

SUPREME COURT OF THE STATE OF NEW YORK  
THIRD DEPARTMENT  
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THE CHIEF JUDGE'S HEARINGS  
  
ON CIVIL LEGAL SERVICES  
  
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COURT OF APPEALS  
20 Eagle Street  
Albany, New York 12207

BEFORE:

HONORABLE JONATHAN LIPPMAN  
Chief Judge

HONORABLE LAWRENCE K. MARKS  
Chief Administrative Judge

HONORABLE KAREN J. PETERS  
Presiding Justice of the Appellate  
Division, Third Department

CLAIRE GUTEKUNST, ESQ.  
President-Elect New York State Bar  
Association

Colleen B. Neal  
Official Court Reporter

CHIEF JUSTICE LIPPMAN: Good day. I want to welcome all of you to the Third Department Hearing on Civil Legal Services. To my right is Presiding Justice Karen Peters of the Third Department. To my far right is Claire Gutekunst, the President-Elect of the State Bar. And to my left is the Chief Administrative Judge of the state court system Judge Lawrence Marks.

I do want to say that it is a pleasure to see you all. We hold four hearings around the state each year. This is the third hearing that we are holding, we've already held hearings in Manhattan and Syracuse. The purpose of these hearings is to enhance our efforts to close the justice gap in New York that is between the dire need for legal services by the poor and the finite legal resources that are available. How we make those two mesh.

Right now there are many people in our state who are hurting in difficult economic times. The poor, people of modest means, who are looking to keep a roof over their head, to ensure their physical safety, to keep their livelihoods going, to support their families, and they cannot do that because they cannot afford legal representation to foster their legal position or to interface with the bureaucracy or to come into court, if necessary.

Our legal service providers in this state are doing

wonderful work, God's work, but they are all across our state forced to turn away more people than they're able to accept, and that really is a situation which is intolerable and must be changed. So we've been very fortunate to have in this state \$85 million given to us by the Legislature and by the Governor to support legal services for the poor.

These hearings are conducted on the province of the Permanent Commission On Access To Justice. Helaine Barnett, who is sitting right over there, is the Chair, the former President of the Legal Services Corporation. Right next to her is Fern Fisher, the Deputy Chief Administrative Judge for Access to Justice in our state.

And the Commission, and there's so many members who are here today, has done such a terrific job in putting these hearings on, in writing a report released on December 1 in conjunction with our budget. And again, the results have been quite spectacular in terms of the amount of public funding we've been able to get. And on top of that, the increase of pro bono work that we've had from the Bar.

The Judiciary recognizes that it is our Constitutional mission to foster equal justice and that it is central to what we do and not tangential. And so we do all of this recognizing that we cannot have two million people in New York State who come to the courts unrepresented. That's not what equal justice is about. It can't be that you

cannot have your legal problem resolved unless you have a large amount of money in your pocket. Our studies have shown that for every dollar invested in legal services for the poor, \$10 are returned to the state in decreased social service costs, decreased incarceration costs, more federal funding coming to the state.

On pro bono work the Bar has been terrific. We have a Lawyers Emeritus Program, they are baby boomers who are slowing down in their work, firms around the state are doing pro bono work. We have the Empire State Counsel Program the State Bar Association has put on. We have a Corporate Counsel Rule that allows corporate counsel not admitted to the bar in New York to practice here if they're doing pro bono work. We have a 50-hour rule which says that every law student, every aspiring lawyer, must do 50 hours of pro bono work for the poor before they can be admitted to the Bar, with the idea being that you must embrace the core values of our profession, serving others, helping others if you're going to be a lawyer in this state. And if you're not going to do that, if you're not going to understand that being a lawyer is about helping people, then maybe another profession is better for you.

So I think that we can truly say that there is a revolution in access to justice in our state and in our country. There are many exciting things happening here in New York and around the nation. We are re-prioritizing the

importance of legal services for the poor here in New York with a recognition that it is as important as housing, schools, hospitals and every other thing that we hold dear in our state. That we don't say that gee we don't have a lot of money this year so we're not going to educate our children, or we don't have a lot of money this year so we're not going to tend to our sick. And we can't say gee we don't have a lot of money this year so we're not going to provide desperately needed legal services for the poor.

The State Legislature has passed a resolution that essentially says that the public policy of this state is to provide legal representation and/or effective legal assistance for every person in need. That's what our Legislature has said. That is the public policy. We are going toward some variation of a civil Gideon, meaning that I use that term as a term usually summary drive what we're talking about; on the criminal side everybody whose liberty is at stake is entitled to a lawyer. We're trying to get to the day in New York where either by statute, by public policy, by Constitution so that every person will have a lawyer that needs representation. That is the ultimate goal of what we're doing.

We're delighted to have you here. We have a wonderful series of speakers. I would ask each of the speakers -- and this first panel I don't want to push too hard,

I'm just making a request, because you actually go to a [\[higher|hire\]](#) source than even the Judiciary of the State of New York and we are well aware of that on this panel. But what we are suggesting to panelists, that if you want to you can read your statement, but there's really no reason to, you can just say what's in your heart and tell us what you have to say and what your testimony is. We may interrupt you a little bit for questions either during your presentations or when you finish.

This is a courtroom and we do have a red light system. This doesn't come from up above, it just comes from here. When the red light goes on it means that you have approximately a minute or so left to finish off your presentation, because again we would like to ask you some questions so that we can again focus this question for our audience. And our audience is New York State, it's policymakers and its people.

So without further ado, the first panel, which we are so delighted, and all kidding aside, we are delighted to have an ecumenical panel. And some might ask well what is the relation, why would we have people of the cloth, why would they be here to talk about legal services for the poor? And I suggest that it is a very good reason. You're going to hear, and I would mention that I think it was last year we had Cardinal Timothy Dolan in the New York City hearing who

testified and basically said that the doctrine of the church was very much exactly on all fours with the quest of the court system for equal justice and for legal representation for the poor people of need.

So we welcome our first panel. I'm going to start with the Reverend Scharfenberger, Bishop of Roman Catholic Diocese of Albany. Reverend, you're on.

REVEREND SCHARFENBERGER: Good morning, Chief Judge Jonathan Lippman and Honorable Karen Peters, Honorable Lawrence Marks, and Claire Gutekunst, President-Elect from New York Bar Association. It's a privilege to have the opportunity to speak with you about a cause that's close to each and every one of us who cares deeply about justice for all New Yorkers. And I'm honored also to have my colleagues from the government community here, I think our presence here is a demonstration of our commitment.

We often are the first to hear from people who are in need. They come to us often first, particularly when they don't feel that there's any other place that they can turn. And providing social justice for all regardless of income, race or any other difference is in fact based upon God's call to us. It is a part of our doctrine to help the whittled, the orphaned, the immigrant, the hungry and the homeless.

And as you know, Pope Francis recently in his visit here has been reaching not only to Catholics, but inviting

everyone to reach out to those most in the margins. We see that as our mission as well. And as the Bishop of Albany, I know firsthand that many Catholics in the Capital District need the services that you work so hard to provide for the poor even throughout New York.

Thanks for the funding that the Judiciary has so wisely provided. The Capital District is blessed to have several civil legal service providers that ensure that the poor, the disabled and the victims of domestic violence can access the legal services that they need to obtain in justice.

We're a social services organization, Catholic Charities, the Diocese of Albany works closely with the Legal Aid Society of Northeastern New York in serving the homeless as leaders in the Albany County Homeless Coalition, and together we provide housing, social services and essential civil legal services to those who are without a home.

We are also familiar with the good works of the Legal Project, the Empire Justice Center, and the Albany County Bar Association, all of whom provide much needed civil legal services to the poor and vulnerable in Albany. And we are indeed blessed here in the Capital District to have such choices to help our neighbors meet their essential legal needs.

However, hearing as I do the remaining unmet need for civil legal services from our parishioners, clergy and



parish leaders, we know that more needs to be done. Given the cost-effectiveness of an investment of legal services as \$6 returned to New Yorkers for every one invested means more than that. In fact, makes great sense to work together to meet the unmet need of civil legal services.

I agree wholeheartedly with his Eminence Cardinal Dolan who told you last year the very core of the call to the legal profession is a call to noble service. Your leadership in making the noble service for our low income sisters and brothers reality is a gift indeed. Thank you for supporting the poor and needy of the Capital District and indeed for all of New York.

CHIEF JUSTICE LIPPMAN: Reverend, let me ask you how on an everyday basis does legal services affect the flock, the people coming into the local parishes, what are their daily problems that we say gee we need to get a legal service provider to help you? What kind of things do they come in with and does it relate to the very basics of life?

