as Exhibit D. The Town and Village Courts Resource Center would be willing to review and distribute the guide.

C. *Increased Availability of Legal Services*

One practitioner estimated that, when a respondent appears without counsel, "ninety-five or more percent of the time, it doesn't work out well for them." And nearly all practitioners agreed that represented litigants obtain better outcomes than similarly situated unrepresented litigants. Justices who responded to Modern Courts' survey similarly agreed that representation by counsel better utilizes court resources, as the "high volume of cases and *pro se* parties' lack of procedural knowledge" creates challenges for courts. Increasing the availability of free or low-cost legal services providers, accordingly, would improve unrepresented litigants' access to justice, for several reasons:

- *First*, because summary proceedings represent a relatively small portion of individual justice courts' dockets, justices are often unfamiliar with the substantive and procedural law that applies – and as a result, courts rely heavily on attorneys for knowledge about the process. Many practitioners report that, in cases where one or both parties are unrepresented, the justice court is significantly more likely to proceed based on erroneous understandings of law.

- *Second*, justice courts are often more open to defenses raised by attorneys than to defenses raised by unrepresented respondents.[30] Unsophisticated respondents may also be unaware of legal defenses that may be asserted.

- *Third*, respondents represented by counsel are less likely to be shut out of summary proceedings.

- *Finally*, represented respondents are sometimes better able to obtain access to court records.

Short of dedicating more funding to the representation of parties in summary proceedings, there are some procedural mechanisms that may help increase unrepresented parties' access to counsel. A list of these possible approaches includes:

[30] One practitioner recalled observing two cases: in the first, a represented respondent successfully raised a defense, while, in the second, an unrepresented respondent raised the same defense to no avail.

1. Clarify Adjournment Rule

As discussed above, unrepresented respondents often are not prepared for trial, do not know how to access legal services, and are unsure what defenses are available. As a result, many practitioners support the idea of an adjournment rule requiring a court to adjourn if a respondent is unrepresented, in order to provide litigants with time to obtain counsel or guidance.[31]

Some practitioners have expressed concerns about the feasibility of such a rule. For example, an adjournment cannot be longer than ten days without the consent of both parties, and many Town and Village Courts do not meet often enough to adjourn and return within that period.[32] Additionally, an adjournment rule could face opposition from landlords, because it would delay summary proceedings without guaranteeing that respondents in delayed cases will actually obtain legal services. However, because an adjournment rule would address many of the problems described in this Report, we believe that it would have the support of many justice court practitioners.

2. Provide Unrepresented Parties with a "Bill of Rights"

Providing unrepresented litigants with a "bill of rights" or other information when they go to a clerk's office or appear before a justice for the first time would simplify the process for the litigants and the courts. Basic information regarding process issues, litigants' rights to court records, and the telephone number and location of local legal service providers, among other things, would assist unrepresented litigants in navigating an otherwise daunting system. Significantly, justices commented favorably on the value of "a handout to give to both parties similar to the small claims guide to familiarize them with the proper forms to fill out and procedures."

3. Scheduled Days for Summary Proceedings

Finally, in order to increase access to legal services providers, courts could also consider dedicating certain days each week or month to summary proceedings. Doing so could enable local legal service organizations to have attorneys available in a particular court on a scheduled day to assist more qualified litigants in court.

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[31] The applicable statutes only require that the notice of petition and petition be served five days before the return date for a summary proceeding. RPAPL § 733. This is often not enough time to prepare a case.

[32] RPAPL § 745.

D. *Require Reporting on Summary Proceedings*

For a variety of reasons, is important to know how many summary proceedings are taking place in Town and Village Courts across the state. With this information, responsible parties can better allocate the resources and training necessary to improve summary proceedings. And the scope of the problem can be assessed – as well as the impact of proposals made herein. To best assess the number and impact of summary proceedings across the state, a minor change in justice court reporting requirements is recommended.

Currently, the only means of determining the number of summary proceedings commenced in Town and Village Courts is through figures required to be collected by the Office of the New York State Comptroller.[33] Justices are required to report fines, fees, and surcharges to the Comptroller so that the Comptroller is able to distribute fees. However, the Comptroller does not require justices to separately report the number of summary proceedings in their courts (although many justices do anyway because a specific filing entry is affiliated with summary proceedings). Gathering this information could benefit statewide efforts geared toward understanding the scope and volume of summary proceedings. Thus, going forward, Town and Village Courts should be required to separately report the number of summary proceedings over which they presided.

V. CONCLUSION

This Report presents several potential solutions to issues that frequently arise in summary proceedings in Town and Village Courts. We believe all are worthy of consideration. However, our recommended first step is distribution of the appended reference guide through avenues that will reach Town and Village Court justices.[34] More than anything else, we feel there is a pressing need for a clear and accessible statement of the standards governing summary proceedings in justice courts – and we believe that the appended guide addresses this need.

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[33] See Exhibit "A" for Comptroller's Report, which provides ONLY the number of summary proceedings for those towns and villages that file separately; the totals, therefore, greatly understate the number of summary proceedings. Modern Courts also sought the information from the NYS Sheriff's Association. Warrants of evictions forwarded to the Sheriff's offices are ordered from various courts, establishing a number of summary proceedings in Town and Village courts is not obtainable using Sheriff's data, attached hereto as Exhibit "E".

[34] For example, the Magistrates Association might be willing to publish it on their website and in their magazine, and/or make it available in administrative offices in local districts.

EXHIBIT “A”

Note: The Comptroller's Report on the number of summary proceedings in Town and Village Courts does not include those summary proceedings in Towns and Villages that do not report summary proceedings separately from other civil cases. The names of many Towns and Viilages, therefore, are not included in the report.

NEW YORK STATE
OFFICE OF THE STATE COMPTROLLER
Request of Number of Summary Proceedings reported 2011 and 2012
FOIL 2012-306

Prepared 8/1/2012

2011

County	Town/Village	# of Summary Proceedings Reported 2011
ALBANY	Town of Berne	1
ALBANY	Town of Bethlehem	18
ALBANY	Town of Coeymans	26
ALBANY	Town of Colonie	234
ALBANY	Town of Green Island	19
ALBANY	Town of New Scotland	8
ALBANY	Village of Altamont	7
ALBANY	Village of Menands	1
ALBANY	Village of Ravena	72
ALBANY	Village of Voorheesville	5
ALBANY Total		391
ALLEGANY	Town of Alma	1
ALLEGANY	Town of Amity	5
ALLEGANY	Town of Angelica	2
ALLEGANY	Town of Belfast	2
ALLEGANY	Town of Caneadea	2
ALLEGANY	Town of Cuba	12
ALLEGANY	Town of Friendship	18
ALLEGANY	Town of Scio	8
ALLEGANY	Town of Wellsville	25
ALLEGANY	Town of Willing	1
ALLEGANY	Village of Andover	1
ALLEGANY	Village of Angelica	1
ALLEGANY	Village of Belmont	5
ALLEGANY	Village of Bolivar	2
ALLEGANY	Village of Wellsville	1
ALLEGANY Total		86
BROOME	Town of Barker	1
BROOME	Town of Chenango	38
BROOME	Town of Colesville	10
BROOME	Town of Conklin	28
BROOME	Town of Dickinson	19
BROOME	Town of Fenton	1
BROOME	Town of Kirkwood	33
BROOME	Town of Lisle	8
BROOME	Town of Maine	39
BROOME	Town of Nanticoke	26

BROOME	Town of Triangle	6
BROOME	Town of Union	813
BROOME	Town of Vestal	25
BROOME	Town of Windsor	25
BROOME	Village of Endicott	18
BROOME	Village of Johnson City	49
BROOME Total		1139
CATTARAUGUS	Town of Allegany	13
CATTARAUGUS	Town of Ellicottville	1
CATTARAUGUS	Town of Farmersville	1
CATTARAUGUS	Town of Franklinville	2
CATTARAUGUS	Town of Freedom	1
CATTARAUGUS	Town of Great Valley	1
CATTARAUGUS	Town of Little Valley	1
CATTARAUGUS	Town of Lyndon	3
CATTARAUGUS	Town of Napoli	1
CATTARAUGUS	Town of Olean	2
CATTARAUGUS	Town of Persia	2
CATTARAUGUS	Town of Portville	5
CATTARAUGUS	Town of Randolph	14
CATTARAUGUS	Village of Ellicottville	1
CATTARAUGUS	Village of Portville	3
CATTARAUGUS	Village of South Dayton	5
CATTARAUGUS Total		56
CAYUGA	Town of Aurelius	5
CAYUGA	Town of Brutus	13
CAYUGA	Town of Cato	3
CAYUGA	Town of Conquest	2
CAYUGA	Town of Genoa	1
CAYUGA	Town of Locke	3
CAYUGA	Town of Moravia	17
CAYUGA	Town of Owasco	2
CAYUGA	Town of Sennett	1
CAYUGA	Town of Summerhill	1
CAYUGA	Village of Meridian	1
CAYUGA	Village of Moravia	1
CAYUGA	Village of Weedsport	4
CAYUGA Total		54
CHAUTAUQUA	Town of Arkwright	2
CHAUTAUQUA	Town of Busti	8
CHAUTAUQUA	Town of Charlotte	3
CHAUTAUQUA	Town of Dunkirk	12
CHAUTAUQUA	Town of Ellery	6
CHAUTAUQUA	Town of Ellicott	13
CHAUTAUQUA	Town of Ellington	2
CHAUTAUQUA	Town of North Harmony	2
CHAUTAUQUA	Town of Pomfret	2

CHAUTAUQUA	Town of Ripley	3
CHAUTAUQUA	Town of Stockton	2
CHAUTAUQUA	Town of Villenova	1
CHAUTAUQUA	Town of Westfield	2
CHAUTAUQUA	Village of Westfield	3
CHAUTAUQUA Total		61
CHEMUNG	Town of Ashland	22
CHEMUNG	Town of Big Flats	4
CHEMUNG	Town of Catlin	2
CHEMUNG	Town of Chemung	2
CHEMUNG	Town of Elmira	8
CHEMUNG	Town of Erin	1
CHEMUNG	Town of Horseheads	18
CHEMUNG	Town of Southport	54
CHEMUNG	Town of Van Etten	5
CHEMUNG	Village of Elmira Heights	42
CHEMUNG	Village of Horseheads	12
CHEMUNG Total		170
CHENANGO	Town of Columbus	1
CHENANGO	Town of Greene	1
CHENANGO	Town of Guilford	2
CHENANGO	Town of New Berlin	2
CHENANGO	Town of Oxford	2
CHENANGO	Town of Pitcher	1
CHENANGO	Town of Plymouth	1
CHENANGO	Town of Sherburne	1
CHENANGO	Village of Greene	1
CHENANGO	Village of Oxford	10
CHENANGO	Village of Sherburne	2
CHENANGO Total		24
CLINTON	Town of Altona	1
CLINTON	Town of Ausable	24
CLINTON	Town of Black Brook	3
CLINTON	Town of Champlain	11
CLINTON	Town of Chazy	7
CLINTON	Town of Ellenburg	2
CLINTON	Town of Mooers	2
CLINTON	Town of Peru	11
CLINTON	Town of Plattsburgh	81
CLINTON	Town of Saranac	6
CLINTON	Village of Dannemora	1
CLINTON	Village of Rouses Point	7
CLINTON Total		156
COLUMBIA	Town of Ancram	2
COLUMBIA	Town of Austerlitz	1
COLUMBIA	Town of Canaan	2
COLUMBIA	Town of Claverack	15

COLUMBIA	Town of Copake	12
COLUMBIA	Town of Gallatin	4
COLUMBIA	Town of Germantown	4
COLUMBIA	Town of Greenport	16
COLUMBIA	Town of Kinderhook	9
COLUMBIA	Town of Livingston	4
COLUMBIA	Town of New Lebanon	6
COLUMBIA	Town of Stockport	17
COLUMBIA	Town of Stuyvesant	12
COLUMBIA	Town of Taghkanic	3
COLUMBIA	Village of Philmont	27
COLUMBIA Total		134
CORTLAND	Town of Cortlandville	79
CORTLAND	Town of Cuyler	2
CORTLAND	Town of Harford	2
CORTLAND	Town of Homer	13
CORTLAND	Town of Preble	5
CORTLAND	Town of Scott	1
CORTLAND	Town of Solon	1
CORTLAND	Town of Virgil	1
CORTLAND Total		104
DELAWARE	Town of Colchester	2
DELAWARE	Town of Davenport	12
DELAWARE	Town of Delhi	3
DELAWARE	Town of Harpersfield	1
DELAWARE	Town of Kortright	2
DELAWARE	Town of Meredith	1
DELAWARE	Town of Middletown	12
DELAWARE	Town of Sidney	3
DELAWARE	Town of Stamford	5
DELAWARE	Town of Walton	2
DELAWARE	Village of Sidney	29
DELAWARE	Village of Stamford	2
DELAWARE	Village of Walton	31
DELAWARE Total		105
DUTCHESS	Town of Amenia	18
DUTCHESS	Town of Beekman	14
DUTCHESS	Town of Clinton	3
DUTCHESS	Town of Dover	5
DUTCHESS	Town of East Fishkill	9
DUTCHESS	Town of Fishkill	30
DUTCHESS	Town of Hyde Park	158
DUTCHESS	Town of La Grange	49
DUTCHESS	Town of Milan	3
DUTCHESS	Town of North East	17
DUTCHESS	Town of Pawling	14
DUTCHESS	Town of Pine Plains	15

DUTCHESS	Town of Red Hook	1
DUTCHESS	Town of Rhinebeck	1
DUTCHESS	Town of Stanford	4
DUTCHESS	Town of Union Vale	4
DUTCHESS	Town of Washington	2
DUTCHESS	Village of Millbrook	1
DUTCHESS	Village of Pawling	4
DUTCHESS	Village of Rhinebeck	3
DUTCHESS	Village of Wappingers Falls	3
DUTCHESS Total		358
ERIE	Town of Amherst	297
ERIE	Town of Boston	12
ERIE	Town of Brant	2
ERIE	Town of Colden	1
ERIE	Town of Collins	3
ERIE	Town of Concord	3
ERIE	Town of Eden	2
ERIE	Town of Evans	17
ERIE	Town of Hamburg	207
ERIE	Town of Holland	4
ERIE	Town of Marilla	41
ERIE	Town of North Collins	1
ERIE	Town of Wales	5
ERIE	Village of Akron	1
ERIE	Village of Angola	5
ERIE	Village of Blasdell	6
ERIE	Village of Hamburg	5
ERIE	Village of Kenmore	9
ERIE	Village of Lancaster	1
ERIE	Village of Springville	11
ERIE	Village of Williamsville	4
ERIE Total		637
ESSEX	Town of Chesterfield	8
ESSEX	Town of Crown Point	6
ESSEX	Town of Essex	1
ESSEX	Town of Jay	4
ESSEX	Town of North Elba	10
ESSEX	Town of Schroon	1
ESSEX	Town of Ticonderoga	12
ESSEX	Town of Westport	1
ESSEX	Town of Willsboro	1
ESSEX	Town of Wilmington	3
ESSEX	Village of Lake Placid	13
ESSEX Total		60
FRANKLIN	Town of Bombay	2
FRANKLIN	Town of Chateaugay	1
FRANKLIN	Town of Harrietstown	12

