

SUPREME COURT OF THE STATE OF NEW YORK
THIRD DEPARTMENT

THE CHIEF JUDGE'S 2017 HEARING ON CIVIL LEGAL SERVICES
IN NEW YORK

COURT OF APPEALS
20 Eagle Street
Albany, NY 12207
September 18, 2017

BEFORE: HON. JANET DiFIORE,
Chief Judge

HON. ROLANDO T. ACOSTA,
Presiding Justice of the First Department

HON. RANDALL T. ENG,
Presiding Justice of the Second Department

HON. KAREN K. PETERS,
Presiding Justice of the Third Department

HON. GERALD J. WHALEN,
Presiding Justice of the Fourth Department

HON. LAWRENCE K. MARKS,
Chief Administrative Judge

SHARON STERN GERSTMAN,
President of the New York State Bar Association

1 (Proceedings commenced at approximately
2 1:01 p.m. as follows:)

3 CHIEF JUDGE DiFIORE: Good afternoon, everyone,
4 and welcome to the Court of Appeals Hall where we are
5 convened today for the 2017 Public Hearing on Civil Legal
6 Services in the State of New York.

7 We are joined today at the dais by the leaders
8 of the Judiciary and the Bar in the State of New York and
9 I'd like to take a moment to introduce each one of them.
10 Starting all the way on the right is Chief Administrative
11 Judge of the State of New York, Lawrence K. Marks. To his
12 left is Justice Karen K. Peters of the Appellate Division
13 Third Department, which of course encompasses Albany and
14 the Capital District. To my immediate right is Rolando T.
15 Acosta, the Presiding Justice of the Appellate Division
16 First Department. To my left is Justice Randall T. Eng,
17 the Presiding Justice of the Appellate Division Second
18 Department. To his left is Justice Gerald Whelan, the PJ
19 of the Fourth Judicial Department, and to Justice Whelan's
20 left is Sharon Stern Gerstman who is the President of the
21 New York State Bar Association and who represents and has
22 the privilege of representing over 72,000 lawyers in our
23 state.

24 Before we proceed I do want to take a moment to
25 recognize the chair of the Permanent Commission on Access

1 to Justice, Helaine Barnett, who has dedicated virtually
2 her entire professional life to advancing the cause of
3 equal access to justice and for most of the last decade
4 she has worked absolutely tirelessly to make our state a
5 national model for the delivery of civil legal services.
6 We owe her a great debt of gratitude for her service.
7 Thank you, Ms. Barnett.

8 I also want to thank the 32 members of the
9 commission for volunteering their time and applying their
10 talent to the vital work of promoting access to justice in
11 our state and a number of our commission members are here
12 today and we very much appreciate them taking the time to
13 be here to underscore by their presence their commitment
14 to the importance of this work and I want to start with
15 Judge Edwina G. Mendelson, Judge Mendelson, who is here
16 also today in her new capacity as a Deputy Chief
17 Administrative Judge for Justice Initiatives which is a
18 statewide position dedicated to ensuring that our courts
19 are doing everything possible to ensure meaningful access
20 to justice in civil and criminal matters.

21 Also present today are Judge Lucy Billings,
22 Camille Siano Enders, Barbara Finkelstein, Sheila Gaddis,
23 Kim Harris, a friend and colleague and one of our newer
24 members -- thank you so much for being here today,
25 Ms. Harris -- Adriene Holder, Lillian Moy, Christopher

1 O'Malley. Betsy Plevan I believe is here, or was
2 scheduled to be here. I don't see her right now. I'm
3 sure she will be here. And Raun Rasmussen. Thank you all
4 for being here.

5 I also want to thank and acknowledge the
6 commission's wonderful staff for their work in both
7 organizing today's hearing and in supporting the
8 commission throughout the year. From the Office of Court
9 Administration there's Lauren Kanfer just walking up the
10 center aisle, Barbara Mulé, Barbara Zahler-Gringer, as
11 well as Dan Weitz of OCA who advises our commission, and
12 from Sullivan & Cromwell who, by the way, provides
13 absolutely invaluable support and hospitality and we're so
14 very appreciative of the firm's gift of their time and
15 energy and thoughts and their gifts of Angie Garcia and
16 Alana Longmoore. Thank you very much for your service and
17 your assistance.