REVEREND SCHARFENBERGER: Absolutely. And one of the things I often said is that when I came to Albany -- as you know, they sent me up the river from Brooklyn where I had my pastoral ministry, and one of the things I feared most was that I wouldn't be able to be a pastor anymore. Fortunately, one of the things I like most is getting out of the office and getting into the parish and into the communities. And

frequently I'll meet with people, maybe it will be a confirmation, which isn't much different than what any other pastoral person does, people will come up to me, it could be an immigrant family, it could be somebody that is experiencing domestic violence, it could be somebody that is in a difficult marriage situation and they may come to me asking for a church annulment, but at the same time they may be in a civil process as well, or may just simply be a question of somebody that is trying to get the funds together to send their child to school. I can't tell you how many times that there is an interplay between a person's spiritual needs and their need to have --

CHIEF JUSTICE LIPPMAN: What do you do when you don't have a legal service provider that --

REVEREND SCHARFENBERGER: It's difficult. I look for attorneys that I come to know who are very generous with their service, will do pro bono work. Recently, as you know, we had a Red Mass last week, an opportunity for attorneys to get together with all faiths. It was a great opportunity to speak with them, you know, and to share the concerns that I hear from the people in the community. But often it's person to person. And knowing that there is actually an agency or society which will kind of cull together the resources that we have in the area makes it so much easier. That there's a number I can call say look here's a family in this area who

needs some help, who can you recommend?

HONORABLE KAREN PETERS: Who do you turn to when you have a parishioner with an immigration problem? It's my understanding there's a paucity of --

REVEREND SCHARFENBERGER: You're not kidding.

HONORABLE KAREN PETERS: -- opportunity here to deal with those challenges.

REVEREND SCHARFENBERGER: That's one of the reasons that I decided to study law myself about 30 years ago, because I felt there was a lack of that need. Because even though I was a priest in the parish, trained to do pastoral work, I didn't often have the legal services available to me.

But what I have found too is that thank God being a part of that legal community I've been able to meet fine individuals. But you want to know somebody personally sometimes too not just give them a card. So it's a plying sort of thing, it's really, really difficult thing to find an immigration attorney.

HONORABLE KAREN PETERS: And that issue can affect literally the life of an individual here in this community because they could end up having to leave.

REVEREND SCHARFENBERGER: That's right. And you're dealing with people that themselves are already vulnerable because of their fear and their anxiety, so they may be able to put them in touch with somebody they understand.

And also the language too. Many of our immigrants may not be fluent in English. So having somebody that's bilingual that's key.

CHIEF JUSTICE LIPPMAN: Thank you, Reverend. I'm going to ask our next two witnesses to testify. I mentioned Helaine Barnett, the Chair of the Commission. And Anne Erickson is here from the Commission, and Lillian Moy is here, who has been so helpful with this program. And Camille Enders and Adriene Holder and Raun Rasmussen are all members of the Commission, including Judge Fisher, who I mentioned before. So we're so pleased the Commission members are here.

Let's go on to Rabbi Dennis Ross who will read the testimony of Rabbi Scott Shpeen. Is that correct?

RABBI ROSS: That's correct, Judge.

CHIEF JUSTICE LIPPMAN: And that's from Congregation Beth Emeth. Rabbi.

RABBI ROSS: Thank you very much. Good morning Chief Justice Jonathan Lippman, the Honorable Karen Peters, the Honorable Lawrence Marks, and New York State Bar Association President-Elect Claire Gutekunst.

It's a privilege to have the opportunity to speak with you about a cause we all care about so deeply, justice for all New Yorkers, and I'm honored to join Bishop Scharfenberger and Pastor Traynham in sharing with you the support of the local religious community for this cause. As

you said, I serve with Rabbi Shpeen at Congregation Beth Emeth here in Albany, New York. Rabbi Shpeen asked me to extend his regrets, he was called away at the last minute.

Congregation Beth Emeth is the largest reform congregation in the Capital District. Our mission is to worship God in accordance with the Tenets of Reform Judaism, and that includes the reason why we're here today. That is specifically bringing near the teaching of God to the Torah by emphasis on fairness, human responsibility and social justice.

The Capital District is blessed with several civil legal services providers, including the Legal Aid Society of Northeastern New York, the Empire Justice Center, the Legal Project of the Capital District Women's Bar Association, the Albany County Bar Association, and Disability Rights New York.

Collectively, these legal services providers help to bring justice and fairness to the lives of low income and needy residents of the Capital District. Their work in assisting the homeless and near homeless, victims of domestic violence, and the disabled is both significant and necessary for the benefit of our entire community.

Congregation Beth Emeth has a Social Action Network which strongly supports the work of these civil legal service providers. The mission of our network is to spearhead the

commitment of our Congregation Beth Emeth to Tikkum Olam, which is the Hebrew term for improving the world and making our world a better place for all who live here, and to espouse the social justice values of Reformed Judaism.

Our efforts to repair the world include the operation of a weekly soup kitchen in downtown Albany. We run this kitchen 52 weeks a year serving meals to the community members who need a hot meal and a place to go. Beth Emeth also has a community vegetable garden, an ongoing food collection program which allows us to provide direct support to the same low-income people our local legal service providers serve. Our congregation also provides leadership and support to all of the local legal services providers.

Congregation Beth Emeth's members honor and respect the service provided by the lawyers and volunteers of the Legal Aid Society, the Legal Project and other providers. They do such wonderful work. And their commitment to service and social justice resonates with me as a Rabbi. Our Torah teaches and reiterates -- now there's just over 13 commandments in our Torah. There is one repeated more than any other, which is to love and protect the widow, the stranger and the orphan. And that commandment is reiterated that we're responsible not only for providing for the powerless, but to go and advocate for them, which is what we're doing here today.

We also as pastors provide counsel and support to those in need facing real life situations. And that experience as a pastor is a great teacher supporting why I and my clergy colleagues are here with us today.

So on behalf of Rabbi Shpeen and myself, I want to applaud your efforts creating and preserving and increasing funding to meet the essential needs of every New Yorker. Thank you very much.

CHIEF JUSTICE LIPPMAN: Thank you, Rabbi. You talk about the concept of Tikkum Olam, to repairing the world. Part of what this hearing is about is public funding and part of it is about inspiring lawyers to do pro bono work. Meaning helping with legal representation for free, without compensation. Would you say that kind of an issue is where we say to them that it's their moral responsibility, it's their obligation as members of the bar, you say that's kind of parallel to what you're talking about when you talk about the Tikkum Olam and every person and obviously particularly a lawyer in this context is responsible for helping others and serving others?

RABBI ROSS: Yes, well, you know, where I come from the door to the spirit opens outward, and from a religious perspective I think it's important for each person to make the world a better place. Sometimes I'll talk to people and say well it's my responsibility in life, my religion says to

care for myself and I don't want to hurt anybody. And from a Jewish perspective that's inadequate because we're supposed to open that door to the spirit by turning outward and helping others.

CHIEF JUSTICE LIPPMAN: Thank you. Anything else? Okay, next we're going to go to Reverend David Traynham who is associated with Elder McKinley B. Johnson, Senior, the pastor of St. John's Church of God in Christ; District Superintendent of the Tech Valley District, Church of God in Christ. Reverend.

REVEREND TRAYNHAM: Yes, thank you for the opportunity to speak before you this morning. I do want to acknowledge Chief Justice Jonathan Lippman, Honorable Karen Peters, the Honorable Lawrence Marks, and the New York State Bar Association President-Elect Claire Gutekunst.

I not only am going to be reading the testimony of Pastor Johnson this morning, but I myself am a pastor here in the South End of Albany, born and raised in Albany, graduated through the school system of Albany, and currently pastor a church for 25 years still in the South End of Albany.

I also serve on various community committees: Board of directors for the Albany County Land Bank, the Mayor's Equity Advisory Committee, and I am also serving on the Albany Law Enforcement Assisted Diversion Project. So I'm speaking from the perspective of justice and mercy because



I do know that is what is being offered here through the services of the Bar Associations.

It's an honor to have an opportunity to speak to you about the cause that touches both of us deeply, Pastor Johnson and myself, he as the pastor of Greater St. John's Church of God in Christ here in Albany, New York. St. John's was founded in Albany in 1952. In 2013 their Family and Community Worship Center opened at 74 Fourth Avenue in the South End. From their current home they serve God and they serve mankind to the best of their ability.