FRANKLIN	Town of Malone	3
FRANKLIN	Town of Moira	2
FRANKLIN	Village of Saranac Lake	3
FRANKLIN Total		23
FULTON	Town of Broadalbin	7
FULTON	Town of Caroga	1
FULTON	Town of Johnstown	10
FULTON	Town of Mayfield	15
FULTON	Town of Northampton	6
FULTON	Town of Oppenheim	1
FULTON	Town of Perth	3
FULTON	Village of Broadalbin	2
FULTON Total		45
GENESEE	Town of Alabama	1
GENESEE	Town of Batavia	41
GENESEE	Town of Bergen	5
GENESEE	Town of Byron	2
GENESEE	Town of Le Roy	41
GENESEE	Town of Oakfield	12
GENESEE	Village of Corfu	1
GENESEE Total		103
GREENE	Town of Athens	11
GREENE	Town of Cairo	48
GREENE	Town of Catskill	65
GREENE	Town of Coxsackie	40
GREENE	Town of Durham	8
GREENE	Town of Halcott	1
GREENE	Town of Hunter	10
GREENE	Town of Jewett	4
GREENE	Town of New Baltimore	1
GREENE	Town of Prattsville	1
GREENE	Town of Windham	1
GREENE	Village of Catskill	71
GREENE Total		261
HAMILTON	Town of Hope	1
HAMILTON	Town of Wells	1
HAMILTON Total		2
HERKIMER	Town of Frankfort	1
HERKIMER	Town of Litchfield	1
HERKIMER	Town of Manheim	7
HERKIMER	Town of Russia	2
HERKIMER	Town of Salisbury	1
HERKIMER	Town of Schuyler	22
HERKIMER	Town of Warren	1
HERKIMER	Town of Webb	2
HERKIMER	Town of Winfield	1
HERKIMER	Village of Herkimer	16

HERKIMER Total		54
JEFFERSON	Town of Adams	17
JEFFERSON	Town of Alexandria	1
JEFFERSON	Town of Antwerp	1
JEFFERSON	Town of Brownville	11
JEFFERSON	Town of Champion	4
JEFFERSON	Town of Clayton	1
JEFFERSON	Town of Henderson	1
JEFFERSON	Town of Hounsfield	6
JEFFERSON	Town of Le Ray	38
JEFFERSON	Town of Orleans	4
JEFFERSON	Town of Pamelia	4
JEFFERSON	Town of Rodman	5
JEFFERSON	Town of Rutland	1
JEFFERSON	Town of Watertown	50
JEFFERSON	Town of Wilna	8
JEFFERSON	Village of Adams	8
JEFFERSON	Village of Alexandria Bay	7
JEFFERSON	Village of Brownville	1
JEFFERSON	Village of Carthage	10
JEFFERSON	Village of Clayton	3
JEFFERSON	Village of Dexter	2
JEFFERSON	Village of Theresa	1
JEFFERSON Total		184
LEWIS	Town of Croghan	5
LEWIS	Town of Diana	2
LEWIS	Town of Leyden	1
LEWIS	Town of Lowville	1
LEWIS	Town of Martinsburg	2
LEWIS	Town of New Bremen	1
LEWIS	Town of Watson	1
LEWIS	Village of Port Leyden	3
LEWIS Total		16
LIVINGSTON	Town of Avon	16
LIVINGSTON	Town of Caledonia	7
LIVINGSTON	Town of Groveland	1
LIVINGSTON	Town of Leicester	9
LIVINGSTON	Town of Lima	19
LIVINGSTON	Town of Livonia	24
LIVINGSTON	Town of Mount Morris	1
LIVINGSTON	Town of North Dansville	1
LIVINGSTON	Town of Nunda	6
LIVINGSTON	Town of West Sparta	1
LIVINGSTON	Town of York	3
LIVINGSTON	Village of Avon	7
LIVINGSTON	Village of Caledonia	3
LIVINGSTON	Village of Dansville	28

LIVINGSTON	Village of Mount Morris	6
LIVINGSTON	Village of Nunda	5
LIVINGSTON Total		137
MADISON	Town of De Ruyter	1
MADISON	Town of Hamilton	2
MADISON	Town of Lenox	17
MADISON	Town of Madison	3
MADISON	Town of Stockbridge	2
MADISON	Town of Sullivan	8
MADISON	Village of Canastota	38
MADISON	Village of Cazenovia	2
MADISON	Village of Chittenango	8
MADISON	Village of Hamilton	1
MADISON Total		82
MONROE	Town of Brighton	108
MONROE	Town of Chili	184
MONROE	Town of East Rochester	2
MONROE	Town of Irondequoit	1
MONROE	Town of Ogden	1
MONROE	Town of Perinton	180
MONROE	Town of Pittsford	7
MONROE	Town of Riga	7
MONROE	Town of Wheatland	30
MONROE	Village of Fairport	24
MONROE	Village of Honeoye Falls	2
MONROE Total		546
MONTGOMERY	Town of Amsterdam	6
MONTGOMERY	Town of Canajoharie	3
MONTGOMERY	Town of Charleston	1
MONTGOMERY	Town of Glen	1
MONTGOMERY	Town of Minden	9
MONTGOMERY	Town of Palatine	4
MONTGOMERY	Town of Root	1
MONTGOMERY	Town of St Johnsville	1
MONTGOMERY	Village of Canajoharie	16
MONTGOMERY	Village of Fultonville	1
MONTGOMERY	Village of St. Johnsville	9
MONTGOMERY Total		52
NIAGARA	Town of Cambria	17
NIAGARA	Town of Hartland	8
NIAGARA	Town of Newfane	32
NIAGARA	Town of Niagara	143
NIAGARA	Town of Pendleton	2
NIAGARA	Town of Porter	6
NIAGARA	Town of Royalton	14
NIAGARA	Town of Somerset	3
NIAGARA	Town of Wheatfield	19

NIAGARA	Town of Wilson	37
NIAGARA Total		281
ONEIDA	Town of Annsville	12
ONEIDA	Town of Boonville	3
ONEIDA	Town of Bridgewater	1
ONEIDA	Town of Camden	9
ONEIDA	Town of Deerfield	1
ONEIDA	Town of Floyd	1
ONEIDA	Town of Forestport	1
ONEIDA	Town of Kirkland	1
ONEIDA	Town of Lee	12
ONEIDA	Town of New Hartford	26
ONEIDA	Town of Trenton	1
ONEIDA	Town of Vernon	11
ONEIDA	Town of Verona	1
ONEIDA	Town of Vienna	6
ONEIDA	Town of Westmoreland	6
ONEIDA	Village of New York Mills	1
ONEIDA	Village of Sylvan Beach	6
ONEIDA	Village of Waterville	3
ONEIDA Total		102
ONONDAGA	Town of Camillus	40
ONONDAGA	Town of De Witt	20
ONONDAGA	Town of Elbridge	21
ONONDAGA	Town of Geddes	7
ONONDAGA	Town of Lysander	21
ONONDAGA	Town of Manlius	29
ONONDAGA	Town of Marcellus	14
ONONDAGA	Town of Onondaga	1
ONONDAGA	Town of Otisco	2
ONONDAGA	Town of Salina	224
ONONDAGA	Town of Skaneateles	3
ONONDAGA	Town of Tully	3
ONONDAGA	Village of East Syracuse	28
ONONDAGA	Village of Fayetteville	16
ONONDAGA	Village of Liverpool	2
ONONDAGA	Village of Manlius	14
ONONDAGA	Village of Minoa	1
ONONDAGA	Village of Solvay	66
ONONDAGA Total		512
ONTARIO	Town of Canadice	3
ONTARIO	Town of Canandaigua	58
ONTARIO	Town of East Bloomfield	7
ONTARIO	Town of Farmington	81
ONTARIO	Town of Geneva	2
ONTARIO	Town of Gorham	5
ONTARIO	Town of Hopewell	26

ONTARIO		Town of Manchester	18
ONTARIO		Town of Naples	1
ONTARIO		Town of Richmond	14
ONTARIO		Town of Victor	20
ONTARIO		Town of West Bloomfield	1
	ONTARIO Total		236
ORANGE		Town of Cornwall	46
ORANGE		Town of Crawford	20
ORANGE		Town of Deerpark	20
ORANGE		Town of Goshen	1
ORANGE		Town of Greenville	9
ORANGE		Town of Hamptonburgh	15
ORANGE		Town of Highlands	28
ORANGE		Town of Minisink	6
ORANGE		Town of Monroe	2
ORANGE		Town of Montgomery	85
ORANGE		Town of Mount Hope	1
ORANGE		Town of Newburgh	77
ORANGE		Town of New Windsor	198
ORANGE		Town of Wallkill	62
ORANGE		Town of Warwick	12
ORANGE		Village of Goshen	53
ORANGE		Village of Greenwood Lake	20
ORANGE		Village of Maybrook	2
ORANGE		Village of Monroe	22
ORANGE		Village of Montgomery	6
ORANGE		Village of Unionville	3
ORANGE		Village of Walden	60
ORANGE		Village of Washingtonville	7
	ORANGE Total		755
ORLEANS		Town of Carlton	1
ORLEANS		Town of Clarendon	9
ORLEANS		Town of Gaines	16
ORLEANS		Town of Murray	5
ORLEANS		Town of Ridgeway	48
ORLEANS		Town of Shelby	19
ORLEANS		Town of Yates	2
	ORLEANS Total		100
OSWEGO		Town of Albion	2
OSWEGO		Town of Amboy	1
OSWEGO		Town of Constantia	6
OSWEGO		Town of Hannibal	39
OSWEGO		Town of Hastings	34
OSWEGO		Town of Mexico	1
OSWEGO		Town of Minetto	2
OSWEGO		Town of Oswego	5
OSWEGO		Town of Palermo	4

OSWEGO		Town of Redfield	2
OSWEGO		Town of Richland	9
OSWEGO		Town of Sandy Creek	4
OSWEGO		Town of Schroeppel	84
OSWEGO		Town of Scriba	39
OSWEGO		Town of Volney	18
OSWEGO		Town of West Monroe	4
OSWEGO		Village of Pulaski	9
	OSWEGO Total		263
OTSEGO		Town of Cherry Valley	1
OTSEGO		Town of Decatur	1
OTSEGO		Town of Exeter	2
OTSEGO		Town of Hartwick	2
OTSEGO		Town of Laurens	6
OTSEGO		Town of Middlefield	1
OTSEGO		Town of Milford	8
OTSEGO		Town of Morris	1
OTSEGO		Town of Oneonta	9
OTSEGO		Town of Otego	10
OTSEGO		Town of Otsego	1
OTSEGO		Town of Richfield	1
OTSEGO		Town of Unadilla	5
OTSEGO		Town of Worcester	6
OTSEGO		Village of Cooperstown	3
OTSEGO		Village of Richfield Springs	2
	OTSEGO Total		59
PUTNAM		Town of Carmel	8
PUTNAM		Town of Kent	15
PUTNAM		Town of Patterson	23
PUTNAM		Town of Southeast	19
PUTNAM		Village of Brewster	9
PUTNAM		Village of Cold Spring	1
	PUTNAM Total		75
RENSSELAER		Town of Brunswick	3
RENSSELAER		Town of East Greenbush	48
RENSSELAER		Town of Hoosick	5
RENSSELAER		Town of Nassau	1
RENSSELAER		Town of North Greenbush	18
RENSSELAER		Town of Pittstown	8
RENSSELAER		Town of Sand Lake	16
RENSSELAER		Town of Schaghticoke	15
RENSSELAER		Town of Schodack	11
RENSSELAER		Town of Stephentown	8
RENSSELAER		Village of Castleton-On-Hudson	13

RENSSELAER	Village of Hoosick Falls	18
RENSSELAER	Village of Nassau	1
RENSSELAER Total		165
ROCKLAND	Town of Clarkstown	271
ROCKLAND	Town of Orangetown	61
ROCKLAND	Town of Stony Point	33
ROCKLAND	Village of Chestnut Ridge	2
ROCKLAND	Village of Haverstraw	1
ROCKLAND	Village of Nyack	73
ROCKLAND	Village of Piermont	3
ROCKLAND	Village of South Nyack	13
ROCKLAND	Village of Suffern	17
ROCKLAND	Village of West Haverstraw	66
ROCKLAND Total		540
ST.LAWRENCE	Town of Clifton	1
ST.LAWRENCE	Town of Colton	1
ST.LAWRENCE	Town of Gouverneur	22
ST.LAWRENCE	Town of Hammond	1
ST.LAWRENCE	Town of Hermon	1
ST.LAWRENCE	Town of Lawrence	1
ST.LAWRENCE	Town of Lisbon	5
ST.LAWRENCE	Town of Madrid	3
ST.LAWRENCE	Town of Morristown	4
ST.LAWRENCE	Town of Norfolk	13
ST.LAWRENCE	Town of Oswegatchie	8
ST.LAWRENCE	Town of Parishville	1
ST.LAWRENCE	Town of Pierrepont	3
ST.LAWRENCE	Town of Pitcairn	1
ST.LAWRENCE	Town of Stockholm	12
ST.LAWRENCE	Town of Waddington	1
ST.LAWRENCE	Village of Potsdam	7
ST.LAWRENCE Total		85
SARATOGA	Town of Ballston	7
SARATOGA	Town of Charlton	1
SARATOGA	Town of Clifton Park	149
SARATOGA	Town of Corinth	34
SARATOGA	Town of Day	3
SARATOGA	Town of Galway	8
SARATOGA	Town of Greenfield	1
SARATOGA	Town of Hadley	6
SARATOGA	Town of Halfmoon	344
SARATOGA	Town of Malta	98
SARATOGA	Town of Milton	157
SARATOGA	Town of Moreau	87
SARATOGA	Town of Northumberland	8
SARATOGA	Town of Providence	1

SARATOGA	Town of Saratoga	18
SARATOGA	Town of Stillwater	18
SARATOGA	Town of Waterford	24
SARATOGA	Town of Wilton	115
SARATOGA	Village of Ballston Spa	34
SARATOGA Total		1113
SCHENECTADY	Town of Niskayuna	34
SCHENECTADY	Town of Princetown	2
SCHENECTADY	Town of Rotterdam	3
SCHENECTADY	Village of Scotia	37
SCHENECTADY Total		76
SCHOHARIE	Town of Esperance	11
SCHOHARIE	Town of Jefferson	4
SCHOHARIE	Town of Middleburgh	8
SCHOHARIE	Town of Schoharie	18
SCHOHARIE	Town of Sharon	1
SCHOHARIE	Village of Schoharie	1
SCHOHARIE Total		43
SCHUYLER	Town of Hector	2
SCHUYLER	Town of Reading	1
SCHUYLER	Town of Tyrone	16
SCHUYLER	Village of Watkins Glen	6
SCHUYLER Total		25
SENECA	Town of Covert	2
SENECA	Town of Fayette	1
SENECA	Town of Junius	1
SENECA	Town of Lodi	3
SENECA	Town of Ovid	3
SENECA	Town of Seneca Falls	89
SENECA	Town of Tyre	1
SENECA	Town of Varick	1
SENECA	Town of Waterloo	30
SENECA Total		131
STEUBEN	Town of Avoca	7
STEUBEN	Town of Bath	29
STEUBEN	Town of Bradford	3
STEUBEN	Town of Campbell	3
STEUBEN	Town of Caton	3
STEUBEN	Town of Corning	5
STEUBEN	Town of Erwin	21
STEUBEN	Town of Fremont	4
STEUBEN	Town of Hornby	2
STEUBEN	Town of Hornellsville	3
STEUBEN	Town of Lindley	2
STEUBEN	Town of Prattsburgh	2
STEUBEN	Town of Pulteney	1