18 So the purpose of this public hearing is to hear
19 directly from a broad range of knowledgeable presenters,
20 including individual clients of legal service providers,
21 and we're going to hear about the nature and extent of the
22 unmet civil justice needs of low-income New Yorkers, the
23 real-life impact of civil legal services on the
24 individuals who are actually served, the broader economic
25 and societal impact of our efforts to expand access to

1 justice where basic human needs are at stake and to
2 identify the challenges that lie ahead of us and to
3 strategize the solutions we need to narrow the justice gap
4 in our state and today's hearing together with, of course,
5 the commission's work throughout the year form the basis
6 of the annual report of the Chief Judge to the Governor
7 and the Legislature submitted on December 1 of each year.
8 Now, the report documents the commission's findings
9 concerning the extent to which we are meeting the legal
10 needs of low-income New Yorkers and contains our
11 considered recommendations about the monetary and
12 non-monetary resources and programatic measures that are
13 needed to close the justice gap.

14 Over the last eight years, thanks to these
15 public hearings, the year-round work of the Permanent
16 Commission and the unfailing support of the Governor and
17 the Legislature and most important the dedicated and most
18 impressive efforts of so many public interest and pro bono
19 attorneys, New York State has indeed become the undisputed
20 national leader when it comes to serving the civil legal
21 needs of low-income individuals and that has been
22 evidenced, of course, by the \$100 million in the
23 Judiciary's budget for direct grants to civil legal
24 service providers, the largest amount of state funding in
25 any state in the nation, New York City's historic

1 legislation to provide free legal assistance to every
2 low-income tenant facing eviction in our housing courts,
3 the realization, very important, among policymakers that
4 investing in civil legal services is good economic and
5 social policy and the Permanent Commission's finding that
6 about 37% of the civil legal needs of low-income New
7 Yorkers are now being met, up from approximately 20% in
8 the year 2010.

9 Now, of course, while these developments do give
10 us pause for optimism, hope and excitement, we know that
11 the progress we have made is far from complete and that we
12 still face some very daunting challenges. Legal service
13 providers are still turning away far more people than they
14 can serve and down in our nation's capitol the Legal
15 Services Corporation, the largest source of federal
16 funding for civil legal service providers across the
17 country, faces the threat of budget cuts that would force
18 our local providers to reduce services.

19 Similarly, with the heightened focus on
20 immigration, there are many thousands of individuals being
21 held and facing deportation without the assistance of
22 counsel. Members of our profession have a moral and
23 ethical obligation to respond to this growing crisis and
24 to find ways to provide effective assistance of counsel to
25 this very vulnerable population and clearly so much is

1 left to be done and we will continue the important and
2 impactful work we've been doing together to close the
3 justice gap through continued public and private funding,
4 by developing our long-term strategic plan to ensure that
5 we are optimizing available resources across the state and
6 getting the most value out of every taxpayer dollar we
7 allocate to civil legal services, of course also by
8 continually updating our strategies to leverage the power
9 of technology and by working to speed the justice process
10 and make our courts more efficient and accessible for all
11 New Yorkers through our ongoing excellence initiatives.

12 As Chief Administrative Judge, I will continue
13 to use the authority of this position, working with
14 Governor Cuomo and the New York State Legislature and the
15 entire legal community in this state, to make sure that
16 every New Yorker, regardless of economic status, has
17 access to legal services when basic human needs like
18 housing and personal safety are at stake.

19 Now, before we hear from our presenters I have a
20 matter of housekeeping I would like to attend to. You all
21 heard about the magical system of the lighting here at the
22 Court of Appeals Hall. You have in front of you
23 presenters two lights. One is a red light and one is a
24 white light. The white light will be activated when you
25 have two minutes until the conclusion of your testimony to

1 give you an opportunity to collect your thoughts and wind
2 down. The red light of course will signal that your time
3 has expired. We hope that you all remain, and I expect
4 you will, mindful that we have many presenters today and
5 we're going to try to keep careful watch and attention
6 paid to the clock.

7 Before I ask the first presenter to begin I do
8 want to take a moment to thank Judge Leslie Stein, who is
9 seated in the courtroom here today, my colleague here on
10 the Court of Appeals bench, for taking the time out of her
11 busy schedule to be here and demonstrate her commitment to
12 access to justice. Thank you, Judge Stein, for being with
13 us here today.

14 So our first presenter is Sandi Toll. She of
15 course is not counsel Alphonso David. Counsel David
16 telephoned last night to say he had a developing conflict.
17 He was prepared to be here but Sandi is present today to
18 deliver his remarks. Ms. Toll.

19 MS. TOLL: Thank you, Your Honor. Good
20 afternoon, Chief Judge DiFiore, Justices of the Appellate
21 Division and President Gerstman of the New York State Bar
22 Association. My name is Sandi Toll and I have the honor
23 of serving as Governor Cuomo's first assistant counsel.
24 As Chief Judge DiFiore mentioned, Alphonso David, counsel
25 to the Governor, was scheduled to speak today, but due to

1 the unforeseen scheduling conflict he will not be able to
2 attend, but as an initial matter he wanted to make sure
3 for me to emphasize how appreciative he is of the
4 invitation and to thank you all for the opportunity to
5 provide remarks.