Reverend Johnson considers it a privilege to have served as Senior Pastor of St. John's for many, many years. In addition, he serves as an advocate for the Albany community by also serving on boards of several community organizations. And because of this he's well aware of the importance of access to free civil legal services for people who cannot afford legal counsel.

With the church located in Albany's South End it's no secret that this area is one of the most impoverished areas in the City of Albany and in the State of New York. The members benefit greatly from local legal service providers such as Legal Aid Society of Northeastern New York, the Legal Project, the Albany County Bar Association, and the Empire Justice Center.

Our church members may need advice or

representation to solve the threat of homelessness due to an eviction or a foreclosure; a family dispute, including the threat of violence or abuse; or an unfavorable consumer contract to rent furniture or personal possessions. In the South End there is a 33 percent rate of poverty. Many churches, including mine, are very active in the neighborhood which promotes a sense of community and involves many long-term residents.

While low-income housing projects define much of the community, we also have very old building stock that is difficult and costly to maintain. This leads to dilapidation, disrepair and many sicknesses and disease, including lead poisoning and mold, that is often not identified or remediated in a timely manner.

Conversely, almost twice the percentage of households in the South End have incomes of less than \$20,000 per year when compared to the City of Albany as a whole. This breeds problems of lack of food and clothes, increased crime, child abuse, as well as mental, sexual and physical abuse. Drug and alcohol addictions, unemployment or underemployment, including the risk of homelessness, these are the types of problems our members bring to us on a daily basis.

We offer spiritual support, but many issues are beyond the scope of our expertise, and we refer our members

to our local legal services providers, such as Legal Aid. Legal Aid's Homelessness Prevention Project and its Foreclosure Prevention Project are among the most needed services. The Legal Project representation of victims of domestic violence are also urgently needed. And Legal Aid services to the disabled help the most vulnerable in our church. We know that the lawyers at Legal Aid and other providers are skilled at protecting the rights of our members. We also know that they cannot meet the needs of those who are underprivileged and unfortunate people who have legal problems without more resources. And because of this urgent unmet need for these civil services, we hope that you will continue to provide and expend the funding for civil legal services.

If Pastor Johnson or I could be of any further assistance to you, please do not hesitate to contact either he or I, we make ourselves available to you. And again, thank you so much for the opportunity to speak.

CHIEF JUSTICE LIPPMAN: Thank you, Reverend, we appreciate it. Let's dwell a little bit on what you do and what we're trying to do here. You heal the soul, you provide spiritual support. To the average person it would seem like there's no real connection to this idea of lawyers representing people. Can you do your job without the support of people who have this legal knowledge? Can you totally do

your magic, your healing, your spiritual role when you don't have the tools to help you in terms of these issues that require legal representations?

REVEREND TRAYNHAM: When I was a child one of the things that my father told me oftentimes is that the right tools makes the job easier. And I don't believe that any one of us has all the tools necessary to meet all the needs that our communities face. When we look at the South End of Albany, as I just read, you can see there's a plethora of needs that have yet to be met. And we have oftentimes referred people to the Legal Aid Society and other organizations that's represented here. But the reality is that without these legal services a lot of the people that come to us that we feed spiritually, that we also try to meet their social needs and meet their mental needs, a lot of the services that they need are going to go unmet. The legal services for somebody that's abused is paramount for them finding wholeness and finding the real healing. So really the bottom line I believe, Judge, is the fact that we're both offering healing to the entire matter.

CHIEF JUSTICE LIPPMAN: I agree with that. I think they complement each other.

REVEREND TRAYNHAM: Yes, they do.

CHIEF JUSTICE LIPPMAN: Any other questions?  
Judge Peters.

HONORABLE KAREN PETERS: I understand that the unmet needs are massive and clearly we need more lawyers providing services to the individuals that you serve. But if I were to ask you what was the most significant context they would need, could you tell us? Is it foreclosure representation, is it immigration problems, is it domestic violence? What do you think is the most significant need?

REVEREND TRAYNHAM: The bigger issue is the domestic violence piece. We see that more than almost any of the others. And if we're able to deal with that and deal with it in a whole manner, whereas we're continuing to give them the services necessary, but also legal representation for those who are actually going beyond just a pat on the head, they need -- some people are almost brought to the point of death, and we do need the court system to back it up.

But also one of the things we dealt with over the years is the immigration issue. Especially in the South End of Albany we're finding we have more and more immigrants from the nation of Burma coming in. It's a melting pot. You know, if you drive up and down the streets of Albany it's changed so much over the last 60 years since I was a child.

Back then it was the various ethnic groups that were Caucasian, the Italians, Jewish, French and German, African American. It wasn't black and white, it was those various ethnic groups. But today you drive down the street and you

find that there's Hispanic, there's also people from Jamaica. You can't identify one group and say this is in its entirety.

And so going back to your point, yes, immigration is becoming an even bigger issue as time goes on.

THE COURT: Any other questions? Judge Marks.

HONORABLE LAWRENCE MARKS: Just in your experience, Reverend, is the demand and the need for legal services been increasing from what you've seen in recent years?

REVEREND TRAYNHAM: Yes, one hundred percent, without a doubt, especially with more and more people moving into the South End of Albany. As we know we're going through a Renaissance here right within our own community. We have the Campus Center, and that's bringing more and more people, more and more attention to our specific community.

However, the people that have gone out of the actual community, the neighborhood, we find that there are more people coming in and as they come in they also have their needs that need to be met, and it's only going to be met, once again, as we work together to get that done.

CHIEF JUSTICE LIPPMAN: Rabbi, Reverend, you find the same thing, that there's an increased need over time?

RABBI ROSS: Yes. Specifically as I hear people speaking, when somebody comes to their pastor for counsel this may be the first point where they are reaching out to the

social network for help. And that's number one. And number two, it's our responsibility to provide holistic care. So if there is an incidence of domestic violence there's health care concerns, there may be child care concerns, there could be housing concerns, and legal support is critical to that holistic piece.

And it's interesting you can say to somebody you got to see a doctor and you got to look after your kids, but if you say to somebody you need a lawyer, there's often a -- it's a hurdle for them to get over for some reason. So in addition to needing the services, they've got to get over the emotional hurdle sometimes to say I need the report. So really legal help requires special attention.

CHIEF JUSTICE LIPPMAN: Reverend, same experience?

REVEREND TRAYNHAM: It's all about relationships. And so many times, as my father said to me, fear of new immigrants reaching out, particularly to somebody in the legal profession and breaking down that barrier, open up the door to have the conversation is much needed.

CHIEF JUSTICE LIPPMAN: Thank you so much. We really appreciate your being here. I think that again it's so obvious that the role that you perform in society, which is so vital, is buttressed by what we're trying to do with legal representation, those in need. And we thank you so much

for being part of this effort to help people and to serve people. Thank you.

REVEREND SCHARFENBERGER: Thank you.

RABBI ROSS: Thank you.

REVEREND TRAYNHAM: Thank you.

CHIEF JUSTICE LIPPMAN: The next person to testify will be Nina Olson, National Taxpayer Advocate, Internal Revenue Service. Thank you.

I also mention that Judge Sheila Abdus-Salaam has joined us, a member of the high court, and a member of the Permanent Commission on Access to Justice. Great to see you, Judge Abdus-Salaam.

Ms. Olson, you're on. Thank you so much for being here.

MS. OLSON: Chief Judge Lippman, Presiding Justice Peters, Judge Marks, and President-Elect Gutekunst, thank you for inviting me today to testify at this important meeting on expanding access to civil legal services.

As the National Taxpayer Advocate, I am tasked with identifying the most serious problems affecting all taxpayers. Low-income individuals however often face unique challenges that seldom affect the wealthy. Limited access to representation is at the core of many of these challenges. I spent most of my legal career spotlighting issues that affect low-income tax payers.



Prior to becoming the National Taxpayer Advocate I founded the Community Tax Law Project in Richmond, Virginia, in 1992 as the first independent non-academic Low Income Taxpayer Clinic or LITC in the nation. Along with a cadre of volunteer lawyers I recruited to assist, we provided pro bono help for low-income people before the IRS and in the United States Tax Court at a time when similar organizations were nearly nonexistent in most states.