STEUBEN		Town of Thurston	2
STEUBEN		Town of Urbana	6
STEUBEN		Town of Wheeler	2
STEUBEN		Village of Bath	70
STEUBEN		Village of Canisteo	6
STEUBEN		Village of Cohocton	1
	STEUBEN Total		172
SUFFOLK		Town of East Hampton	60
SUFFOLK		Town of Shelter Island	4
SUFFOLK		Town of Southampton	273
SUFFOLK		Town of Southold	16
SUFFOLK		Village of Sag Harbor	8
SUFFOLK		Village of Westhampton Beach	4
	SUFFOLK Total		365
SULLIVAN		Town of Bethel	1
SULLIVAN		Town of Callicoon	11
SULLIVAN		Town of Delaware	4
SULLIVAN		Town of Fallsburg	7
SULLIVAN		Town of Forestburgh	4
SULLIVAN		Town of Highland	6
SULLIVAN		Town of Liberty	137
SULLIVAN		Town of Lumberland	13
SULLIVAN		Town of Mamakating	2
SULLIVAN		Town of Neversink	9
SULLIVAN		Town of Tusten	6
SULLIVAN		Village of Bloomingburg	1
SULLIVAN		Village of Liberty	12
SULLIVAN		Village of Woodridge	2
	SULLIVAN Total		215
TIOGA		Town of Barton	20
TIOGA		Town of Candor	8
TIOGA		Town of Nichols	7
TIOGA		Town of Owego	76
TIOGA		Town of Spencer	5
TIOGA		Town of Tioga	5
TIOGA		Village of Candor	1
TIOGA		Village of Spencer	6
TIOGA		Village of Waverly	33
	TIOGA Total		161
TOMPKINS		Town of Caroline	2
TOMPKINS		Town of Dryden	107
TOMPKINS		Town of Enfield	20
TOMPKINS		Town of Groton	27
TOMPKINS		Town of Ithaca	34
TOMPKINS		Town of Lansing	38
TOMPKINS		Town of Newfield	15

TOMPKINS	Town of Ulysses	19
TOMPKINS Total		262
ULSTER	Town of Esopus	44
ULSTER	Town of Gardiner	7
ULSTER	Town of Kingston	2
ULSTER	Town of Lloyd	52
ULSTER	Town of Marbletown	20
ULSTER	Town of New Paltz	4
ULSTER	Town of Olive	7
ULSTER	Town of Plattekill	92
ULSTER	Town of Rochester	21
ULSTER	Town of Rosendale	17
ULSTER	Town of Saugerties	10
ULSTER	Town of Shandaken	2
ULSTER	Town of Shawangunk	48
ULSTER	Town of Ulster	27
ULSTER	Town of Wawarsing	33
ULSTER	Town of Woodstock	18
ULSTER	Village of Ellenville	12
ULSTER Total		416
WARREN	Town of Bolton	4
WARREN	Town of Chester	1
WARREN	Town of Johnsburg	5
WARREN	Town of Lake George	18
WARREN	Town of Queensbury	168
WARREN	Town of Thurman	1
WARREN	Town of Warrensburg	35
WARREN Total		232
WASHINGTON	Town of Argyle	9
WASHINGTON	Town of Dresden	1
WASHINGTON	Town of Easton	2
WASHINGTON	Town of Fort Ann	8
WASHINGTON	Town of Fort Edward	28
WASHINGTON	Town of Granville	11
WASHINGTON	Town of Hartford	3
WASHINGTON	Town of Hebron	1
WASHINGTON	Town of Jackson	5
WASHINGTON	Town of Kingsbury	35
WASHINGTON	Town of White Creek	5
WASHINGTON	Town of Whitehall	35
WASHINGTON	Village of Cambridge	3
WASHINGTON	Village of Fort Edward	63
WASHINGTON	Village of Granville	10
WASHINGTON	Village of Greenwich	2
WASHINGTON	Village of Hudson Falls	115
WASHINGTON	Village of Whitehall	4
WASHINGTON Total		340

WAYNE	Town of Arcadia	17
WAYNE	Town of Galen	23
WAYNE	Town of Macedon	101
WAYNE	Town of Marion	13
WAYNE	Town of Ontario	21
WAYNE	Town of Palmyra	39
WAYNE	Town of Rose	1
WAYNE	Town of Savannah	3
WAYNE	Town of Sodus	42
WAYNE	Town of Walworth	1
WAYNE	Town of Williamson	33
WAYNE	Town of Wolcott	8
WAYNE	Village of Macedon	4
WAYNE	Village of Palmyra	33
WAYNE	Village of Wolcott	10
WAYNE Total		349
WESTCHESTER	Town of Bedford	16
WESTCHESTER	Town of Eastchester	50
WESTCHESTER	Town of Greenburgh	14
WESTCHESTER	Town of Harrison	63
WESTCHESTER	Town of Lewisboro	12
WESTCHESTER	Town of Mamaroneck	44
WESTCHESTER	Town of Mount Kisco	57
WESTCHESTER	Town of New Castle	8
WESTCHESTER	Town of North Castle	15
WESTCHESTER	Town of Ossining	328
WESTCHESTER	Town of Pelham	71
WESTCHESTER	Town of Pound Ridge	2
WESTCHESTER	Town of Yorktown	57
WESTCHESTER	Village of Ardsley	6
WESTCHESTER	Village of Briarcliff Manor	5
WESTCHESTER	Village of Bronxville	3
WESTCHESTER	Village of Croton-On-Hudson	26
WESTCHESTER	Village of Elmsford	32
WESTCHESTER	Village of Irvington	12
WESTCHESTER	Village of Mamaroneck	85
WESTCHESTER	Village of Ossining	12
WESTCHESTER	Village of Pleasantville	14
WESTCHESTER	Village of Port Chester	43
WESTCHESTER	Village of Scarsdale	9
WESTCHESTER	Village of Tuckahoe	9
WESTCHESTER Total		993
WYOMING	Town of Arcade	1
WYOMING	Town of Castile	4
WYOMING	Town of Middlebury	1
WYOMING	Village of Arcade	5

WYOMING	Village of Silver Springs	1
WYOMING	Village of Warsaw	6
WYOMING Total		18
YATES	Town of Jerusalem	1
YATES	Town of Potter	1
YATES	Village of Dundee	23
YATES	Village of Penn Yan	34
YATES Total		59
	2011 Grand Total	**13183**

Source: JCAPPS Production Oracle database

EXHIBIT “B”

SUMMARY OF INTERVIEWS WITH ATTORNEYS WHO PRACTICE IN JUSTICE COURTS

Areas of Concerns and Recommendations

Areas of Concern

[Attorney] mentioned many problems that plague the town and village court system. The first issue she mentioned was that the procedure of the court made it so that communication with the clerk was difficult. An example of this was that the clerk sits in the court room with the justice and so cannot receive faxes during proceedings. Further, some clerks will hold personal grudges which can result in a lack of access to civil dockets.

[Attorney] also mentioned that judges do not always know the law. For example, even though you are only allowed to look to rent payment in a nonpayment case, the judges will allow the landlord to look for security and utilities.

[Attorney] explained that dismissals aren't always in the best interest of her clients due to their living situation. Thus, even if the tenant has a valid case yet needs time to gather evidence, the client will be reluctant to take the time because they may or may not have a place to stay. Due to this, many of her cases end up settling.

[Attorney] believes that the biggest problems are the tenants' lack of knowledge as to their rights and obligations and the lack of expertise on the bench.

Finally, [Attorney] noted that despite the fact that all judges in the east end are attorneys, they aren't experts in landlord tenant law because they see a wide variety of cases every year, and landlord tenant cases are the minority. This leads to deficiencies in how the cases are handled.

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Areas of Concern

[Attorney] mentioned many problems that plague the town and village court system. The first issue he mentioned was that judges simply do not care about the law. In one case, a judge openly said of the respondent, "these people are bums." While the introduction of recordings helped judges to feel more accountable, it has not ended the problem.

On the issue of representation, [Attorney] noted that clerks do sometimes refer respondents to legal services.

[Attorney] also mentioned that many of the issues he sees in summary eviction procedures deal with service. Judges do not know the requirements of proper service and therefore do not enforce them. In many instances, petitioners are permitted to appear in court

and file all the papers on the same day, though this is not supposed to happen. In addition, [Attorney] pointed out that the confusion of landlords often leads to ex parte communications. He specifically discussed a case in which the landlord did not give proper notice of petition and he pointed this out to the judge who said, “we always do it this way.” The judge ended up advising the landlord on how to give proper notice, and when [Attorney] looked shocked, the judge remarked, “do you have a problem with this?”

[Attorney] explained that many court clerks still insist that litigants and their attorneys have no right to the court papers. If they are willing to give access to the papers, it is still difficult because the courts are not open very long and are often far away. [Attorney] mentioned a court that is only open from 11:30AM-1:00PM and is a few hours drive from him.

Finally, [Attorney] noted that since these are summary proceedings, very few go to trial. Often times, the parties simply settle because the tenant also wants to get out of the lease but does not want to pay, and the landlord just wants the tenant out.

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Areas of Concern

[Attorney] notes that tenants are often confused by the three-day notice, which they mistake for a warrant of eviction.

[Attorney] observes that many courts treat landlords more leniently than tenants. For example, if a landlord is late to court, the judge will often wait. However, the judge will not wait if a tenant is late. Furthermore, the court will often speak with an opposing party’s attorney ex parte.

[Attorney] believes docket access is an issue. Many court clerks apparently do not believe that it is their responsibility to provide parties with copies of the record. Some clerks believe that judicial approval is required in order to release the record.

[Attorney] disputes the contention that newer judges are more conscientious than older judges.

According to [Attorney], many judges also erroneously believe that landlords are entitled to attorneys fees.

[Attorney] is not particularly confident in the hotline that many judges use. According to him, even after consulting the hotline, judges get issues of law wrong about fifty percent of the time. He is unsure whether this is a result of bad advice from the hotline or judicial misinterpretation of good advice.

[Attorney] stresses the importance of counsel in summary proceedings. He witnessed two proceedings: one at which an attorney raised a defense, which was successful, and a second at which a pro se respondent raised the same defense with no success.

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Areas of Special Concern

[Attorney] believes the primary difficulty is that there is a tension between the purpose of the town and village courts, which is to provide an informal forum for the airing of grievances between fairly unsophisticated parties, and the rigid, statute-dictated procedure required in summary evictions. This tension is often resolved by a judge ignoring the law.

- Case. The petitioner submitted a deed showing that the property was in fact owned by petitioner's mother. This meant the petitioner had no standing to bring a summary eviction. The judge ignored this argument and was overturned on appeal.

- Case. A petitioner came in seeking to initiate a summary eviction proceeding. The judge heard him the same day and granted a warrant of eviction the same day. The respondent was never notified nor given any opportunity to be heard.

- Case. In a case handled by [Attorney] colleague, a judge implicitly condoned threats made by the petitioner against the respondent. A judicial conduct complaint was filed and that judge has been removed.

- Case. In another case handled by [Attorney] colleague, the petitioner raised many baseless allegations. When the respondent's attorney requested a hearing, the judge denied the request and summarily issued a warrant of eviction.

- Case. In a nonpayment case, the respondent paid the rent determined by the court to have been due, but the court still wanted to evict the respondent.

In [Attorney] experience, it is very difficult to obtain access to court records. Town and village courts meet only sporadically and there is often no reliable clerk to handle records requests.

[Attorney] notes that because traffic tickets are a large source of revenue for municipalities, the criminal docket of town and village courts often takes priority over landlord-tenant cases.

[Attorney] notes that justices and their clerks often have special solicitude for landlords. A landlord who comes in early to the courtroom will be told by the clerk how things work in the courtroom. Justices will schedule court sessions around a landlord's schedule. In one instance, [Attorney] had to attend a court session on Martin Luther King's holiday because the court scheduled that time for the landlord's convenience.

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Areas of Concern

[Attorney] emphasized a number of concerns relating to summary proceedings.

First, he explained that, even though OCA provides training on summary proceedings, these proceedings are difficult for the judges to handle because they do not see them very often, unlike the traffic violations that fill the docket. Summary evictions are therefore foreign to these judges, and if attorneys are not present, the judges seem to have zero guidance whatsoever.

[Attorney] then outlined how the structure of town and village courts does not fit well with summary proceedings. More specifically, summary proceedings tend to be done very quickly, which does not afford litigants the time for a proper hearing. The judges end up doing a hearing on the spot, and the tenant is not prepared. This "hearing" is not really a trial; the judge usually asks the tenant, "Do you have the money to pay today?" The judge does not ask if the tenant even owes the money or if he/she has any defenses. Judges will also issue warrants without a judgment. In addition, tenants often only have five days to respond because the RPAPL requires that notice and petition be served five days before the proceeding, which is not enough time to prepare a case.

Because of this structure, tenants are rarely served properly. For example, [Attorney] mentioned a case in which the notice was issued by the petitioner himself and it was only served on one spouse. When the tenant brought this issue to the judge's attention, the court, which should not have had jurisdiction anyway because this was a tenant who bought the land, recessed so the judge could phone either OCA or the magistrates' association. Upon return, the judge continued with the proceeding concluding that service was proper enough. [Attorney] noted that it is not rare for a judge to be given incorrect information from OCA.

Finally, [Attorney] explained that the courts are only open one day per week for an hour or two, which adds to the issue of proper service because landlords do not have access to proper documents or to clerks to sign the petitions. Judges rarely even have clerks and simply handle it themselves. Some attorneys are still using precepts, which were used before petitions.

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Areas of Concern

[Attorney] believes that a majority of judges are well-meaning and aim to follow the law. A minority of judges, however, "do not know what the law is and do not care to know what the law is." Furthermore, [Attorney] has encountered some judges who "want to spend as little time as possible on landlord-tenant matters." "Their goal is to get through the things as quickly as possible."

[Attorney] has observed judges who will defer to landlords' attorneys on issues of law about which the judges are unsure. This may be because landlords' attorneys appear in front of these judges more frequently than tenants' attorneys do. In [Attorney] experience, the legal help hotline that the judges use is not very helpful since it is not always available and many judges fail to use it.

[Attorney] believes lack of legal knowledge by judges is a major problem. On several occasions, he has observed the judge deny a jury trial when there is a dispute as to an issue of fact. Judges also frequently fail to appreciate that warranty of habitability issues are issues of fact that may require jury trials. More generally, [Attorney] "[doesn't] think that [the judges] know the ins and outs of the procedure."

[Attorney] thinks that representation by counsel is crucially important. Of tenants who are unrepresented, [Attorney] estimates that "95 percent of the time or more, it doesn't work out well for them." Tenants' chances are much improved when they have counsel present. In [Attorney] experience, many judges are willing to grant tenants adjournments to retain attorneys.

[Attorney] believes that court access and access to records is a serious problem. In his experience, "courts are open so infrequently that it's hard to get in touch." Given court hours, [Attorney] finds that it is often difficult to get records in time for them to be helpful.

In [Attorney] experience, improper service of notice is a common problem. It is not uncommon for the petitioner to serve the notice of petition, but not the petition. It is also not uncommon for petitioners to file the notice of petition and petition before either has been served. This practice is problematic because it prevents the affidavit of service from being part of the filings.

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Areas of Special Concern

[Attorney] identified a number of areas of special concern.

First, [Attorney] noted that many of the town justices are unfamiliar with the summary proceeding process because they handle only a few each year. By far the most common cases the justice hear are traffic violations or minor criminal cases; accordingly, most are not comfortable with even the basics of such proceedings. Additionally, justices lack guidance on the first appearance from the RPAPL, which only advises that justices have the right to adjourn for up to ten days.

Because of this lack of familiarity, mistakes get made; [Attorney] recalls a case where a town justice issued a warrant of eviction without any sort of proceeding whatsoever. The landlord approached the justice and the justice simply issued the warrant. The case was overturned on appeal by the county court, and the county court issued a decision which highlighted the basics of summary proceeding procedure. That opinion has since been heavily circulated among the town justices.

Second, [Attorney] noted that, sometimes, after a notice of petition is filed, a petition is never filed or served. In general, [Attorney] believes, justices need to be reminded of the need of procedure.

Third, [Attorney] noted that many of the problems arise because landlords initially contact the court because they themselves need guidance about what to do. In an effort to be helpful, town justices then help landlords find the necessary forms, etc to prepare a petition; as . . .puts it, the justices "open a file" for the landlords. This problem is compounded by possible conflicts of interest, since justices may rely on landlords (and their lawyers) for reelection.

Fourth, [Attorney] recounted some more serious abuses by town justices that were the subject of complaints to the Judicial Conduct Commission. In one case, the justice, who was a

landlord himself, implicitly endorsed the petitioner's threats of self-help. In the other, the justice made an anti-Semitic remark.

Fifth, [Attorney] notes that in cases where the petitioner is represented and by the respondent appears pro se, some town and village justices will allow the petitioner's attorney to dominate the proceeding. That is, it is often very difficult for a pro se respondent to present his side of the story.

Sixth, on the topic of affirmative defenses, [Attorney] thinks that most justices believe it is not their job to consider all the possible arguments that might be made by the respondent; if the respondent does not know to make the argument, that is too bad. This is usually not a problem where legal services is involved, since legal services will know to request an adjournment, obtain a building inspector, and argue breach of the warrant of habitability.

Seventh, [Attorney] noted that, at least in his practice, there are issues with adequate access to dockets.

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Areas of Special Concern

First, [Attorney] notes that landlords are often represented by counsel, while tenants are often not. Even in those cases where tenants are represented by counsel, however, justices are not necessarily receptive to arguments that tenant's counsel may make.

Second, some of the service requirements do not make sense in light of the fact that town and village courts may convene only a few times each month.

Third, judges do not really treat summary proceedings as true hearings; the proceedings are usually very informal. Sometimes, landlord-tenant cases are pushed to the end of the court day, so that the court may hear other cases first.

Fourth, it is difficult for judges to determine whether a particular housing unit falls under some special housing regulatory or subsidization program. In cases where some special program applies, the substantive rights of tenants are different: however, in many circumstances, the only party with access to this information is the landlord. [Attorney] thinks landlords should be required to plead this information in their petitions.

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Areas of Special Concern

[Attorney] identified a number of areas of special concern.

[Attorney] first noted that the problems he has encountered are much more serious when the respondent is unrepresented. Where a party is represented by counsel, the judge is much more likely to follow the law. This is less likely when the parties are unrepresented. As [Attorney] put it, "[the judges] are not going to enforce a statute just because they know about it." When both sides are unrepresented, courts often dispose of the case through a very quick

hearing. [Attorney] also noted that courts often fail to inform respondent that they have a right to ask for an adjournment if they need to obtain an attorney.

[Attorney] concedes that, despite the importance of obtaining counsel, the legal services in his area are not equipped to handle all the cases that require assistance. [Attorney] notes that some of his clients are referrals from the clerk at the town and village courts.

[Attorney] noted that he believes that the place procedure breaks down is during default proceedings. When tenants come to Justice Court for default proceedings, they aren't told to seek legal representation (such as Legal Aid) so that they can request a default audit. Courts also erroneously inform respondents that it is impossible to attack a default judgment, when in fact default judgments can be attacked through an order to show cause.

[Attorney] also believes that the system breaks down during service of notice. Many of Frank's clients claim that they never received service.

[Attorney] notes that there is a too-cozy relationship between some courts and petitioners. In some instances, a judge or clerk will help a pro se petitioner fill out the necessary forms to institute a proceeding. Respondents are not afforded the same assistance.

[Attorney] asserted that the civil dockets are made available to litigants in [Attorney] County, where he practices.

[Attorney] appeals his cases to County Court. He noted that appeals for summer eviction cases are not afforded the same amount of respect and attention in the County Courts as criminal appeals. Furthermore, the appeals process is often lengthy.

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Experiences with Summary Eviction Process

In [Attorney] experience, town and village justices are not very familiar with the substantive law of the summary eviction process. They are also unfamiliar with the rules of evidence and hence try very hard to avoid jury trials. The justices are, however, more familiar with the notice requirements for such proceedings. That said, justices are not always very sympathetic to arguments alleging defective notice. Their view is often "Well, you're here, so you know about this proceeding." Clients of [Attorney] often claim that they never received notice. In [Attorney] experience, affidavits of notices are generally available to attorneys.

[Attorney] notes that justices routinely ignore warranty of habitability arguments.

[Attorney] notes that town and village justices will routinely defer to attorneys, regardless of whether they represent the petitioner or the respondent. However, justices tend to be more sympathetic to attorneys representing petitioners than to attorneys representing respondents.

[Attorney] notes that justices often require tenants to pay security deposits equal to their rent. [This may be well within the law, but it is an issue worth following up on.]

[Attorney] notes that justices often engage in ex parte communications with the parties.

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Areas of Concern

[Attorney] outlined a number areas of concern with regards to summary eviction proceedings in town and village courts.

First, [Attorney] explained that there is great variety in different town and village courts throughout the state of New York. All of these courts, however, do share one characteristic: informality. [Attorney] referred to the proceedings as "glorified negotiations."

In addition, [Attorney] noted the difference in treatment of tenants and landlords in these proceedings. Tenants often do not show up or, if they do, they are unrepresented. Tenants are not aware of any help they can receive online or through legal services organizations. Because the courts are only open at very specific times, it is difficult for tenants to reach them to obtain court documents. On the other hand, landlords are represented much more often, and the justices are more accommodating to landlords.

[Attorney] explained that many of these justices do not know the law, specifically the RPL and RPAPL. He mentioned a specific case where a justice simply did not follow RPAPL 751 regarding a stay of eviction, either because he did not know it or did not care. Justices often reject notice arguments because they do not understand them. This is compounded by the fact that evictions are only held one or two days per month in town and village courts, so the justices are not familiar with the proceedings.

Finally, [Attorney] noted that many judges seem openly unsympathetic to certain types of arguments. Both notice arguments and defenses based on a breach of the warranty of habitability are routinely ignored by judges.

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Areas of Concern

[Attorney] mentioned many problems that plague the town and village court system. The first issue he mentioned was that Town and Village Court Justices simply don't respect the tenant litigants. Even if the tenant litigant is represented by a lawyer such as [Attorney], the justice will often rule from his or her gut rather than following proper procedure such as allowing a jury trial.

[Attorney] indicated that judges often don't view defenses, such as the warrant of habitability, with legitimacy. They often view a litigant asserting this defense as a tenant that is trying to avoid paying rent.

[Attorney] commented that a common problem that arises in warranty of habitability cases is that while questions of fact raised should theoretically preclude summary eviction, judges often grant the summary eviction.

[Attorney] believes that County Judges get questions of law correct more frequently than Town and Village Justices.

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Areas of Concern

[Attorney] mentioned many problems that plague the town and village court system. The first issue she mentioned was that tenants often don't learn about the availability of legal representation through Legal Services until after the trial. This limits their ability to assert their various legal rights.

[Attorney] also stated that the trial and proceedings are very informal.

[Attorney] noted that even when tenants have legitimate legal defenses, such as a warranty of habitability claim, there are problems in asserting these legal defenses. One issue is that defendants don't realize their obligations in preparing such a defense (such as financial undertakings in relation to the defenses). Further, even if the defense is properly asserted, the Town and Village justices are often ignorant of the law. For example, in one case, a court denied a warranty of habitability defense even though two rooms were filled with mold. Many judges also refuse to give tenants an opportunity to speak and make it clear that they are not interested in what the tenants have to say.

[Attorney] also explained access to the civil dockets of the courts through the Clerks is very difficult. Many Town and Village Court Clerks just don't understand that litigants have the right to access the file on their case. Further, there is the practical problem of very limited court office hours, making it even more difficult to access the dockets. out of the lease but does not want to pay, and the landlord just wants the tenant out.

[Attorney] also noted that clerks are not aware of how to handle orders to show cause. Judges also lack access to basic legal materials, like the CPLR and RPAPL.

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Areas of Concern

[Attorney] started out by stating that the law is never followed in Town and Village courts. He always knows when a judge is an attorney because he/she will understand the law when it is presented to them. . . In order to get a judge's attention, [Attorney] has to bring in books on the law and be extremely forward and pointed.

[Attorney] explained that tenants are not respected in the courtroom. Often, they are not even allowed to speak, and when they do raise issues, they are ignored. In cases where tenants bring up warranty of habitability issues, the judge is automatically skeptical and has a "you and everybody else" attitude. Tenants are not given hearings when they are deserved, and in nonpayment proceedings, judges ask the tenants to put up the money owed now, which the tenant often cannot afford. In [Attorney] opinion, the "landlord runs the show."

[Attorney] mentioned that many cases should be dismissed on procedural errors alone, and yet, the court reviews the substance of the case. When service issues are brought to the judges attention, the judge often has the attitude of, "well, you showed up, so you obviously had notice." Additionally, tenants often receive notices of petition that do not state the claim. [Attorney] specifically mentioned a case in which the landlord orally informed the tenant of the court date, but the tenant thought he was just "blowing smoke." When the tenant did not show up, the judge issued a warrant of eviction without a judgment.

In one instance, only a notice of petition (but not the petition itself) was served, but the judge did not care.

In another case, neither the petition nor the notice of petition was served, but the landlord orally told the tenant to show up. When the tenant failed to show up, the judge issued a warrant of eviction albeit without a judgment.

[Attorney] noted that the courts are only open when court is in session, which is usually twice per month. Tenants are not informed that they can access court documents, and even if they did know, tenants probably could not access them anyway due to the court hours and clerks' lack of knowledge. Attorneys, however, are able to get court documents.

[Attorney] also noted that courts will often hold a respondent's criminal history against the respondent in a summary proceeding.

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Areas of Special Concern

[Attorney] identified a number of areas of special concern.

[Attorney] believes that the Justice Court system is run in an unacceptably informal fashion. He indicated that Town and Village Court justices frequently engage in ex parte discussions with litigants, and that these ex parte discussions tend to benefit the landlord litigants. Further, [Attorney] noted that individual litigants' character and reputation in the community often play an overwhelming role during proceedings.

[Attorney] also believes that one of the larger problems plaguing the Justice Court system is that fewer than 200 of the Town and Village Court justices are attorneys. He thinks that the majority of Town and Village justices do not have the legal expertise and training to adequately inform pro se litigants of their legal rights and obligations, or to hold formal hearings on issues of law rather than making decisions based on informal proceedings.

Another complicating factor is that many of the evicted tenants in rural New York live in mobile homes. Mobile homes are subject to various regulations in New York State which creates problems for evicted tenants. Specifically, it is against the law to move very old mobile homes. Yet sometimes, tenants will be evicted from the land on which the home sits. This creates a problem for the tenants, who will lose the mobile home.

[Attorney] raised the issue of land grants as a unique legal relationship in the housing context. He said that many tenants have land grant contracts and Justice Courts are not well equipped to handle these cases.

Recommendations

Suggestions and Recommendations

[Attorney] explained that many courts do actually refer litigants to legal aids, but thinks that a mandatory adjournment rule could be helpful. She expressed doubt that a checklist would be helpful because she doesn't think that most judges have the time to go through a checklist. He thinks that having an attorney really makes a huge difference.

Suggestions and Recommendations

[Attorney] explained that many courts do actually refer litigants to legal aids, but this could be done more. Because he noted that judges do not seem to care what the law is, Mr. [Attorney] was skeptical of the idea that judges would use anything we could produce. He suggested that our product be part of the existing training materials for judges.

Suggestions and Recommendations

[[Attorney] believes many of Davis Polk's ideas are helpful. For example, [Attorney] is enthusiastic about the prospect of an easy checklist for the judges to use. [Attorney] is also enthusiastic about a mandatory adjournment rule. Ultimately, [Attorney] would like town and village courts to lose their jurisdiction over summary evictions.

[Attorney] feels very strongly that there should be more oversight of town and village courts. He believes some type of auditing would be effective. Under this system, the oversight body would randomly select summary proceedings heard by town and village courts to determine whether they were correctly decided.

Recommendations

[Attorney] believes that town and village justices respect directives that come from the supervising judge of each judicial district. In other words, the source of training/resources matters a great deal: justices may be skeptical of training that come from Legal Aid attorneys.

[Attorney] is a bit skeptical about how effective an additional resource would be: he recommends that whatever measure is adopted be such that a justice couldn't simply ignore it.

Suggestions and Recommendations

[Attorney] main recommendation was to condense the town and village courts as allowed by the 2007 amendments to the Justice Court Act. By condensing the courts, summary proceedings could then be handled by the larger, more sophisticated courts instead of the lackadaisical judges handling them now.

[Attorney] also supports the mandatory adjournment rule for the reasons outlined above related to tenants not having time to prepare for trial and not being afforded a legitimate hearing. Because the judges also want to do a good job but just do not have the expertise, [Attorney] also supports the idea of a brief, simple checklist.

Suggestions and Recommendations

[Attorney] suggested changing the court rules to require that a notice of petition be accompanied with contact information for legal services.

[Attorney] thinks it would be a good idea to have a script for judges, requiring them to ask tenants specific questions about affirmative defenses, service of process, and other common issues.

In [Attorney] experience, appellate opinions have some weight with the town and village courts, though some judges still try to skirt around appellate decisions. [Attorney] mentioned two appellate decisions that he thought might be helpful to us: Ocean Rock Associates v. Cruz, 66 A.D.2d 878, 411 N.Y.S.2d 663 (1978) aff'd, 51 N.Y.2d 1001, 417 N.E.2d 93 (1980); 664 W. 161 St. Tenants Ass'n v. Leal, 154 A.D.2d 238, 545 N.Y.S.2d 925 (1989).

[Attorney] believes it is important for our project to address, to some degree, mobile homes.

Recommendations

A. [Attorney] thinks it would be helpful if the relevant rule were amended to provide guidance to the town justice about what to do at the initial appearance. Ideally, judges would always inform the respondent of his right to seek a legal services attorney and then adjourn so that the respondent is able to retain that attorney. To this end, it may be helpful for all justices to be provided with lists of the relevant legal services providers. . . . acknowledges that automatic adjournment might be difficult to implement in those courts that meet very infrequently.

B. [Attorney] thinks that there should be some way to prevent improper ex parte communication between the town justice and the landlord at the outset of the petition. Wattenberg emphasized that judges should inform the litigants that all the forms are accessible online. Perhaps, the clerks should handle all communications with petitioners.

C. [Attorney] thinks education efforts might be most effective if directed toward the Town and Village Resource Center (“Center”) rather than the justices themselves. The justices rely heavily on the Center, but the Center itself sometimes dispenses bad advice. In one case, for example, the justice claimed that the Center told him that property damage could be sought in a nonpayment case. That is false.

D. [Attorney] thinks that any resource should be limited to about ten pages or so, with an Appendix. Otherwise, the justices will be very unlikely to use it.