I also served as chair of the Virginia State Bar Special Committee on Access to Legal Services for two years and chair of the American Bar Association Section of Taxation's Low Income Taxpayers Committee. I learned firsthand that a representative can have a significant impact in resolving a controversy with the IRS. The absence of representation meant not only that taxpayers sustained adverse audit and litigation outcomes, but many of the issues they faced were never resolved in the courts. As a result -- and this is very important -- entire areas of the tax law remained relatively free of judicial interpretation. The invisibility of low-income taxpayers also meant it may be more difficult for the IRS to appreciate the consequences of its administrative practices or procedures with respect to low-income taxpayers, and therefore would be unable to accommodate their needs.

Access to representation can significantly impact

the outcome of tax cases. For example, in a review of the top 10 most litigated federal tax issues during the period June 1st, 2013, through May 31st, 2014, pro se taxpayers prevailed in whole or in part 10 percent of the time, while represented taxpayers prevailed in whole or in part 26 percent of the time, more than double. A 2007 Taxpayer Advocate Service research study analyzed how taxpayers with and without representation fared after undergoing an audit of the Earned Income Credit Plan. The study found that taxpayers with representation are nearly twice as likely to be found eligible for the EITC as taxpayers without representation during the audit and that taxpayers without representation were more likely to end up owing almost twice as much additional tax than taxpayers with representation.

Now, the EITC is one of several refundable credits and social programs administered through the tax code that impacts many New York State residents. It can be up to \$6,000 per year for a low-income family. In 2014 fiscal year over 25,000 or 5.8 percent of the EITC audits conducted by the IRS were of New York State taxpayers and over 98.5 percent of those New York taxpayers audited were unrepresented.

Another essential function of TAS is administration of the Low Income Taxpayer Clinic. The LITC Program Office awards matching grants to qualifying organizations to operate clinics that represent low-income

taxpayers in disputes with the IRS and to educate individuals for whom English is a second language about rights and responsibilities as U.S. taxpayers. The LITC must provide services to taxpayers for free or for no more than a nominal fee.

Beginning in 1999, Congress appropriated funds annually to provide matching grants to organizations that operate LITCs. Since that time, the LITC program has experienced significant growth in the number of clinics, the amount of funds awarded, and the geographic area of coverage. In its initial year, the IRS awarded grants totaling less than \$1.5 million to 34 entities located in 18 states and the District of Columbia. I'm proud to report that in 2014 the IRS awarded nearly \$10 million in grants to 131 grantees located throughout the United States. Nearly every single state and Puerto Rico.

Today there are 10 LITCs alone in New York State. In 2014 these clinics, these New York clinics, represented over 1100 taxpayers in tax disputes and almost 10 percent of their case inventory involved tax court litigation. They obtained about \$290,000 in refunds. And most importantly, decreased taxes, penalties and interest owed by almost \$2.6 million. This is not chump change for a low-income taxpayer.

As a result of the annual appropriations which can award up to \$100,000 grant per year per clinic, many Legal

Aid and legal services programs have expanded their services to include tax representation. And this is important particularly in recent years because the IRS's responsibilities have shifted not just in collecting tax, but in distributing government benefits, including the Earned Income Tax Credit, the Additional Child Tax Credit, the American Opportunity Tax Credit, and now they've moved into health care via the Premium Tax Credit and the Advanced Premium Tax Credit.

The availability of these credits unfortunately have also created an opportunity for unscrupulous persons to act as tax return preparers and prey upon vulnerable taxpayers. In response, the IRS has stepped up enforcement through correspondence exams and through using filters to freeze questionable refund claims. Consequently, these efforts by the IRS may delay legitimate refunds to eligible taxpayers. And because low-income taxpayers may not understand notices from the IRS or may lack access to the types of documents that the IRS requests, they may be denied benefits to which they were entitled. That is certainly where representation plays a very important role in navigating this process.

Now, just to give a little profile to low-income taxpayers, which are also the people who need civil legal services, we focused on 250 percent federal poverty level

because that brought in the working poor. An analysis of 2012 U.S. Census Data revealed that the most common occupation for low-income worker, people making less than 48,000, which is about 250 percent for a family of four. 250 percent federal poverty level. These include nurses, retail clerks, truck drivers, office workers, janitors, cooks, managers, teachers, cashiers, accountants and bookkeepers, customer service representatives, laborers, housekeepers, and child care providers. They also include retirees and disabled individuals who live on fixed income. And others are immigrants who have never before had to file a U.S. tax return. And just to be clear, under the federal system if you are a resident of the United States, regardless of what your green card status is, you have an obligation to report your worldwide income to the United States federal government through income tax return. So even if you're undocumented and you're working you still have to file your income tax return.

The defining trait of this population however -- scarcity of financial resources -- brings with it a myriad of hardships that present distinctive challenges for tax administration, the legal system. Low-income taxpayers are more likely to face limited English proficiency, low literacy rates, physical or mental disabilities, lower education levels, unstable job prospects, substandard

housing situations, lack of affordable child care, unreliable transportation, limited access to banks, and lack of access to competent and affordable tax return preparation services.

Now, in order to better understand the needs and circumstances of taxpayers eligible for assistance from low-income taxpayer clinics I commissioned a survey to gather information on eligible taxpayers' awareness and use of LITC services, because if they don't know about the services how will they ever get them. Only about 30 percent of all eligible taxpayers in the United States were aware of an organization outside the IRS that helped taxpayers with IRS problems.

After these taxpayers were read a description of the LITC nearly 5 percent of all eligible said they actually contacted a clinic at one time or another. Interestingly, over 10 percent of Spanish speakers reported they had used a clinic. Conversely, about 95 percent of all eligibles and nearly 90 percent of Spanish speakers had not previously used the services of a clinic. Clearly we have more to do to get the word out about these problems. In fact, about two of every three LITC eligible taxpayers stated they were likely or very likely to use an LITC if they had a need for their services and they would use the LITC for a wide variety of services, including tax court representation. All eligible taxpayers indicated that LITC should be advertised and in a

variety of media, including TV, radio, posters, direct mail. They all wanted a letter from the IRS telling them about this. And online.

They said that they would be willing to travel 20 to 30 minutes for a clinic, but when we asked them about their technological capabilities, and their comfort and preferences for discussing taxes and interacting with an LITC, the taxpayer said that they preferred in-person meetings and meetings at a community services center. About 75 percent of these eligible taxpayers preferred that. Only about 10 percent of all eligible taxpayers were willing to interact by computer. Interestingly, 10 percent said they were willing to do video conferencing. And of the Spanish speakers 20 percent said they were willing to do video conferencing. Overall, less than one in five were willing to communicate by email. They wanted to talk in person, whether it was face-to-face or by phone.

Now, one important aspect of LITC representation is the clinics' participation in the U.S. Tax Courts calendar calls. More than 75 percent of U.S. Tax Court cases are pro se. Let me repeat that. More than 75 percent of their cases are pro se. So prior to each court calendar the Tax Court sends out letters from LITCs in the area informing the petitioner about the assistance available from them. At the opening of the Tax Court sessions throughout the United States

LITC representatives are on hand to meet with, consult, negotiate and even enter an appearance on behalf of unrepresented low-income taxpayers. Many cases have been settled without trial at the calendar call through the assistance of LITC staff and volunteer attorneys. And the LITCs are also then able to assist petitioners who may end up owing a liability and thus interact with the IRS collection function.

In June 2013 the IRS Office of Chief Counsel initiated quarterly conference calls with LITC representatives to discuss ways to improve the Tax Court calendar process, including how to make the pretrial process more efficient and strategies for encouraging more low-income taxpayers to take advantage of the LITC services.

Based on suggestions from the working group IRS Chief Counsel sent letters inviting fifteen petitioners with an upcoming trial date to attend pretrial conferences at its Los Angeles offices on August 21st, 2015, just a few months ago. Four petitioners called in advance to reschedule their conferences. But of the remaining eleven, five actually attended the pretrial conference. Of those five, three resolved their tax court cases at the pretrial conference, thus they achieved a 45 percent attendance rate, not counting those who rescheduled, and a 60 percent resolution rate.

Now, taxpayer rights are central to voluntary



compliance. If taxpayers believe they are being treated, or can be treated, in an arbitrary and capricious manner, they will distrust the system and be less likely to comply of their own volition. By contrast, taxpayers will be more likely to comply if they have competence in the fairness and integrity of the system.

In order to build awareness of taxpayer rights, I spearheaded an initiative to urge the IRS to formally adopt the Taxpayer Bill of Rights, and I'm proud to say that on June 10th, 2014, the IRS adopted TBOR. Now, one of those core rights is the right to retain representation. And our website links to the Tax Court site, as well as to our LITC website, which lists all LITCs by location and languages served.

In order to secure access to justice, it is essential that government entities educate the public on their rights to protest government action, and make available pro bono representation to seek relief. The trend towards centralization and automation of government functions leads to a dehumanization of government processes that makes the public feel disconnected and creates additional barriers to engagement with government agencies. If individuals do not engage with their government the government will act on inaccurate and insufficient information, thus leading to endless cycles of distrust. And this risk is particularly

acute for the low-income population.

But increasing access to justice cannot be a one-sided effort. As we have seen in the tax world the Judiciary, Executive agencies, the Legal Aid and legal services organizations must cooperate with each other to bring much needed assistance to low-income persons. Without this corporation and assistance, our system of laws is itself impoverished.

So thank you for this hearing today on such an urgent and important issue.

CHIEF JUSTICE LIPPMAN: Thank you for your testimony. Let me just ask you one question. You're talking about our tax system and poor people. How does it translate in human terms when you have a taxpayer who really doesn't have a clue of what they're entitled to, what their rights are, they can't get or aren't aware of or are unable to get a legal representation or pro bono representation, what happens to them? What's the result when you don't give the average person of limited means some kind of legal assistance?

MS. OLSON: There are two results. One is that they will not be able to produce the documentation and navigate the IRS's processes or the court processes successfully to obtain money that they are entitled to under our law. For example, the Earned Income Tax Credit. Or with the Affordable Care Act, they may not be able to obtain health

insurance that they otherwise would be entitled to.

On the other hand, they may also end up with a liability so that that will keep them in the tax system having collection actions taken against them, including levies against their Social Security benefits for years to come.

CHIEF JUSTICE LIPPMAN: And they don't have a lot themselves.

MS. OLSON: They don't have it. And Social Security they make about \$10,000 a year and we take 15 percent of that. That can be food, that can be housing, that can be medicine deductible. I mean it can be a life or death matter.

CHIEF JUSTICE LIPPMAN: Thank you. Anything else?

HONORABLE KAREN PETERS: Is the most common place situation you see with regard to low-income individuals their failure to file a tax return at all?

MS. OLSON: Actually, no, they are actually very compliant with filing because of all these benefits that are now coming through with code. The problem that we see is often the unregulated return preparers because they can't go to CPAs or attorneys, they're going to people who are just setting up shop, and they have no requirement for continuing education and they prepare these returns that the taxpayers don't know any better and they just get dragged into our system and then we engage in what could be called a conversation for

the next five or six years with them.

CHIEF JUSTICE LIPPMAN: President-Elect Gutekunst.

MS. GUTEKUNST: Yes. Those are terrific programs. And I'm in that group of U.S. citizens who did not know that there were such services, so I'm delighted to hear about them. But New York is, as you know, a very large state, and this district is a very large district, and it sounds as if you're finding LITCs, particularly in the Albany area. Are there areas around the state, particularly the Third District, where there are not LITCs? And if so, is there a way for lawyers to help the low income in that area?

MS. OLSON: So the Low Income Taxpayer Clinics are spread out throughout New York. And we're actually engaging in an area of review we do periodically to encourage communities to create an LITC and we work with the congressional district. And we would be glad to work with the State Bar on this. There was one in Albany at the law school here and they stopped being an LITC, but they are student tax clinics so you do have the students representing taxpayers, they're just not receiving our funding. There is one in Syracuse. We have them throughout the state. And I am more than happy to work with you.

I would also note that taxpayers can also come to the Taxpayer Advocacy Service and by law I am required to have

one office in each state and I do have one in Albany here, and we're looking in the Syracuse area to maybe place one in Syracuse as well, one of my offices.

And the limitations are though that we cannot represent taxpayers. We can advocate. But there's something about representation and that zealous representation that makes all the difference, which is what we see in some of these studies we've shown where the represented taxpayer succeeds twice as often or twice as much as the unrepresented. Some of that could be the unrepresented have lousy cases, but even lousy cases deserve representation. You learn through that representation what the law is and what your rights are.

CHIEF JUSTICE LIPPMAN: Thank you. Judge Marks.

HONORABLE LAWRENCE MARKS: Quick question, Ms. Olson. Is there a role for non-lawyers here? Assuming representation if it gets to the Tax Court, that requires a lawyer, but what about the earlier stages, negotiating with the IRS? Much, if not most, advice about Internal Revenue Code and taxes is actually provided by non-lawyers, CPAs, accountants. So is there a role for non-lawyers?

MS. OLSON: Absolutely. And many of the volunteers at these clinics are accountants, CPAs and role agents who are licensed to take the course, pass an exam to represent the taxpayers before the IRS. And I would also note

paralegals -- we've often had paralegals. In my clinic we use paralegals to assist in preparing audit documents, walking the taxpayer through what they needed to gather up, and also translating. And we also partner with community organizations who are able to span the breach of languages so that if you're in a community with Somalis you can work with a Somali community who has a translator on hand and things like that.

If I may just add one point which someone was discussing earlier about domestic violence. There's a tax aspect to domestic violence and when I started my clinic we particularly focused on that because we focused on the fact that after the abused spouse or partner may leave an abusive relationship, particularly if they're married what they will find is that there are tax problems from that marriage where income from the abusive spouse has been hidden, but it's a joint return, so just when the abused spouse is getting on her feet, you know, she's now socked with an IRS liability. And there's actually relief under the Internal Revenue laws called Innocent Spouse Relief, generically, that actually provides relief to taxpayers who didn't know about the income of their spouse. And we have worked a lot with domestic violence shelters to sort of pick up the pieces after the separation to make sure that they're able to get back up on their feet and they don't have another obstacle. Did you have

another question?

CHIEF JUSTICE LIPPMAN: No, thank you, Ms. Olson. I think your testimony demonstrates really how important legal representation is in so many different contexts, including the United States Tax Code that might not be so readily apparent. And I think when we say that the representation of funding goes to the necessities of life, there's nothing but necessary to pay your taxes. So thanks so much, greatly appreciate it.

MS. OLSON: Thank you.

CHIEF JUSTICE LIPPMAN: Next we're going to have a community services panel. I would ask Phillip A. Burse, Professor Sarah Rogerson, and Scott C. Jarzombek to come up. We welcome you all. I'm going to ask Mr. Burse, the Director of Operations, In Our Own Voices, to begin his testimony. And don't get nervous if you see the red light. A hand isn't going to come out and grip you, it just means you're nearing the end of your time. So Mr. Burse, you're on, go ahead. What does your organization do?

MR. BURSE: Our organization is In Our Own Voices, we are located in Albany, but we serve seven counties in the capital region. We work primarily with the lesbian, gay, bisexual and transgender community with a particular focus now on LGBT people of color who face additional barriers and challenges when trying to seek safety and support and when

navigating through society.

So as I mentioned, In Our Voices, the official mission of our organization is to work for and ensure the physical, mental, spiritual, political, cultural and economic survival and growth of the lesbian, gay, bisexual and transgender people of color communities. So that's the mission. We do that to develop leadership within our community and in order to strengthen our voices so we can effectively communicate from our point of view and help combat oppression and marginalization that happens in our communities.

For more than 10 years we have operated a clinic to provide legal assistance to our clients. Our Ask A Lawyer Legal Clinic offers free, private and confidential legal services for eligible LGBT individuals on civil issues related to name changes, domestic disputes, discrimination, family law and more.

CHIEF JUSTICE LIPPMAN: Mr. Burse, who funds that service?

MR. BURSE: Some of it In Our Voices has funds for and then we partner with the Legal Project and the Legal Aid Society of Northeastern New York, as well as two private attorneys, Anne Reynolds Copps and Geri Pomerantz.

CHIEF JUSTICE LIPPMAN: So you collaborate with legal service entities and with the private bar?



MR. BURSE: Yes. That was my next section.

CHIEF JUSTICE LIPPMAN: That's all right, you can read it or you can just say it.

MR. BURSE: I'm off the books.

CHIEF JUSTICE LIPPMAN: Good. Have a nice exchange informally. Go ahead.

MR. BURSE: We've had the clinic for ten years. I've been one of the leads on the clinic for the last eight years I've been with In Our Own Voices. We provide an array of services to our communities as I mentioned.

CHIEF JUSTICE LIPPMAN: How does it change their lives?

MR. BURSE: It helps reduce, like I said before, reducing barriers and access to care. The majority of individuals accessing legal consultations are survivors, victims of domestic violence, and having them being threatened to be evicted from their house because their partner was abusive, which is illegal. Not knowing their legal rights and options which are available to them, especially with our trans community as well. Name changes, helping get their documents --

CHIEF JUSTICE LIPPMAN: What would be the consequences if they couldn't get your help, the community that you serve?