Recommendations

[Attorney] believes that town and village judges may be reasonably receptive to training and that they would use sources such as bench books.

[Attorney] thinks there is a group in the . . . (contact: [Attorney]) who may have done some work with online resources for pro se litigants.

[Attorney] is unsure how feasible it will be to institute an automatic adjournment rule. First, under the RPAPL, there is a ten-day cap on the length of an adjournment in summary proceedings. However, this is routinely ignored by the city courts. Second, allowing lengthy

adjournments would detract from the summary nature of the proceedings. Third, such a rule would meet with massive opposition from the landlord lobby. Fourth, there is no guarantee that even if an adjournment is granted, respondents will be able to obtain legal services.

Recommendations

[Attorney] believes that a checklist would be helpful, especially for service issues. [Attorney] also stresses the important of clerk training.

Recommendations

[Attorney] recommends paying some attention to the support center that the justices often use for legal advice. In [Attorney] view, the support center generally gives good legal advice to justices.

[Attorney] suggests that petitioners somehow be given pro se materials (i.e. resources to fill out forms) before the date of the hearing itself. Perhaps, the pro se materials could be served along with the notice of petition and petition. Currently, landlords are able to get their hands on pro se materials before the hearing since the materials are provided when they approach the court to file a petition.

Suggestions and Recommendations

[Attorney] main recommendation was to require judges to learn the law, specifically the RPL and RPAPL. However, these justices often do not want to be told what to do. [Attorney] explained that even this attitude varies by court, though, depending on the justice's amount of time on the bench and whether or not he/she is a lawyer.

Suggestions and Recommendations

[Attorney] recommended that all judges be attorneys. He believes that attorney judges are generally more competent and rule correctly more frequently than lay judges. [Attorney] also advocated for additional and more comprehensive training.

Suggestions and Recommendations

[Attorney] recommended that copies of the RPAPL and the Red Book should be placed in every Town and Village Court. She also advocated for additional Justice and Clerk training. She expressed doubt over the utility of judicial conduct complaints because of the fact that lawyers will appear in front of the same justices on numerous occasions.

Suggestions and Recommendations

[Attorney] urged the importance of informing the tenant of their rights by delivering to them the resources that already exist. Because the first time the judge sees the tenant is at court, it's too late to lead the tenant to the resources. To address this problem, [Attorney] suggested that the clerk send the tenant's forms along with the notice of petition. She was also enthusiastic about a mandatory or encouraged adjournment if the tenant is pro se, in order to provide the tenant with time to obtain counsel or guidance. Because these low income tenants often do not have internet access, directing them to websites might not be helpful.

[Attorney] also encouraged mandatory training for these judges as an equivalent to attorneys' CLE training. Her main suggestion was to consolidate the court system so that all of the judges could be attorneys.

Recommendations

A. [Attorney] thinks that Town and Village Court Justices would respect recommendations if they were handed down by the County Court Judges.

B. Ideally, [Attorney] would push for having more of the Town and Village Court Justices be attorneys.

EXHIBIT “C”

SURVEY OF MAGISTRATES

The Fund for Modern Courts, a statewide nonpartisan organization, seeks your input on ways to assist in providing clearer legal information and accessible resource materials for Justice Courts when deciding summary eviction (landlord/tenant) proceedings.

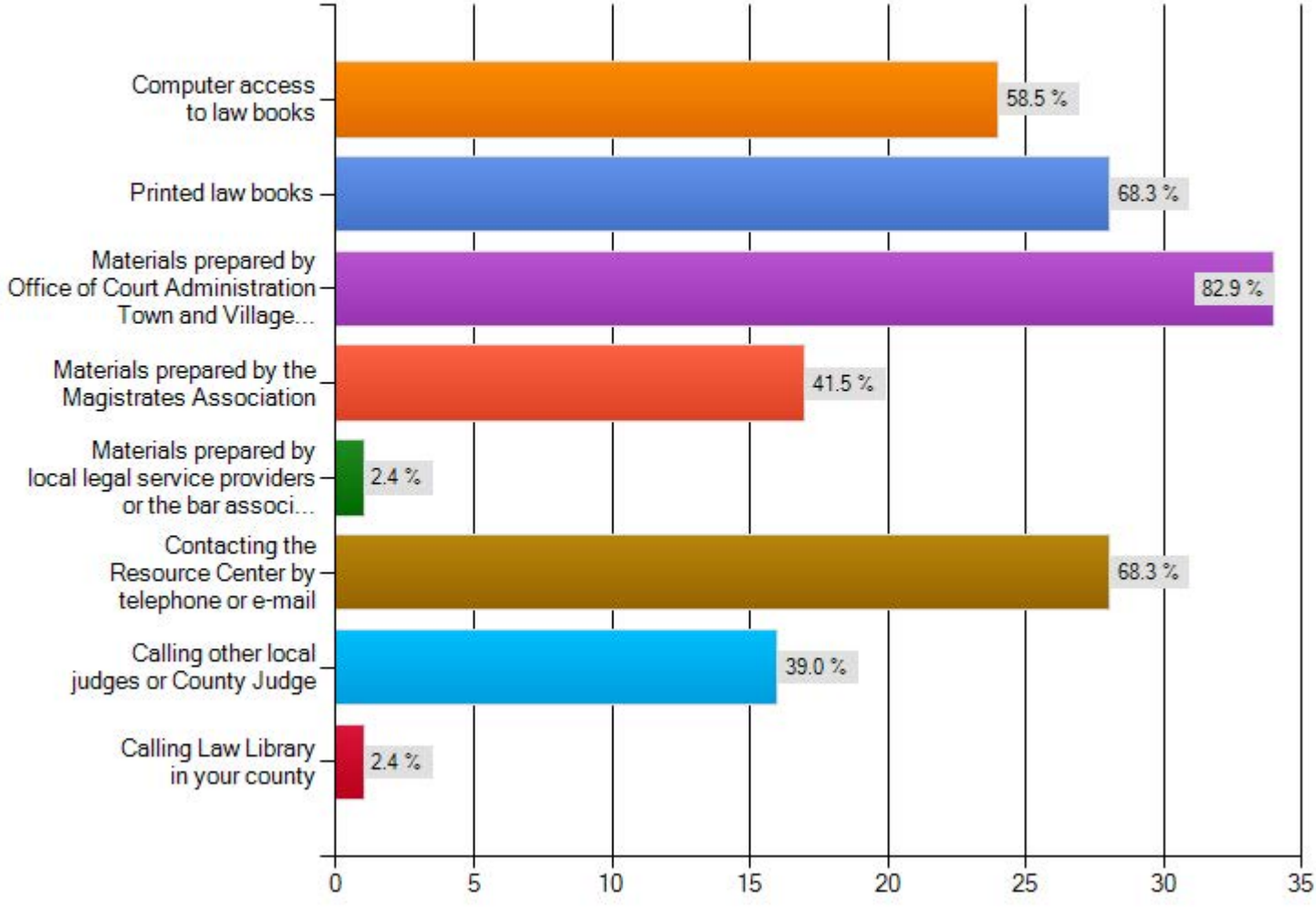
Please respond to the questions below, inform us of how landlord/tenant proceedings provide challenges in your court and offer any suggestions you may have so that Justice Courts can best provide for resolving these disputes.

Q1. Please tell us how landlord/tenant proceedings provide challenges in your court:		
1	When no attorney is involved the proceedings feel as though you are stumbling through trying to get all information you need and explaining all steps to both parties.	Oct 2, 2012 5:51 PM
2	Time consuming	Oct 2, 2012 5:40 PM
3	in explaining the nature of thee proceedings to pro se litigants, who are usually the tenants	Sep 23, 2012 2:12 PM
4	Landlords don't always have the paperwork filled out correctly and we are not able to inform them of the correct procedure. Landlord does not make necessary repairs to residence - can tenant legally not pay rent until repairs are made?	Sep 21, 2012 4:27 PM
5	When ther is a conflict with both judges, getting another judge to sit in our court in a timely manner is problematic	Sep 12, 2012 10:40 AM
6	Landlord/tenant proceedings provide challenges with evidence.	Sep 11, 2012 5:55 PM
7	short lead time- landlord comes in a day or two before they want to evict	Sep 9, 2012 11:29 AM
8	Petitioner often represented while Respondent often not represented. Would like to have a tenant advocate, as is available in Schenectady City Court.	Sep 7, 2012 11:31 AM
9	Basically I have proceedings that involve trailer parks and the RPL wherein they are given 90 days rather than the 60.	Sep 6, 2012 9:31 AM
10	No particular challenges other than the infrequency to which we have such proceedings.	Sep 5, 2012 9:25 AM
11	It is difficult when a landlord is not represented by an attorney because, usually, the paperwork filed is deficient. In the same vein, tenants are almost never represented by an attorney and do not have any idea about the proceedings.	Sep 5, 2012 7:22 AM
12	1) reluctance of losing party to accept the facts of their own actions and responsibilities 2) handling of personal property abandoned at time of eviction	Sep 2, 2012 3:47 PM
13	The biggest challenge is usually the behavior of one party or another after a decision is reached, but our court officer is good about making sure that parties leave the building separately and do not have confrontations in the parking lot.	Sep 1, 2012 4:02 PM
14	The challenge is substituted service and the issuance of a money judgment. Another challenge is when pro se landlords want advice on how to proceed.	Aug 31, 2012 7:28 PM
15	Have no problems to date	Aug 31, 2012 12:25 PM
16	Neither party knows how to proceed. Both seek 'advice' from judges and/or clerks. Landlords try to initiate exparte communications prior to the hearing; tenants call or appear and ask what they should do after they receive the notice of petition. Also court clerks (and landlords) do not always understand the rules regarding scheduling the hearings and timely service of petiton and notice of petition.	Aug 30, 2012 12:04 PM
17	More often than not neither party is represented by counsel. Neither party can understand that in summary proceedings, everything within the statute has to be	Aug 30, 2012 11:36 AM

Q1. Please tell us how landlord/tenant proceedings provide challenges in your court:		
	followed to the letter. There are no materials that can be given to both parties similar to the small claims booklet that can explain the process better.	
18	The nature of the proceedings make them difficult. Usually some one is being evicted from their living space. Many will be homeless.	Aug 29, 2012 9:55 AM
19	Th tenant does not always know what they need or should have. Most of the ones I deal with aqre pretty cut and dry anyway.	Aug 28, 2012 1:56 PM
20	No real challenges. Biggest issues have been ensuring that Notices are properly signed by attorney/judge/clerk and petitions are properly verified by landlord or corporate officer where required. Some difficulty encountered in a few matters where the lld./ten. proceeding was simultaneously accompanied by an ongoing Village Code Enforcement Action against the landlord for the same premises and the tenant was claiming constructive eviction. One matter was particularly difficult b/c issues of who was in possession and who could have access had to be negotiated while the summary eviction, constructive eviction, and code enforcement matters were all pending and the parties had difficult and uncooperative counsel.	Aug 28, 2012 11:00 AM
21	frequently tenants are unrepresented; paperwork is often messy and incomplete; very few attorneys actually get papers to court within the 3 day period before it is heard. papers are mostly for nonpayment when really they should be holdovers	Aug 28, 2012 10:05 AM
22	We do not have adaquate facilities or enough space to conduct these hearings in a proper manner. Not handicap accessable.	Aug 28, 2012 10:01 AM
23	Our court has no security presence. We have a video camera in the courtroom and one in the justice office; panic buttons. I have had a tenant threaten a landlord with harm after ruling from the bench in the past. Not sure how to prevent this, but the town will not pay for any more security. What we do have was obtained by me through a JCAP grant two years ago and the board was VERY against it but finally relented. This would be, in my view, the #1 issue for our court in these matters.	Aug 28, 2012 7:22 AM
24	High volume of cases, pro se parties' lack of procedural knowledge, personal nature of certain disputes	Aug 27, 2012 2:13 PM
25	pro se litigants can not properly represent themselves, tenants tend to be serial evictees	Aug 27, 2012 9:19 AM
26	We handle 40 or so a month so we do not have "challenges" in our court unless a specific issue of law occurs with which we are unfamiliar, but generally not.	Aug 26, 2012 5:02 PM
27	When landlords proceed with out attorney wanting court to advise them on how to serve. Tenant..	Aug 26, 2012 4:01 PM
28	None	Aug 26, 2012 12:33 PM
29	In trying to balance the rights of landlords to earn money with those of tenents to have a decent place to live	Aug 26, 2012 12:16 PM
30	we rarely handle these matters, civil or small claims	Aug 26, 2012 11:02 AM

Q1. Please tell us how landlord/tenant proceedings provide challenges in your court:		
31	The lack of knowlege of how to proceed from the plaitiff or the respondent when they are not represented by council can be challenging.	Aug 26, 2012 9:13 AM
32	Trying to find a reasonable solution and have the parties involvedremember the finanical state of the area is a factor in the problem	Aug 26, 2012 7:42 AM
33	there are no challenges....	Aug 26, 2012 7:28 AM
34	Landlords who are too cheap to hire an attorney and, therefore, their paperwork is defective and they usually don't give the tennant proper notice. They expect my clerks to do the paperwork for them.	Aug 24, 2012 7:46 PM
35	Many time the proceedings are not filed properly, served properly or if they are a section 8 premise, the monitoring agency is not served. Often there is not a lease agreement and proper accounting procedures are not followed.	Aug 24, 2012 5:09 PM
36	Most summary proceedings are for non payment of rent, after a few months have past with no rent paid.	Aug 24, 2012 11:48 AM
37	Being sure that all paperwork is properly filled out.	Aug 24, 2012 9:53 AM

What, if any, legal resources do you use when deciding an eviction proceedings? (Please mark all that apply)



Q1. When faced with an unfamiliar legal issue in a summary proceeding, what resources do you use to find the answer to the legal question?		
1	resource center and judges with more experience with the issues at hand	Oct 2, 2012 5:51 PM
2	computer based legal research, the resource center and my colleagues	Sep 23, 2012 2:12 PM
3	Resource Center	Sep 21, 2012 4:27 PM
4	Research it myself	Sep 12, 2012 10:40 AM
5	Call the Resource Center.	Sep 11, 2012 5:55 PM
6	resource center	Sep 9, 2012 11:29 AM
7	Resource center, Westlaw.	Sep 7, 2012 11:31 AM
8	I utilize the Town and Village Resource Center, the RPL and the materials from training	Sep 6, 2012 9:31 AM
9	Resource Center and town and village courts website	Sep 5, 2012 6:04 PM
10	Those checked above	Sep 5, 2012 9:25 AM
11	I will email the other Judges in the County.	Sep 5, 2012 7:22 AM
12	Resource Center after having delved into research myself	Sep 2, 2012 3:47 PM
13	I can usually find the answer in printed law books (McKinney's RPAPL or treatises) or through Lexis or through CJE Materials from OCA on Summary Proceedings that I have in chambers.	Sep 1, 2012 4:02 PM
14	All of the above.	Aug 31, 2012 7:28 PM
15	resource center	Aug 31, 2012 5:37 PM
16	Never had a problem	Aug 31, 2012 12:25 PM
17	Resource Center	Aug 30, 2012 12:04 PM
18	As an attorney, I research my own law books or call the resource center.	Aug 30, 2012 11:36 AM
19	printed legal research	Aug 29, 2012 9:55 AM
20	Resource Center	Aug 28, 2012 6:51 PM
21	Resource Center	Aug 28, 2012 1:56 PM
22	See answer to No. 3.	Aug 28, 2012 11:00 AM
23	Wests Residential Landlord/Tenant Law in NY	Aug 28, 2012 10:05 AM
24	Resource Center and/or materials obtained from OCA training	Aug 28, 2012 10:01 AM
25	Resource center.	Aug 28, 2012 7:22 AM

Q1. When faced with an unfamiliar legal issue in a summary proceeding, what resources do you use to find the answer to the legal question?		
26	Lexis or OCA Educational Materials	Aug 27, 2012 2:13 PM
27	legal research using available resources	Aug 27, 2012 9:19 AM
28	Thompson/West practice guide Village, Town and District Courts in New York @ Chapter 12	Aug 26, 2012 5:02 PM
29	Resource. Vented and Internet.	Aug 26, 2012 4:01 PM
30	There are no landlord and tenant issues that are unfamiliar to me	Aug 26, 2012 12:33 PM
31	my law books	Aug 26, 2012 12:16 PM
32	use materials printed by NYS Magistrates and distributed at the classes	Aug 26, 2012 11:02 AM
33	I call the resource center and research all the training materials I have saved over the years.	Aug 26, 2012 9:13 AM
34	resource center and the internet	Aug 26, 2012 7:42 AM
35	Resource Center.	Aug 26, 2012 7:28 AM
36	Law Book or Resource Center	Aug 24, 2012 8:17 PM
37	See # 3 above.	Aug 24, 2012 7:46 PM
38	RESOURCE CENTER	Aug 24, 2012 5:09 PM
39	I contact the resource center	Aug 24, 2012 11:48 AM
40	David Dellehunt- Special Counsel, Third District Resource Center	Aug 24, 2012 9:53 AM

Q1. We have been told that a reference guide or checklist, that takes the court through a summary proceeding from start to finish, could assist Justice Courts, especially those who do not frequently have eviction proceedings in their courts. Would such a guide be of use to your court? And if yes, w...		
1	yes, we already use one. It keeps you on track so that no steps are left out or forgotten.	Oct 2, 2012 5:51 PM
2	Yes, step-by-step would be helpful!!	Oct 2, 2012 5:40 PM
3	yes, step by step guides as to what steps to follow especially in residential matters	Sep 23, 2012 2:12 PM
4	Yes. If you find on behalf of the landlord, what paperwork is needed. If you find on behalf of the tenant, what, if any, paperwork is needed.	Sep 21, 2012 4:27 PM
5	Yes, general breakdown of the process for both Holdover and Non-Payment proceedings	Sep 12, 2012 10:40 AM
6	Yes. The proper paperwork and procedures.	Sep 11, 2012 5:55 PM
7	yes, information regarding rent to own leases	Sep 9, 2012 11:29 AM
8	It would be of some use. A checklist covering the various methods of service and the awarding of default judgments would be particularly helpful to some judges, I think.	Sep 7, 2012 11:31 AM
9	Yes it would be helpful. Checklist from start to finish and information should the parties reach an agreement.	Sep 6, 2012 9:31 AM
10	Yes	Sep 5, 2012 6:04 PM
11	A thorough guide that is comprehensive detailing the process from start to finish	Sep 5, 2012 9:25 AM
12	No, because I am familiar with summary proceedings as I have handled them as an attorney.	Sep 5, 2012 7:22 AM
13	I would suppose that each judge already uses a self-created flowchart, but, a template would be a good resource that the judge can alter as needed for the individual circumstances.	Sep 2, 2012 3:47 PM
14	I never say no to information that is helpful, legally accurate and allows me to be more efficient.	Sep 1, 2012 4:02 PM
15	Yes. Adequacy of filings, forms for typical filings, timeline for jurisdiction, type of notice given, steps to follow with varying types of service, generic form for judgment and writ (even tho they should be provided by party)... . A pamphlet similar to the Small Claims booklet would be helpful to give Petitioners since we don't give legal advice.	Aug 31, 2012 7:28 PM
16	we have developed one and yes we use it.	Aug 31, 2012 5:37 PM
17	Maybe	Aug 31, 2012 12:25 PM
18	Checklist would help. Also examples of properly completed and filed petitions and notices of petition. Checklist for court clerks to use when receiving filings and scheduling hearings would be helpful.	Aug 30, 2012 12:04 PM

Q1. We have been told that a reference guide or checklist, that takes the court through a summary proceeding from start to finish, could assist Justice Courts, especially those who do not frequently have eviction proceedings in their courts. Would such a guide be of use to your court? And if yes, w...		
19	Yes. A step by step approach (especially with the statute requirements, i.e., service, 5/12 day rule, etc). Possibly, excerpts on common topics. For example, Yellowstone Injunction in Commercial Evictions versus no such relief in non-payment in residential, etc. This way, non-attorney judges can better explain these topics to lay people.	Aug 30, 2012 11:36 AM
20	Yes.	Aug 29, 2012 9:55 AM
21	No	Aug 28, 2012 6:51 PM
22	Check list would be helpful.	Aug 28, 2012 1:56 PM
23	Reference guides and checklists are always good, in any area of formulaic and repetitive practice. Such devices are best if they also are accompanied by a manual that cross-references the checklist and provides an expansion on the statutory and caselaw provisions governing the checklist items.	Aug 28, 2012 11:00 AM
24	Yes. Especially for the clerks who often are very confused by what papers should be filed when and what to do if they are wrong	Aug 28, 2012 10:05 AM
25	Yes, step by step flow chart with references to possible unusual issues that may arise and where to find the answers. I just had someone request a jury trial for a Summary Proceeding. 1st time in 26 years.	Aug 28, 2012 10:01 AM
26	Yes. Information needed: Details as to procedure regarding Orders to Show Cause purporting to halt execution of a warrant of eviction.	Aug 27, 2012 2:13 PM
27	perhaps, the issues presented vary from LL to LL based upon the classificationof the LL	Aug 27, 2012 9:19 AM
28	We have created such a guide which we give to the litigants and we have distributed to all Town Courts in Niagara County. We likewise have create for each court a summary proceeding work sheet for juridiction/service requirements/testimony/decision.	Aug 26, 2012 5:02 PM
29	No I do many summary proceedings and I find usually they are straight forward.	Aug 26, 2012 4:01 PM
30	It would be of no use to me	Aug 26, 2012 12:33 PM
31	No	Aug 26, 2012 12:16 PM
32	yes this would be helpful. The material should be a step-by-step guide	Aug 26, 2012 11:02 AM
33	I do think that any material that is developed to assist the court in doing a better, more thorough job is always welcome.	Aug 26, 2012 9:13 AM
34	yes	Aug 26, 2012 7:42 AM
35	A guide would be useful. It should contain procedures for the Judge and all interested parties as far as a step by step guide throughout the process up to how to appeal the ruling.	Aug 26, 2012 7:28 AM

Q1. We have been told that a reference guide or checklist, that takes the court through a summary proceeding from start to finish, could assist Justice Courts, especially those who do not frequently have eviction proceedings in their courts. Would such a guide be of use to your court? And if yes, w...		
36	It may be a good guide	Aug 24, 2012 8:17 PM
37	Yes, YES! A checklist of the proper notices, what the petition should contain, etc.	Aug 24, 2012 7:46 PM
38	What action to take when circumstances are out of the norm... eg section 8 housing, proper service procedures, rent with an option to purchase said premise, hold over proceedings.....	Aug 24, 2012 5:09 PM
39	Yes, to make sure all the required paperwork is there prior to hearing the case.	Aug 24, 2012 11:48 AM
40	Yes. Steps needed from start to finish and forms needed.	Aug 24, 2012 9:53 AM

Q1. Would a yearly updated training program on summary proceedings be helpful to your court?		
1	yes, any training is always helpful.	Oct 2, 2012 5:51 PM
2	Yes	Oct 2, 2012 5:40 PM
3	possibly	Sep 23, 2012 2:12 PM
4	Yes - if the laws change.	Sep 21, 2012 4:27 PM
5	yes	Sep 12, 2012 10:40 AM
6	Yes.	Sep 11, 2012 5:55 PM
7	no, maybe every second year	Sep 9, 2012 11:29 AM
8	Possibly.	Sep 7, 2012 11:31 AM
9	Yes, as we have a great deal of evictions in my town involving trailer parks.	Sep 6, 2012 9:31 AM
10	Yes	Sep 5, 2012 6:04 PM
11	not if we had a reference guide	Sep 5, 2012 9:25 AM
12	No	Sep 5, 2012 7:22 AM
13	annual updates should always be available in a compiled format, online, as a resource. Periodically, or if there are substantial changes, training format should be updated & available as an elective.	Sep 2, 2012 3:47 PM
14	I believe that OCA Part I and Part II (now known as Core A and Core B) programs cover Summary Proceedings often enough, at least that has been my experience.	Sep 1, 2012 4:02 PM
15	Certainly.	Aug 31, 2012 7:28 PM
16	No yearly, only when there are major changes	Aug 31, 2012 5:37 PM
17	Doubtful	Aug 31, 2012 12:25 PM
18	Yes.	Aug 30, 2012 12:04 PM
19	Yes.	Aug 30, 2012 11:36 AM
20	doen't need to be yearly, but refresher courses would be helpful.	Aug 29, 2012 9:55 AM
21	No	Aug 28, 2012 6:51 PM
22	maybe-	Aug 28, 2012 1:56 PM
23	I think biannually is about all I could take without my head exploding.	Aug 28, 2012 11:00 AM
24	no, biannual would be good	Aug 28, 2012 10:05 AM
25	Yes	Aug 28, 2012 10:01 AM

Q1. Would a yearly updated training program on summary proceedings be helpful to your court?		
26	Yes	Aug 27, 2012 2:13 PM
27	yes	Aug 27, 2012 9:19 AM
28	yes	Aug 26, 2012 5:02 PM
29	Maybe if it addressed unhealed situations.	Aug 26, 2012 4:01 PM
30	No	Aug 26, 2012 12:33 PM
31	Yes	Aug 26, 2012 12:16 PM
32	yes	Aug 26, 2012 11:02 AM
33	Knowledge is always good.	Aug 26, 2012 9:13 AM
34	yes	Aug 26, 2012 7:42 AM
35	yes.	Aug 26, 2012 7:28 AM
36	Yes	Aug 24, 2012 8:17 PM
37	Yes, absolutely!	Aug 24, 2012 7:46 PM
38	yes	Aug 24, 2012 5:09 PM
39	yes	Aug 24, 2012 11:48 AM
40	All training is helpful.	Aug 24, 2012 9:53 AM

Q1. Please provide us with any other suggestions you may have so that Town and Village Justice Courts can best provide for deciding landlord/tenants disputes:		
1	I have always found great support and help whenever I have needed any.Between the resource center and our local magistrates meetings.	Oct 2, 2012 5:51 PM
2	Routine emails of development in case law	Sep 12, 2012 10:40 AM
3	Call the Resource Center	Sep 11, 2012 5:55 PM
4	Standardized judgment and warrant forms would be helpful. When neither party is represented, the Court is typically left to prepare these.	Sep 7, 2012 11:31 AM
5	Both landlords and tenants having attorneys would be helpful. It would save the clerk, the court and the parties the time of refiling, or raising defenses.	Sep 5, 2012 7:22 AM
6	none at this time	Sep 2, 2012 3:47 PM
7	N/A	Sep 1, 2012 4:02 PM
8	Get the legislature to conform the relevant statutes.	Aug 31, 2012 7:28 PM
9	I have none	Aug 31, 2012 12:25 PM
10	I'd like to see a video done of the entire process, from the time the landlord comes in to file (without forms, without knowing how to file) up to the conclusion of the hearing, covering various possible case issues (failure to pay, objectionable tenant, a verbal lease agreement with conflicting testimony on what that lease agreement contained, rent-to-own issues, repairs made or work done in lieu of rent, failure of landlord to make repairs, code or habitability issues) that make these kinds of cases complicated and difficult to decide.	Aug 30, 2012 12:04 PM
11	More legal reference and as much training as possible. I have no idea how non-attorney Judges can possibly serve in a capacity to provide justice when most do not even have a clue as to the very statutes themselves. CPLR and RPL issues are never really emphasized.	Aug 30, 2012 11:36 AM
12	??	Aug 29, 2012 9:55 AM
13	Incorporate Code Enforcement proceeding issues with summary eviction classes - the two are often intertwined.	Aug 28, 2012 11:00 AM
14	A checklist with citations for attorneys who constantly try to file improper paperwork and then apologize at appearance and work things out with unknowing tenants. resources for tenants	Aug 28, 2012 10:05 AM
15	A handout to give to both parties similiar to the small claims guide to familiarize them with the proper forms to fill out and procedures.	Aug 28, 2012 10:01 AM
16	Every dispute is different but it seems every tenant has a gripe with the landlord and uses that for an excuse for non payment of rent .... How far do we take warrant of habitability would be a good topic for examples and defenses.	Aug 26, 2012 5:02 PM
17	There is no substitute for learning the applicable law and having the opportunity to apply it.	Aug 26, 2012 12:33 PM

Q1. Please provide us with any other suggestions you may have so that Town and Village Justice Courts can best provide for deciding landlord/tenants disputes:		
18	Experience is always a good teacher. The more we can learn from actually presiding over case's the better we become. I also believe we can learn from our fellow judges experence's. We often discuss our differant case's at our training sessions and magistrates meatings. There should be more training availible to court clerks,	Aug 26, 2012 9:13 AM
19	a script for the Judge to follow.	Aug 26, 2012 7:28 AM
20	So far it has been a learning process, the RESOURCE CENTER is very helpful	Aug 24, 2012 5:09 PM
21	All decisions are made by the Judge/Justice and today there are more resources available to help with these decisions. As stated above,periodotic training is always helpful.	Aug 24, 2012 9:53 AM

EXHIBIT “D”

Summary Proceeding Checklist

PROCESS ISSUES

COUNSEL

Are the parties represented by counsel?

- If **YES**, **continue**
- If **NO**, discuss legal rights and obligations with litigants and use discretion to consider adjourning the case so that each side may obtain an attorney.

I. JURISDICTION

1. Is the property located in the same municipality as this court? (RPAPL § 701(2).)

- If **YES**, **continue**
- If **NO**, dismiss the case, but with leave for the petitioner to refile in the appropriate court.

2. Is the respondent currently in physical possession of the property?

- If **YES**, **continue**
- If **NO**, there is no basis for the summary proceeding.

3. Is there personal jurisdiction over the respondent?

- If **YES**, **continue**
- If **NO**, there is no basis for the summary proceeding.

II. GROUNDS FOR SUMMARY PROCEEDINGS

Does the petitioner have a valid basis for the action? Summary proceedings are either **nonpayment proceedings** or **holdover proceedings.**

HOLDOVER PROCEEDINGS

1. Is the petitioner claiming that the respondent either overstayed the lease or violated some term in the lease? (RPAPL § 711(1).)

- If **YES**, **continue**
- If **NO**, then the petitioner cannot bring a holdover proceeding. If the petitioner is asking for payment of rent, he must bring a nonpayment proceeding.

- 2. If eviction is based on the lease expiring, has the appropriate notice been given?
  - For a **month-to-month** tenant (a tenant whose lease runs from month to month), the petitioner must give **one month's notice**. (RPL § 232-b.)
  - For an **at-will tenant** (a tenant whose lease is not of a determinate length), the petitioner must give **thirty days' notice**. (RPL § 228.)
  - For a tenant whose **lease has terminated, no notice is required.**

- If **YES**, **continue**
- If **NO**, then the petitioner must give appropriate notice

NONPAYMENT PROCEEDINGS

1. Is the petitioner claiming that the respondent failed to pay **rent**? (RPAPL § 711(2).)

- If **YES**, **continue**
- If **NO**, then the petitioner cannot bring a nonpayment proceeding. Nonpayment proceedings can only be used to recover rent, not to recover any other payments (like security payments or payments for damage of the property).