MR. BURSE: Well, we see the consequences on a

daily basis because our communities still are reluctant to access our service, whether it's law enforcement, legal, et cetera. Those are depression. Disproportionately by depression, civil matters, substance abuse, not having access to services, homeless issues, and in the lesbian, gay community as well. So there are a lot of negative consequences.

CHIEF JUSTICE LIPPMAN: Would you say aside from the human trauma that goes into each individual's case, that society suffers when you don't have legal representation?

MR. BURSE: Of course, definitely.

CHIEF JUSTICE LIPPMAN: For people in need?

MR. BURSE: Definitely. It impacts our trust in the system that's supposed to support and protect us.

CHIEF JUSTICE LIPPMAN: Any questions?

HONORABLE KAREN PETERS: What's your greatest commitment in the legal services field?

MR. BURSE: Well, there's two. One is training technical assistance for attorneys and other providers. We provide legal assistance consultation. We are seeing a lot of ground being made in equity and quality for our communities, and that change may be done legally, but it doesn't change people's minds and hearts without proper training and education. So I think the technical assistance, how do I provide competent costly related services to members

of the LGBT community. A trans individual comes how do I know which pronouns to use, I don't want to say the wrong things, or brush up on legalese and what laws are relevant and what laws are changing.

HONORABLE KAREN PETERS: It's an ever-changing landscape.

MR. BURSE: Yes. In 2013 President Obama signed the Violence Against Women Reauthorization Act which explicitly included protection for LGBT individuals which hadn't previously. So now any organization that's receiving federal funds that's providing services to victims of crime have to be inclusive. Before you would see the battered women's shelter or we only accept women and children. Now they have to be more inclusive and open the doors providing equitable services. So a lot of attorneys that we're working with aren't aware of that. So that's just one element of it.

Laws are changing daily, so just having that access to the training and technical support is I think a huge area of unmet need. And secondly, the homelessness factor, not being aware of the laws that protect victims/survivors of domestic violence.

CHIEF JUSTICE LIPPMAN: Thank you, Mr. Burse. Let's go to Professor Sarah Rogerson who is the Director of Immigration Law Clinic and Director of the Law Clinic and Justice Center at Albany Law School. Professor Rogerson,

what population do you serve through the clinic?

MS. ROGERSON: So through my clinic specifically we review, serve undocumented immigrants. It's a very new clinic, it was just recently funded through the Legislature in the last fiscal year. This is our first semester of students, and I have some students here observing and they will be reflecting on the lawyer's role in providing access to justice.

CHIEF JUSTICE LIPPMAN: Are they doing pro bono work essentially?

MS. ROGERSON: They are, yes. In the clinic overall we do assist individuals with tax cases as was mentioned by Ms. Olson. We also assist individuals who are facing a terminal illness, such as AIDS, cancer. Individuals who need assistance with end-of-life documentation. Victims of domestic violence.

Originally the Immigration Law Clinic combined with the Family Violence Litigation Clinic. With this new funding we've been able to separate the two of them. But obviously there's a convergence there, Immigration Law Clinic was born of the Family Violence Litigation Clinic. So we offer those services all in-house, direct legal services.

We also have a prosecution clinic where the students are placed in DA's offices to prosecute domestic violence offenses. And the students, we focus on the

intersectionality of these issues. Any client who walks into any of our clinics may be certified on a multitude of our clinics. We've had individuals come in seeking tax assistance and a student who is exposed to domestic violence in a clinic notices that something isn't right in the counseling session and calls in a student from the Domestic Violence Clinic and said I think there's an issue here.

CHIEF JUSTICE LIPPMAN: Let me ask you a question, particularly about clinics and the law schools. And you know in New York State we have the 50-hour requirement that a law student gives 50 hours of pro bono work and so much of it is reflected in the clinics in our different law schools.

Some of the criticisms of the 50-hour rule when we first did it were that gee the students really don't know enough yet how can they help people if they're not really lawyers yet, it's kind of the blind leading the blind idea. Do you think that has any validity? Can law students doing pro bono work really help human beings in need?

MS. ROGERSON: I've seen them do it. So while there is validity to that statement in terms of the students' legal training, right, some of those students --

CHIEF JUSTICE LIPPMAN: It's not complete.

MS. ROGERSON: It's incomplete. But I tell my students all the time they know well more than they think they do when they walk through the door.

I'm heartened to follow that ecumenical panel. My father is a Lutheran minister and he serves a congregation in Toledo, Ohio, in the inner city. And also the vice president had a Lutheran service in northeastern Ohio.

So I was steeped in the idea of the role of a lawyer and the role of a person in society in helping others. And a lot of students walk through our doors saying that's what they want to do, they want to change the world, they want to impact the lives of people around them. So they come into the clinic when they're permitted to in their second year after they've had their first year of courses and they start new. They encourage first-year students after their first semester to look at the pro bono groups that have formed.

And I am the faculty advisor for the Immigration Assistance Project which was born from the 50-hour requirement and students getting together to say well before I get into the clinic I would really like an opportunity to get here with you. And so we worked with the legal service providers, the network of legal service providers that I mentioned in my testimony, the Capital Region Immigration Collaborative, and the students and the law school and legislators and the Judiciary to come together and to think about these issues in a way that is efficient and effective, and to help us raise our voices in terms of the areas of need that all of those stakeholders can best address.

CHIEF JUSTICE LIPPMAN: Would you say that everyone really -- this is such an interesting issue that's been raised that it may seem so silly, you know, everybody helps according to their own skills and abilities and where they are. I mean we don't ask a first-year law student to go represent pro bono a murder case in the deep south or somewhere on a pro bono basis. But there's so many things, and in fact even as you know in New York State having non-lawyers trained in a particular legal area could be so helpful. But your basic answer is that students can be very helpful.

MS. ROGERSON: They can. And two things on that too you reminded me of, in the immigration field specifically the Board of Immigration Appeals, which is the appellate level just above the immigration level, they actually can authorize individuals who are not lawyers to provide certain types of representation. And the Legal Project was able to certify one of their paralegals to be a BIA credited representative.

Students also -- I'm glad that you spoke to the skills that they do bring to the table. We teach in clinic transferable skills. You may not go out and do immigration legal services to the poor as I did after practicing honestly for a couple of years to help chip away at that student loan debt, but if you choose not to go that path that's fine, but we're going to give you the skills that you need to take on

these cases pro bono after graduation. And those skills are things like client counseling, communication skills, drafting, how to communicate effectively, which I hope I'm doing today.

So these are the types of things that we impart to the students before they're able to dig in one-on-one on that representation where the substantive knowledge really is important. And the Immigration Code has been likened to the Tax Code in terms of complexity and levels of detail and knowledge required, so we're very careful to give them lots of guidance.

And to give you a real appropriate example of that the students in the Immigration Assistance Project who are a mix of second semester first year students all the way up to graduation, those students got together and talked to Albany County Sheriff Craig Apple and said is there something that we can do to reach those immigrants who are detained in Albany County?

So Albany County Jail is the only facility that receives federal funds to house detainees in the immediate area. Batavia is one. There are some further upstate, but in our area Albany County Jail is the only one that houses them. It's usually on a temporary basis. Sometimes it's women and families who are being transported from Texas or Louisiana or Washington, they come from all over, and they're



there for a period of time, three to six weeks, and the students said if we could get in there and do some screening and see if there are people who are deserving of representation then we can connect them with our community service providers and partners in this effort.

And they're the ones, by the way, who are recruiting attorneys to supervise the students while they're at the jail pro bono. The Legal Project has been very key in making sure that the students have adequate supervision while they're there. And we've been able to connect people at a time that's very dark in their life, at a time -- you talk about providing legal services to folks who are facing criminal charges, the violation of our immigration laws and codes so often has penalized criminally.

Women and children are housed in facilities meant to house adults. And we saw a lot of that in the 2014 influx of youth from Central and South America. Those are our clients. Those are who my students are representing right now. And those are the children that need our assistance and we're the only clinic that is able to do it.

CHIEF JUSTICE LIPPMAN: And let me tell you I think that -- not to beat this to death, but I think it's the students who above all get the importance of pro bono work. And while we had some controversy when we first did the program the students have embraced it so wonderfully because they feel

it, they get to understand the great high that you get from helping people. I think our law students in New York are just spectacular, here at Albany Law School and around the state. Anything else for the Professor?