2. Has the respondent at any point offered to pay rent to the petitioner in connection with the dispute at issue?

- If **YES**, then there is no basis for the proceeding.
- If **NO**, **continue**

3. Did the petitioner either (1) make an oral demand for rent or (2) give the respondent three days' written notice to pay rent or vacate the property? (RPAPL § 711(2).)

- If **YES**, **continue**
- If **NO**, then the petitioner must either make an oral demand for rent or give the respondent three days' written notice before bringing a court action.

III. FORM OF PETITION AND NOTICE OF PETITION

To commence a summary proceeding, a petitioner must file two separate documents: (1) a **petition** and (2) a **notice of petition**.

1 Does the **petition** contain the following information? A statement of the petitioner's and respondent's ownership iinterest in the property and the relationship between the petitioner and respondent?

- What the petitioner is asking the court to do (the relief requested)?
- A description of the property?
- Verification by the petitioner or the petitioner's legal representative, attorney, or agent? (RPAPL § 741.)

- If **YES**, **continue**
- If **NO**, dismiss the case, but allow the petitioner to correct the mistake and refile.

2. Does the **notice of petition** inform the respondent when and where he or she must show up to court? (RPAPL § 731(2).)

- If **YES**, **continue**
- If **NO**, dismiss the case but allow the petitioner to refile.

3. Has the **notice of petition** been issued by a judge, court clerk, or attorney? (RPAPL § 731(1).)

- If **YES**, **continue**
- If **NO**, dismiss the case but allow the petitioner to refile.

IV. SERVICE OF PETITION AND NOTICE OF PETITION

Both the petition and notice of petition must be served on the respondent.

1. Timing. Were the (1) petition and (2) notice of petition both served between five and twelve days before the respondent is scheduled to appear in court? (RPAPL § 733(1).)

- If **YES**, **continue**
- If **NO**, the case must be dismissed.

2. Methods. Were the petition and notice of petition served in one of the following ways? (RPAPL § 735)

- **Personal delivery to respondent**
- **Substituted service**. (If this method is chosen, then the mailing requirement below must also be met.)
- **Nail and mail**. This method is only to be used if the other methods have failed. (If this method is chosen then the **mailing requirement** below must also be met.)
  - **Mailing Requirement**. To meet the mailing requirement, two copies of the petition and notice of petition must be mailed, one by regular mail and one by certified mail. The copies must be sent (1) to the property; or (2) if the respondent does not live at the property, to the last known residence of the respondent; or (3) if there is no written information about where the respondent lives, to the respondent's place of business. (RPAPL § 735.)

- If **YES**, **continue**
- If **NO**, the case must be dismissed.

3. Filing. Were (1) the petition and (2) the notice of petition filed within **three days** of the date on which the papers were personally delivered or mailed? (RPAPL § 735(2).)

- If **YES**, **continue**
- If **NO**, the case must be dismissed.

Summary Proceeding Checklist

SUBSTANTIVE ISSUES

1. **Adjournment**. Consider **adjourning for ten days** if (RPAPL § 745(1)):
   - One of the parties does not have an attorney and would like to get one; or
   - One of the parties needs to gather more evidence or witnesses; or
   - Both parties consent.

2. **Factual dispute**. If there is a dispute about a factual issue and one of the parties demands a jury trial, the request **must be granted**. (RPAPL § 745(1).)

3. **Burden of proof**. The burden is on the petitioner to prove his or her case. That means the petitioner must submit evidence proving each of the facts that he or she claims is true. If the petitioner fails to prove his or her case, the case must be dismissed. Both sides, however, must be allowed to speak and present their cases

4. **Warranty of habitability**. Is the respondent arguing that some aspect of the property makes it unlivable (dangerous, hazardous, detrimental to life, health or safety of tenants)? If so, the respondent is entitled not to pay rent under the warranty of habitability defense. (RPL § 235-b.)
   - If an average, middle-class tenant would find a condition dangerous or uninhabitable, the landlord has breached his duty to keep the housing habitable.
   - A tenant can establish that the premises are dangerous and deteriorated by describing them or by showing pictures.
   - The warranty of habitability may not be waived. A tenant and landlord cannot sign a contract giving away the right to safe housing.

5. **Refusal of rent**. Has the respondent paid rent, or was rent refused by the petitioner? If so, then the nonpayment proceeding must be dismissed and the respondent cannot be evicted.

6. **Access to Records**. Both sides must have access to the to the court documents (including notice of petition) prior to hearing.

7. **Unique Circumstances**. If dispute involves mobile homes, manufactured home, or land grant, special rules for proceeding may apply.

EXHIBIT “E”

NEW YORK STATE SHERIFFS' ASSOCIATION
EVICTION SURVEY

Name of County	For the year 2011, how many warrants of eviction were received by your office as a result of Town and/or Village Justice Court summary eviction proceeding?	Of those warrants received from a Town or Village Justice Court, how many actual evictions took place?	Comments
Broome County	450	All of them. 450	We will always send a Deputy even if the landlord states they are out.
Chautauqua	41	In the majority of the cases, the tenant moved out after the service and before the actual scheduled date for the eviction.	
CHENANGO	16	6	
Clinton County	152	59	
COLUMBIA	139	124	THE TOTAL NUMBER OF EVICTIONS ALSO INCLUDE OUR ONE CITY COURT IN THE COUNTY
Cortland	44	40	
Delaware	35	1	
Erie	177	Unknown.	We do not keep the requested statistic, however, our field staff estimate 20-25% of warrants actually require full enforcement with movers, etc.
FRANKLIN	47	27	
Genesee	111	95	
Jefferson	We processed 113 evictions for 2011, unfortunately, we do not keep track by the court.		
Kings County	We received approximately 70 evictions for 2011 from NYC Housing Court.	Of those received, about 65 were completed.	
Lewis	10	8	
Livingston	56	54	

Name of County	For the year 2011, how many warrants of eviction were received by your office as a result of Town and/or Village Justice Court summary eviction proceeding?	Of those warrants received from a Town or Village Justice Court, how many actual evictions took place?	Comments
Madison	90	82	
Monroe	19	16	
Montgomery	18	18	
Oneida County	115	18	In most cases evictions are cancelled due to the tenants vacating the property. In a lesser percentage, tenants will pay the landlord and eviction is cancelled.
Ontario	85	65	All of our evictions come from Town/Village Courts. The city police departments handle evictions in the two cities in Ontario County. We do average about 5 Orders to Compel per year from Supreme Court.
Orange	764	We do not have the capability to obtain this data.	We do not have the ability to distinguish between City courts and Town/Village courts so the actual number of evictions from strictly local courts would be less than the number reported.
Orleans	93	121 (some including 2 per address)	count includes 72 hour, 30 day & 90 day
OSWEGO	291	243	VERY BUSY
Otsego	40	6	The 6 listed required the tenant to be removed by this office.
Putnam	115	approx. 30	
Rensselaer	137	137	

NEW YORK STATE SHERIFFS' ASSOCIATION
EVICTION SURVEY

Name of County	For the year 2011, how many warrants of eviction were received by your office as a result of Town and/or Village Justice Court summary eviction proceeding?	Of those warrants received from a Town or Village Justice Court, how many actual evictions took place?	Comments
Rockland	We do not track which courts the warrants are issued out of. However, in 2011 this office received 1245 issued from all courts.	Unable to determine	
Seneca County	56	51	
Steuben	92	65	
Tioga	106	24	
Ulster	341	225	
Warren	215	All	
Wayne	173	82	This is down 30% from 2 years ago.
Westchester	77	37	It should be noted that the numbers above only reflect the warrants received in the Sheriff's office. There are a substantial number of constables operating throughout the county.
Wyoming	32	6	
Yates	We average about 50 annually but last year we only had 36.	Approximately 8	We are down from our average so far this year.

APPENDIX 19:

Report of the Task Force's Working Group on Collaborations and Shared Services

TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

COLLABORATIONS AND SHARED SERVICES WORKING GROUP:

2012 COLLABORATIVE PROJECTS REPORT

Background

The 2010 and 2011 Task Force Reports to the Chief Judge direct the Collaborations and Shared Services Working Group to study collaborations among providers to identify effective collaborations and partnerships that merit replication and to present initiatives to share costs. The 2010 Report anticipated the importance of ongoing review of collaborations, with a particular focus on recipients of Judiciary Civil Legal Services funds, to avoid duplication of efforts and maximize cost savings measures. The 2011 Report highlighted the Telesca Center for Justice in Rochester (Telesca Center), a national model of a collaborative legal services center, which continues to be a resource to the Working Group and informs two of the initiatives proposed here. In addition, the Working Group presents four initiatives or projects that have been inspired, developed or enhanced by the work of the Task Force.

Proposals/ Projects Considered by the Working Group

- **Access to Justice Program Help Center in the Rochester Hall of Justice**
- ***Pro Bono* Legal Services in Dutchess County, a Geographic Area of Documented Need**
- **Partnership Projects facilitated by a Civil Rights Law Firm's *Pro Bono* Clearinghouse in New York County**
- **Catalog Action to Establish Collaborative *Pro Bono* Civil Legal Services Centers for Replication Statewide**
- **One Roof Legal Services Center in Syracuse**
- **Collaborations Among Bar Associations with the Use of Judiciary Civil Legal Services Funds**

Discussion

1. Establish an Access to Justice Program Help Center in the Rochester Hall of Justice

Proposal:

Over the past two decades, courts nationally have experienced a dramatic increase in the number of self-represented litigants in need of access to basic legal information. Many states have developed self-help programs aimed at increasing meaningful access to justice. In New York State, Help Centers have been established in the courthouses of several counties to provide free legal and procedural information to the public.

Judge Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access to Justice Program, approached Administrative Judge Craig Doran, Seventh Judicial District, and proposed that an Access to Justice Program Help Center be established at the Monroe County Hall of Justice (Hall of Justice) dedicated to providing civil law procedural advice to unrepresented litigants. On October 2, 2012, Judge Doran testified at Chief Judge Lippman's Fourth Department Civil Legal Services Hearing at the Onondaga County Courthouse, providing an outline of the details of the proposal and expressing his full support.

Judge Doran indicated that the proposed Help Center would be located on the 5th floor of the Hall of Justice in a "customer friendly," easily accessible area. He recommended that the Help Center initially offer services in the areas of family law, consumer law and landlord-tenant disputes.

It is anticipated that Help Center staff will provide unrepresented litigants with information, utilizing fliers, computer kiosks, on-site court staff, *pro bono* agency staff, and attorney and non-attorney volunteers, on such matters as referrals to appropriate agencies, court process and procedures, completion of forms, and collection of judgments, to list a few examples. Help Center employees and volunteers will be prohibited from providing legal advice or representation, and any informational advice offered by the Help Center will not take the place of private counsel.

The Help Center would be unique in its partnerships and collaborations with the community. Volunteer Legal Services Project of Monroe County, Inc. (VLSP) private attorney hotline volunteers will assist Help Center court staff by donating two hours, Monday through Friday between 9 a.m. to 4 p.m., to assist unrepresented litigants over

the phone. The hotline *pro bono* attorneys will provide limited legal information, including help to complete court forms, answering questions about legal problems, and providing information on how to proceed through the court system. A VLSP employee will recruit, train, support and provide public recognition for hotline and other *pro bono* attorneys. It is further proposed that the Help Center recruit a volunteer mediator from the Center for Dispute Settlement (CDS) to advise parties on resolving disputes out of court. The 7th Judicial District currently partners with CDS in a number of programs; therefore, it is envisioned that this strong and long-term partnership will continue.

The Help Center will make referrals, when appropriate, to the Telesca Center for Justice central reception and screening staff. This is an efficient method of assuring that individuals are referred to the appropriate local civil legal services provider-- Volunteer Legal Services Project (VLSP) of Monroe County, Inc., Legal Aid Society of Rochester, Monroe County Legal Assistance Center, Empire Justice Center and the Monroe County Bar Association Lawyer Referral Service.

2. Enhance *Pro Bono* Legal Services in Dutchess County, a Geographic Area of Documented Need

Project Underway:

Pro bono efforts are an important supplement to the service delivery model of civil legal services programs. In an effort to enhance *pro bono* legal services in Dutchess County, the judiciary and the Dutchess County Bar Association (DCBA) joined with Legal Services of the Hudson Valley (LSHV) in May, 2012 to discuss ways to increase the number of low-income households receiving *pro bono* legal services in Dutchess County. Hon. Albert M. Rosenblatt, former Associate Judge of the New York Court of Appeals and a resident of Dutchess County, is spearheading this collaborative effort to support and strengthen LSHV's current *pro bono* program with local resources and volunteer efforts.

The founding group, consisting of Judge Rosenblatt, Judge Peter M. Forman, Dutchess County Court; Judge Frank M. Mora, Poughkeepsie City Court Judge; Daniel J. McCabe, Esq., Dutchess County Bar President and active *pro bono* attorney; Janna Wearty, Executive Director, Dutchess County Bar Association; Barbara Finkelstein, Executive Director, LSHV; Carol Neiditch, LSHV *Pro Bono* Director; and, William Flynn, Managing Attorney, LSHV, Poughkeepsie office, have met several times and created a an initial development plan.

The plan outlines the group's plans (1) to recruit more *pro bono* attorneys who could deliver high quality legal services to low-income households with civil legal problems affecting the basic necessities of life; and; (2) to enhance the current *pro bono* system to allow the judiciary, organized bar, accredited paralegal programs, and other non-attorney volunteers to be included in LSHV's screening, tracking and oversight system.

Beginning in Fall 2012, the Dutchess County Bar Association and LSHV became host to two interns per semester from Marist College Paralegal Program beginning Fall 2012 to assist LSHV and the DCBA staff in screening applicants for eligibility, conducting intake interviews, and tracking the progress of cases (phone and walk-in). The executive director of the DCBA and the managing attorney of LSHV's Poughkeepsie office will coordinate the program, and oversee and train the paralegal interns. Initially, all cases will be opened through LSHV's intake system as LSHV is an accredited CLE provider with a sophisticated case management record keeping system. The paralegal interns will have access to LSHV's case management system and will be trained in tracking and record keeping. It is yet to be determined whether the group will recruit a *pro bono* attorney to assist with case assignments and whether non paralegal volunteers will be utilized.

Judge Rosenblatt and the DCBA will take primary responsibility for broadcasting this initiative and advise DCBA members about available opportunities and incentives to volunteer. Phone calls, information via newsletters, email blasts and announcements at events will be the primary methods to reach the target audience. LSHV will work with Judge Rosenblatt and the DCBA to create the appropriate opportunities and support for the private bar. LSHV and the DCBA will provide training and mentoring for *pro bono* attorneys. LSHV's *pro bono* program will provide professional liability insurance and CLE credit for *pro bono* attorneys.

3. Partnership Projects facilitated by Civil Rights Law Firm's *Pro Bono* Clearinghouse in New York County

In progress:

A model connecting the private bar to *pro bono* opportunities is the P*ro Bono* Clearinghouse (Clearinghouse) managed by New York Lawyers for the Public Interest (NYLPI), a civil rights law firm. Through the Clearinghouse, attorneys at private law firms undertake legal work in a range of areas, including litigation in housing and employment matters, and providing transactional assistance to not-for-profit organizations by helping them incorporate and obtain tax-exempt status. Attorneys

from the private bar also co-counsel with NYLPI and other organizations to which they are introduced through the Clearinghouse on major impact litigation cases.

Taking the referral process a step further, NYLPI's *Pro Bono* Clearinghouse facilitates "Partnership Projects," between member firms and other nonprofit organizations to expand outreach to clients and broaden the range of legal issues that can be handled. These Projects are aimed at strengthening communities or addressing systemic problems. Partnership Projects help to institutionalize *pro bono* work as a firm, rather than an individual, responsibility.

Partnership Projects involve a commitment of significant resources and require law firms to make a sustained commitment to work in a specific area of the law by providing services to a certain number of individual clients. Community needs deemed to be pervasive are typically identified and targeted by legal services and other community-based organizations, which then contact the Clearinghouse. Together with the legal service provider, NYLPI's *Pro Bono* Clearinghouse develops a strategy to address the issue. The Clearinghouse markets the Project to law firms in its network, assembling a team of qualified attorneys to commit to the Project for a defined duration of time. If necessary, additional resources from the corporate sector are secured (paralegals, etc.).

Lawyers, who rely heavily on their practice expertise, are typically trained by the legal service provider in the relevant area of the law and are often provided with ongoing support from the legal service provider and from NYLPI. In turn, the projects provide a substantial *pro bono* experience for the firm's lawyers and an opportunity for groups of lawyers at a firm to work as a team. These projects also enable law firms to have a significant impact on a particular issue and to develop a strong and lasting partnership with a community-based organization or legal service provider. NYLPI continues to play an oversight role through the duration of the project, monitoring staffing and ensuring that the day-to-day execution of the project aligns with overall targets and goals. Over time, attorneys are able to develop expertise in the area of law and firms can create a self-sustaining relationship with the legal services provider, relying on each other when questions arise.

The Partnership Project model enables legal services and community-based organizations to leverage the extensive network of law firms and other *pro bono* providers in the Clearinghouse's network. Rather than having to engage in extensive outreach in the legal community to identify a law firm or corporate legal department with the resources, interest and skills to enter into extended relationships with the organization, the Clearinghouse can expeditiously access its network, using its

knowledge regarding the particular skills and interests of lawyers and law firms involved in its network. In addition, legal services and community based organizations leverage the resources of NYLPI to coordinate and monitor the ongoing relationship, saving them time and resources that can be put to use in servicing of their clients.

Partnership Projects are replicable collaborations that could be used statewide to provide appropriate representation to the underrepresented in communities and/or organizations that provide services to these individuals.

Clearinghouse member firms have partnered with New York City public schools, community groups and micro-enterprise development organizations. The following are examples of Clearinghouse Partnership Projects that merit study for duplication around the State.

•Helping New York City Seniors Stay in Their Homes

Each year the Senior Citizen Rent Increase Exemption (SCRIE) program allows aging New Yorkers, who are often living on fixed incomes, to maintain their economic security and remain in their homes despite rising rents and increases in the cost of living. New York Lawyers for the Public Interest, Paul, Weiss, Rifkind, Wharton & Garrison LLP and Citigroup Inc. have teamed up with Lenox Hill Neighborhood House to help seniors apply for or recertify for SCRIE, which allows low-income seniors to have their rent frozen at its current level. The Partnership pairs seniors with volunteer attorneys who can guide them through the process and ensure that their application is submitted and approved. NYLPI facilitated the initial training of the volunteer attorneys and paralegals, which was held at Lenox Hill and facilitated by Lenox Hill staff. NYLPI continues to monitor the progress of the Partnership, proactively checking in every 6 months. Lenox Hill addresses novel issues as they arise. The clinics, which are held twice a month, have helped hundreds of seniors each year.

•Helping Victims of Sham Trade Schools

There has been a growing crisis among low-income New Yorkers who have been saddled with debts they incurred from enrolling in sham trade schools. For years, illegitimate trade schools have been swindling New Yorkers interested in improving their job prospects and credentials. These schools do not help people cultivate skills and secure better jobs but instead exploit federal loan programs. Attendees graduate without skills and are left with significant student loans that can cause crippling debt, ruined credit, and financial devastation.

The Neighborhood Economic Development Advocacy Project (NEDAP), a community economic justice resource center, recently partnered with the Clearinghouse to link attorneys with the victims of these scams to obtain discharges of their debt. The NEDAP staff screens clients for eligibility for discharge, provides an initial training for lawyers in the issue, and provides ongoing mentoring throughout the statutory discharge application process. After the initial training, lawyers are supervised by a team leader, who is a partner at the firm. NYLPI continues to take an oversight role, the Partnership and NEDAP are used as resources to address new issues. The project has been operating with great success at Morrison & Foerster LLP, where a team of fifteen attorneys have assisted 13 low-income New Yorkers in seeking relief. NYLPI has recently added a second firm as this project has expanded.

•Helping Aging New Yorkers Secure Healthcare Benefits

Medicaid provides crucial support to many of New York City's senior citizens, but seniors' benefits can be jeopardized if they do not adhere to stringent income eligibility limits. When a senior's income is above these strict limits, they must pay their medical costs out-of-pocket and then be reimbursed before their Medicaid coverage will be reactivated, often forcing them to choose between paying for medical expenses and other necessities like food, shelter and clothing.

To address these hardships and protect seniors from losing their benefits, the Clearinghouse connected Mayer Brown LLP with Lenox Hill Neighborhood House to help seniors navigate the process of joining the NYSARC trust. By joining this supplemental needs trust; seniors can protect their benefits by setting aside funds to ensure they satisfy Medicaid eligibility limits. Lenox Hill Neighborhood House screens seniors and provides training and advice to Mayer Brown attorneys, who help their clients join the trust. Lenox Hill is responsible for administering the program, while NYLPI manages the relationship between Lenox Hill and Mayer Brown, playing an ongoing, oversight role. The team at Mayer Brown has donated over a thousand hours to help seniors maintain their quality of life.

•Increasing Access to Medical Equipment for Low-income Individuals

Many people with disabilities rely on durable medical equipment (DME) for daily activities. DME includes wheelchairs, hearing aids, and a host of other equipment. People who rely on DME are harmed by lengthy delays and improper denials from Medicaid which must approve all requests for equipment and

repairs. Delays getting the equipment can restrict mobility, decrease functioning, or result in serious health complications. Children denied DME are often forced to miss school or to attend school using unsafe, uncomfortable, or unhealthy equipment.

In partnership with Weil, Gotshal & Manges LLP, the Clearinghouse provided lawyers for people with disabilities who had been denied durable medical equipment (DME) by Medicaid. NYLPI screened cases and referred them to pro bono attorneys from Weil Gotshal. These lawyers investigated the claim, developed the record, made phone calls, wrote letters, appeared at administrative hearings and brought court cases, as needed, to get the request for DME granted. NYLPI provided training and ongoing support for all the cases that were accepted into the project.

4. Catalog Action to Establish Collaborative *Pro Bono* Civil Legal Services Centers for Replication Statewide

Proposal:

The Honorable Michael A. Telesca Center for Justice (Telesca Center) is a collaboration, among *pro bono* and civil legal services providers and the local bar association, that represents a best practice model with long term sustainable impact and has the potential for widespread replication, in whole or in part, among other civil legal services, pro bono organizations and bar associations. The Telesca Center has been shown to work effectively and produce successful client and fiscal outcomes since the agencies and bar association co-located in 2005-6.

Telesca Center partners are finding new and unanticipated opportunities to share costs, collaborate to secure new revenue and provide increased and more effective client services. A team of MBA researchers from Rochester Institute of Technology is studying the collaboration as a model for United Way of Greater Rochester. Interest in the novel collaboration is not limited to local funders. The Telesca Center has, over the past year, hosted William Robinson, ABA President; James Sandman, LSC President; and, Christine Fecko, IOLA General Counsel, as well as a delegation from the Philadelphia Bar Foundation.

Similar co-location planning efforts are underway in Buffalo and Syracuse. For the past several years, a working group under the leadership of former U.S. Magistrate Judge George Lowe, has been investigating the possibility of co-locating the Syracuse offices of Hiscock Legal Aid Society, Legal Services of Central NY, the Legal Aid Society of Mid-New York, and the Volunteers Lawyers Project of the Onondaga County Bar

Association. To establish the One Roof Legal Services Center in Syracuse the group is working with architects and real estate lawyers to develop plans for co-location. The group understands that any successful co-location project would take three to four years to complete. The One Roof Legal Services Center is a partnership designed to avoid duplication of efforts and maximize cost savings and is, therefore, one of the initiatives proposed by the Working Group.

In Buffalo, Legal Services for the Elderly, Neighborhood Legal Services, Prisoner Legal Services, the Eric County Bar Association Volunteer Lawyers Project and Western New York Law Center negotiated a favorable 10 year lease and co-located in the same building with The Family Justice Center approximately five years ago. The Family Justice Center provides free services for domestic violence victims and their children through an extensive collaboration with 13 partner agencies.

Legal Services for the Elderly, Western New York Law Center and the Erie County Bar Association Volunteer Lawyers Project (ECBAVLP) share two conference rooms, a clinic room with telephones and computers for students, a lunch room, storage space and a computer server/phone room. The three programs purchased and share one telephone system and jointly use the large conference room for trainings. ECBAVLP coordinates a referral list of all the legal services providers in Erie County and their program offerings.

Legal Services for the Elderly and ECBAVLP share a common reception area, and all the programs work collaboratively, at different times, on fundraising and case priorities.

The Rochester, Syracuse and Buffalo co-location efforts differ in some particulars but consistently realize program efficiencies and maximize cost savings.

Ongoing and future co-location collaboration efforts will benefit from a blueprint or catalog documenting and charting actions, procedures and practices that offer insight into workable programmatic solutions, fiscal and political realities, goals reached and plans for the future. Documenting the history of the ongoing co-location efforts in Buffalo, Syracuse and Rochester is a valuable exercise to be shared with other civil legal services providers and bar associations who are interested in replicating similar models.

5. Establish One Roof Legal Services Center in Syracuse

Project Underway:

For over two decades, it has been the vision of leaders of the private bar in Syracuse that all of the local legal services organizations be located under "one roof." The remarkable success of the Telesca Center, and most recently, the focus of the Task Force on the benefits of collaboration and sharing costs have worked to galvanize the "One Roof Committee." Members of the Syracuse "One Roof Committee" include: (1) the president and executive director of the Onondaga County Bar Association, (2) the executive directors for the legal services providers in Syracuse, Onondaga County, and Central New York, namely the Hiscock Legal Aid Society, Legal Services of Central New York, and the Legal Aid Society of Mid-New York, (3) the coordinator for the Onondaga County Bar Association's Volunteer Lawyers Project, (4) a representative of the Syracuse University College of Law's clinical programs; and, (5) a representative of the Federal Court Bar Association for the Northern District of New York.

Recently, the Board of Directors for each legal services organization passed a resolution supporting the concept of "One Roof." Currently, the offices of Legal Services of Central New York and Legal Aid Society of Mid-New York are located in the same building. All of the remaining organizations are scattered around the City of Syracuse. With one exception, the One Roof Committee has successfully re-negotiated a common expiration date in all of the leases of the legal services organizations of December 31, 2014. The target date for operation under "one roof" is January 1, 2015. The current lease of one organization expires on September 30, 2019. This presents an obstacle that the One Roof Committee does not view as insurmountable. A space design firm has conducted an analysis of the space needs for each organization and the potential for shared spaces.

The Committee issued a request for proposal (RFP) to evaluate potential owners. The combined organizations would employ approximately 117 individuals and would require approximately 35,000 square feet of office space. This should make the collaborative entity a very attractive tenant to owners of commercial property in the Syracuse market. Responses to the RFP are due on December 3, 2012.

Once proposals are received, the One Roof Committee will confront the primary obstacle to the "one roof" concept: raising the money to cover the moving costs for each organization and the build-out costs for the "One Roof" Center. The One Roof

Committee is cautiously optimistic that the lawyers and community leaders of Onondaga County will meet the challenge of establishing the legal services center.

6. Collaborations Between and Among Bar Associations with the Use of Judiciary Civil Legal Services Funds

The Collaborations and Shared Services Working Group was directed to study replicable and unique collaborations among and between bar associations that received 2012-2013 Judiciary Civil Legal Services Awards. The following projects are offered for consideration and possible statewide replication:

- City Bar Justice Center provided a central training model for the Brooklyn Bar Association, Queens County Bar Association, and the NY County Lawyers Association by training and mentoring their *pro bono* volunteers and staff to provide advice and representation to individuals facing foreclosure. The City Bar Justice Center developed a set of training materials for their Deferred Action Childhood Arrivals (DACA) Clinic, posted the materials on line in partnership with *Probono.net* and provided technical support to other bar associations providing DACA Clinics, including the Monroe County Bar Association.

- Brooklyn Bar Association Volunteer Lawyers Project (VLP) and other downstate and Westchester programs refer unrepresented consumer debt litigants to CLARO, a Civil Legal Advice and Resource Office. CLARO is a free, weekly walk-in clinic at Kings County Civil Court where consumers can obtain free information about debt collection. CLARO is a joint project of the VLP and Brooklyn Law School, with the collaboration of MFY Legal Services and Neighborhood Economic Development Advocacy Project (NEDAP). It was created in cooperation with Kings County Civil Court. CLARO is held every Thursday at Kings County Civil Court (141 Livingston Street) from 2:30 to 4:30 PM and 6:00 – 8:00 PM.

- Onondaga County Bar Association Say Yes Program. Bar Association Executive Director and Volunteer Lawyers Project Coordinator testified at the Fourth Department Civil Legal Services Hearings regarding the Say Yes to Education Program.

    - Say Yes Syracuse is a chapter of Say Yes to Education, Inc., a non-profit foundation committed to dramatically increasing high school and college graduation rates for urban students. Since 2008, Say Yes Syracuse and community of caring,

committed people have devoted time, money and resources to provide holistic, year-round support to students throughout their K-12 years and beyond.

- The Say Yes Syracuse chapter is unique in that it is the first Say Yes chapter to embrace an entire city school district! Buffalo, NY became the second Say Yes chapter to partner with an entire city school district in 2012.

- Say Yes Syracuse is a landmark collaboration that brings *pro bono* attorneys, the Syracuse City School District, Syracuse University, Onondaga Community College, Say Yes Higher Education Compact partner colleges, Say Yes to Education, Inc., the Syracuse Teachers' Association, the Syracuse Association of Administrators and Supervisors, the City of Syracuse, Onondaga County, the American Institutes for Research, and a diverse group of Syracuse area corporate, non-profit, and law firms together to organize people, time, money and resources to provide holistic, year-round support to Syracuse City School District students through their K-12 years and beyond. Say Yes to Education and its partners believe every student can graduate high school and college when given the proper supports, resources, and opportunities.

- Albany County Bar Association/*Pro Bono* Program.
  Wills For Heroes Program services are provided to active and retired members of the U.S. Armed Forces at Albany Stratton VA Medical Center. The Wills for Heroes program *pro bono* attorneys provide wills, powers of attorney and health care proxies to veterans and their spouse or domestic partner. The Wills for Heroes program is unique because the program is provided where the veterans receive services. The Wills for Heroes program brings together veterans with *pro bono* attorneys, notaries and witnesses.