HONORABLE KAREN PETERS: I have something to say. Having served as that justice who swears in all the clinic students at your law school, I'm just really grateful for all the great work you do.

MS. ROGERSON: Thank you.

CHIEF JUSTICE LIPPMAN: So now let's go to Scott Jarzombek, the Executive Director of the Albany Public Library. How does the library fit in with the whole idea of legal services?

MR. JARZOMBEC: Well, the Albany Public Library's mission is to educate, entertain and most importantly empower, and we do that by partnering with outside organizations providing space, shepherding people to programs. As a librarian I can tell you there's not a day that goes by where we're not asked a legal question. And even though we have a master's in library science, we do not have a master's in law.

CHIEF JUSTICE LIPPMAN: Because the library is just a gathering place for people --

MR. JARZOMBEC: It's an information hub for the community.

CHIEF JUSTICE LIPPMAN: They don't know exactly what they might need and you can help with whatever --

MR. JARZOMBEC: Their inexperience is what we typically point them in the right direction.

CHIEF JUSTICE LIPPMAN: Right. What do you do with the legal questions?

MR. JARZOMBEC: What we do with the legal questions is we hope that we have a partnership with an outside organization that can lead them in the right direction.

CHIEF JUSTICE LIPPMAN: A legal services entity.

MR. JARZOMBEC: A legal services entity. And part of the mission of the library is to help small businesses. We're not an incubator we're like a green house for seedlings of new businesses. And when people start their own business there are so many questions. They can't afford legal representation, they don't necessarily know the tax codes. And one of the things I'm most proud of is the relationship we built with the Legal Project and how much help they provide.

CHIEF JUSTICE LIPPMAN: Who initiates it? Do you initiate it, do they initiate it? How does that work?

MR. JARZOMBEC: It's a partnership. We begin to talk and what the library does is we look for outside agencies that maybe needs space and need an audience and we know we can provide that space and audience.

CHIEF JUSTICE LIPPMAN: Any other questions?

This is a great crew and I think it shows a diversity really of this whole idea of how you help people, what are the collaborations, the partnerships, does it come from the students, does it come from the volunteer lawyers, does it come from the legal services entities. Sort of all being a part of a joint effort that in the end is to pursue justice. And I think that's what we all do in our different ways, whether it's the community organization, the public entities, the law school, we're all seeking the same thing, that people get the legal help they need on matters relating to the essentials and the very basics of life.

So thank you very much, we really appreciate your coming in, you really all have been terrific. Thank you.

So our next panel will be a client panel, people who have been helped by legal services. So we're going to ask Krista Russell, Maria Magdalena Ventura Lopez, and Gloria Schaffer to come down to the witness table. These again are clients who have been helped by legal services.

Let me first ask Maria Magdalena Ventura Lopez, a client of Worker Justice Center of New York, accompanied by Jeremy McLean, Esquire, to talk about how you've been helped by legal services.

MR. McLEAN: Thank you, your Honor. We want to thank the Court for this opportunity.

CHIEF JUSTICE LIPPMAN: We want to thank you and

your client for coming in.

MR. McLEAN: Our pleasure. I want to introduce my client, Maria Magdalena Ventura Lopez. Maria is a national of Mexico. At a very young age she was taken away from her family and forced into prosecution in Mexico and later in New York. She has a prepared statement that she would like to read in Spanish and then I'll read it in English, if that's acceptable?

CHIEF JUSTICE LIPPMAN: Sure, go ahead.

(Maria Magdalena Ventura Lopez read her testimony in Spanish.)

CHIEF JUSTICE LIPPMAN: Thank you. Counselor.

(Jeremy McLean, Esq., read Ms. Ventura Lopez's testimony in English as follows:)

Hello, my name is Maria Magdalena Ventura Lopez. I'm a victim of human trafficking, and I wish to speak about what I have suffered in my past life. Two years ago my life was completely different from my life now. Before, my life was full of fear, terror, worry, and physical and verbal abuse. This anguish was caused by a single individual who pretended to take care of me. We were a couple and he was the father of my son. He used my son and our relationship to force me into prostitution. He took everything from me: My son, my economy, and my freedom. I lived like this for seven years beginning when I was taken as a 16 year old.

I met this person in my hometown, Cardenas, Tabasco, in Mexico. A few days after meeting him he took me away using me as a business commodity. After seven exhausting years of mistreatment and abuse from him and from others who sexually abused me, I decided to abandon him, get far away and speak out against this man. With much strength and courage I was able to escape and now here I am with a new life, far away from that old lifestyle, and just beginning to recover who I am after so much suffering. Now I have my children with me and I have by my side a person who loves and appreciates me as the woman that I am.

I have been able to do this primarily through support of my lawyers and advocates of the Worker Justice Center of New York and the International Institute of Buffalo. They have constantly aided me in my progression, helping me with everything from a place to live and food to eat, to studying English, and even with the recovery of my son whom I have not seen in four years and had not heard from in more than two years. I thank God and these advocates that I can now see my son in photographs, as he is now with my parents in Mexico, and speak to him by telephone as I wait for the necessary paperwork to be done so that he can be here with me.

I want to share my experience with young women and other people who might be victims as I was. Speak out, and

do not be afraid to break the silence. Open your eyes and do not let yourself be deceived and abused by those who speak of a rose-colored world that will never exist if you stay at the side of the wrong person who will try to dazzle you with sweet talk and promises that will never be fulfilled. Please take care in whom you choose to give the best part of your lives to. Because nobody, absolutely nobody, has the right to beat or abuse another, or force another into doing something that they do not wish to do.

I am very grateful to the government of this country, it is because of your support that I am where I am today with a much improved life. Thank you for all the assistance, whether it's been legal services or peace of mind, that you have given me. In the same way that you have helped me, it is my hope that you will continue providing services to the many people who lack the knowledge or opportunity to help themselves. Often we really do need help escaping a world that is completely unjust. I give my heartfelt thanks for your support.

CHIEF JUSTICE LIPPMAN: Thank you for that very moving testimony. We had a conference just last week in New York City on human trafficking with judges and lawyers from around the country, law enforcement people, to talk about this issue. And certainly one of the key most meaningful things we can do is to provide legal representation to those people

who have been abused and victimized and victimized again.

So your story is so telling in terms of what we need to do to eliminate this evil, this scourge of modern society. And we thank the legal services representatives who have helped you so much. And you only highlight the desperate need for funding for legal services providers who do God's work in so many ways for you and so many others.

So thank you for coming in and telling us your story, it's very, very helpful, and we appreciate it so much. Thank you.

MR. MCLEAN: Thank you, Judge.

HONORABLE KAREN PETERS: Thank you for your courage.

CHIEF JUSTICE LIPPMAN: Krista Russell, client of the Rural Law Center, accompanied by Julie Ross, Intake Coordinator.

MS. RUSSELL: Good morning. My name is Krista Russell, and my husband John and I live in our family home in Morrisonville, New York. I am here today to talk about how the Rural Law Center's legal staff helped my husband and I gain custody of his cousin and the cousin's two brothers, and keep them out of the foster care system. In 2012, these three boys were placed in temporary foster care as an Article 10 abuse and neglect proceeding was beginning in Clinton County Family Court.



After we learned there had been an emergency removal of the two boys, and that the mother was expecting a third child. The boys were removed from their mother's home as a result of serious allegations that the youngest boy, who was just six months old, required hospitalization then continued treatment for his serious brain injury.

CHIEF JUSTICE LIPPMAN: Take your time. Relax.

MS. ROSS: Judge, may I read from here?

CHIEF JUSTICE LIPPMAN: Yes, please do, thank you. It's fine. Ms. Ross will continue.

MS. ROSS: He is still regularly having doctor's appointments for those injuries. We were concerned and wanted to help the boys however we could. We filed a custody petition at family court and at the same time contacted the Clinton County Department of Social Services to request that we be considered for custody during the abuse and neglect proceedings.

Based on conversations with the social workers, we decided to withdraw our petition for custody and be considered as a custodial resource as part of the abuse and neglect proceedings. In the beginning the boys were in foster care, but after many interviews, background checks and a home study, the boys were placed in our care. We followed all DSS recommendations for medical treatment and therapy.

During the first year they lived with us the boys'

mother had a third baby and he was placed in our home from the hospital. Our lives had changed a lot in that year. I had been working full time, but I stopped working so that we could give the boys the love and support that they needed and be available to take them to their doctor and therapy appointments. That turned out to be great for the boys, but it was a challenge to live on just one income.

After it became clear that the boys would not be returning to their mother soon, and that DSS strongly opposed placing the boys with either of their fathers, we knew that this was not going to be a short-term situation. As the boys became familiar with us and developed strong ties to my husband and me, we wanted to do as much as we could to provide them with a stable, nurturing home. As the proceedings dragged on, and DSS filed a petition to terminate the parents' parental rights, we decided to again file a petition for custody. We could not afford an attorney and we were told we were not entitled to a free attorney. So we completed the custody petition on our own, so that it was also to be considered as the case went forward.

Once the petition was filed, the boys' mother and live-in boyfriend, who was determined to be the father of the youngest boy, opposed our petition for custody. It seems as if everyone had an attorney except us, and we learned that the boys' mother was requesting that her attorney move to have

our petition be dismissed.

While we felt that DSS saw that the boys were being well cared for and were beginning to be physically and emotionally better, they told us they could not help us with our legal case in family court. One of the caseworkers suggested we contact the Rural Law Center to see if their office could assist us.

Once I contacted the Rural Law Center I was interviewed by Julie Ross. She listened closely to our story and told us she would talk to an attorney to see if the Rural Law Center could help us with our case. When my husband and I came in for our first appointment we brought all of the court documents, including our petition for custody. During our meeting we felt as if the staff at the Rural Law Center cared about us and understood our situation. We met with the attorney, Susan Patnode, who said she wanted to help us make our best case for custody.

After we met with Susan we understood that if we were not the natural parents we had to show that extraordinary circumstances existed about why we were filing for custody before our case would even be heard by the judge. We learned that those specific extraordinary facts had to be in a new amended petition or the case could be dismissed.

There was a court conference already scheduled that would include our custody petition and we were afraid our

petition would be dismissed. After we understood what was necessary for us to go forward, we worked with Susan to amend the petition and replace it with one that detailed the extraordinary circumstances of the case. And we also provided more information about why it would be in the boys' best interest to have them placed in our home permanently.

The Rural Law Center staff helped us file the amended petition and serve all the parties. We also learned what to expect at the conference. Throughout all of this we felt like we were being prepared and assured that if we had questions we could just contact Julie or Susan.

Before the conference we also needed to complete the Judge's Scheduling Order, which we really did not understand, so Susan took time and went through each part of the order and helped us prepare for the conference. When we went to the conference it was clear that the mother and her boyfriend, who was now determined to be the father of the youngest child, opposed our petition. They seemed to know that DSS would oppose the children being returned to the mother, but still they did not want us to have custody. So that meant there was going to be a trial and the judge scheduled one.

When we told Julie that there was a going to be a trial she scheduled an appointment with Susan who had helped us amend our petition. She told us she would work with us

every step of the way through the trial and we began that day to prepare our case. We created a list of witnesses and developed questions for each one who would support our efforts. We talked about each part of our case that we wanted to prove, and then we determined which witnesses we would call and what questions we would ask witnesses if there was a hearing.

We were prepared for the conference and our petition was not dismissed. However, the mother and father of the baby did not want us to have custody, so that case was scheduled for a trial. We met with Susan again and she gave us very clear written information about what to expect at the hearing. She even explained the most basic information that would make us more at ease, including where to sit and what to wear. She also told us how to question a witness and how to stay on track with our case.

By the time of the hearing we had folders, notebooks and all our documents in order and we were ready to have our case be heard. I won't go through these, but just to show you how prepared we are, we have a case file on the table behind us showing all the materials we had ready should we go to trial. When we got to the courthouse, arriving with our very organized materials, we sat and waited for our case to be heard. We are not [\[aloud|allowed\]](#) in the inner offices of family court where the lawyers were gathering so we weren't

aware of the discussions going on inside. After several hours someone came out and announced that the mother and the children's father had agreed not to oppose our custody petition. And so we went into court and before the judge it was put on the record.

The wonderful news is that it's been three years and all three boys are doing very well. The one boy who had serious injuries is getting better and better. Now the five of us are a family, and while we have tried to nurture and love these boys, the truth is they have brought great joy to our lives. The other truth is that without the help of legal services, these boys might still be in an unstable situation.

The staff at the Rural Law Center told us how great it was that we stepped up to help these boys, and they would do everything they could to help us be successful. They kept their promise!

CHIEF JUSTICE LIPPMAN: Thank you, Ms. Russell, for telling your story. It's so helpful to translate this need of funding for legal services to real human beings, and what the impact is of legal services on the person's lives and the lives of so many people. So we thank you so much, and really thank you for taking the time to come in and tell us your story. We can't tell you how helpful it is in terms of putting a human face and story to this idea that we need legal representation for, again, the very basics of life. So

thank you so much.

HONORABLE KAREN PETERS: So you live -- I did look it up by the way -- Morrisonville, which is midway between Plattsburgh and Dannemora?

MS. RUSSELL: Yes.

HONORABLE KAREN PETERS: Which means not only did you have challenges legally, but you had some geographic challenges, running back and forth to court.

MS. RUSSELL: Yes.

HONORABLE KAREN PETERS: So thank you for suffering both the legal challenges and the geographical challenges, I'm sure they were quite significant.

MS. RUSSELL: Thank you.

MS. GUTEKUNST: Thank you, you obviously have done a wonderful thing for these children, and it does show the impact of the legal services to assist someone like you and ultimately to help these young children as well. So thank you, both of you.

CHIEF JUSTICE LIPPMAN: Gloria Schaffer, client of Empire Justice Center, accompanied by Amy Lowenstein, Esquire.

MS. SCHAFFER: Good morning, my name is Gloria Schaffer and I want to thank you for the opportunity to be here today.

I was raised by my grandmother in Upstate New York.

When she passed away I went to live with my aunt and uncle who are like parents to me. My aunt got cancer and most of my life was spent caring for her and then helping my uncle after my aunt passed away. We all lived together in their home, and while I took care of them, they took care of me too. When my uncle passed away I inherited the home, but now had to take care of all of the expenses of living alone.

I have never worked outside the house and so my first job I got was at K-Mart and that was seven years ago and I'm still there. It's only part-time so I don't get any benefits. In fact, I spent most of my life without health insurance, but as I got older health care became more important to me.

When I turned 65 I started getting all these notices about Medicare and eligibility and different costs and different payments. I was just so overwhelmed with paperwork. And it all became overwhelming. I really didn't know what to do. And then a friend said call HIICAP, they can help. HIICAP is the Health Insurance Information Counseling Assistance Program run by the local senior services program.

I called Janet Tiffany of HIICAP and she connected me with the Empire Justice Center and Cathy Roberts came right out to my home. She went through all the papers and helped me figure out what to do. She worked with social services



and Medicare and Medicaid and she actually got me the coverage I needed without zero payments.

Part of the problem is that I don't have enough quarters to qualify for all the social security coverage they have. So I have to keep working to try to build up my employment record. I also just needed the income to help pay my bills, but at least I don't have to worry about my health coverage anymore.

I wanted to come here today to tell you how important it was for me to call HIICAP and Janet and then have someone like Cathy and the Empire Justice Center to help me. I want to say thank you for helping make that happen.

CHIEF JUSTICE LIPPMAN: Thank you for coming here to testify. Thank you for again demonstrating from a very human individual perspective why legal services is so important in maintaining the fabric of our society and helping real people with basic everyday problems. And there is no substitute for legal representation and legal assistance for those in need of just a helping hand to kind of straighten things out or whatever is necessary.

I want to thank the client panel for coming in. I want to thank all the witnesses for coming in today. I think this hearing will help us greatly when the Permanent Commission and the Chairperson, Elaine Barnett, do their report on December 1 that will help us to make an appropriate

recommendation this year to the Legislature for funding for legal services.

To me, and certainly to the Judiciary and the profession and the state, there is nothing more important in terms of preserving the viability, the integrity, the strength of the legal system in our state than ensuring that everybody gets their day in court. That everyone gets the representation or assistance that they need. So these hearings couldn't be more helpful. We couldn't be more appreciative. We thank you so much. And again, you're all terrific. And the last panel, you bring it all to light. What all the others said before you you bring it to light. So thank you all. Appreciate it. Have a good day.

(The proceedings in the above-entitled matter were concluded.)

C E R T I F I C A T E

I, **COLLEEN B. NEAL**, Senior Court Reporter in and for the Third Judicial District, State of New York, **DO HEREBY CERTIFY** that the foregoing is a true and correct transcript of my stenographic notes in the above-entitled matter.

DATED: October 15, 2015