6 So with that, today is important for many
7 reasons. It's a time to reflect where we are as a state
8 and more importantly where we ultimately need to go to
9 ensure that the legal services are met of so many of those
10 that call New York their home, but first it's also
11 important, I think, to take a look back on where we're
12 coming from. This past legislative session was remarkable
13 for many reasons, I think we can all agree, but perhaps
14 none more important than the sweeping tidal wave of
15 historic criminal justice reforms that were enacted. We
16 raised the age of criminal responsibility so that our
17 criminal justice system no longer treats 16- and
18 17-year-olds as adults. There will now be videotaped
19 custodial interrogations in cases involving serious
20 offenses and photo ID's made by witnesses are now
21 admissible into evidence at trial, but arguably and most
22 critically for those in the room listening and providing
23 testimony today are the reforms enacted regarding indigent
24 legal services to defendants in criminal proceedings.
25 This is because, as we all know, all defendants are

1 entitled to quality representation at criminal proceedings
2 regardless of their ability to afford counsel.

3 Recall back in 2014 under Governor Cuomo's
4 leadership -- I believe I had been serving the Governor
5 for a year at this point when this took place -- we
6 reached a historic settlement in Hurrell-Harring, a
7 lawsuit filed against the state and five counties based
8 upon an alleged failure to provide a necessary level of
9 indigent defense services in those counties. This
10 settlement was truly historic and it brought true reform
11 to five public defense systems that were very much in need
12 of change, but those groundbreaking reforms I think
13 advanced something even more significant. It signaled the
14 possibility for change statewide. We had something
15 smaller and then perhaps we could take it bigger.

16 This year that need was finally answered. We
17 reached a level of reform not yet achieved in any other
18 state in the nation. Under the Governor's leadership and
19 with our partners in the Legislature, the Judiciary, the
20 Offices of Indigent Legal Services, county officials, the
21 New York State Bar Association and attorneys across the
22 state we answered this very necessary call and now every
23 county in the state will have the opportunities afforded
24 by the Hurrell-Harring settlement. The assurance of
25 counsel at arraignment, caseload relief and quality

1 improvements will not be just points of pride in those
2 five counties, but they will now serve as a standard
3 nationwide that everyone will seek to achieve and it's
4 impossible truly to quantify how momentous this is. New
5 York is once again leading the way, but passing the
6 legislation was only the first step and taught us an
7 important lesson. As with any monumental change the
8 implementation of these reforms will not occur overnight,
9 but working cooperatively and collaboratively we will
10 ensure it does happen and the path forward is clear and
11 provides many lessons for us today -- the need for
12 constant communication, opportunities for stakeholder
13 engagement, a clear path and a vision for implementation
14 and a plan for reporting and oversight to make sure we're
15 doing what we say we're going to do.

16 Yet, as we're all here today, we must also
17 recognize that it is not just indigent legal services for
18 criminal defendants where the state has taken the lead.
19 As Chief Judge DiFiore mentioned, it is also the provision
20 of legal services for immigrants in New York State. I
21 think in light of the shifting priority and the values of
22 the current federal administration concerning immigrants,
23 there is a distinct threat, as we all know, for the
24 thousands of New Yorkers and their families. The Governor
25 has prioritized two investments in legal services --

1 first, expanding access to counsel for both affirmative
2 applications for adjustment of status for immigrants and
3 expanding access for deportation defense.

4 There have been a number of initiatives, which I
5 know many of you are well aware, but I want to highlight
6 that most recently the Governor established the Liberty
7 Defense Project, an unprecedented \$10 million investment
8 to expand capacity statewide to ensure that no immigrant
9 New Yorker who needs a lawyer will be without one because
10 of an inability to pay. It's a first in the nation. It's
11 a public/private partnership that creates a legal defense
12 system for immigrants and there are three components.

13 The first, it provides funding to several
14 non-for-profit legal organizations to expand capacity and
15 meet statewide needs. So we are providing attorneys to
16 all immigrant detainees in upstate immigration detention
17 facilities. We are extending the capacity for eligibility
18 screenings and providing representation for immigrants who
19 are currently in removal proceedings.

20 Second, there is the New York State Family
21 Security Project and this funds 20 one-year fellowships
22 for full-time lawyers and 106 summer internships for law
23 students to increase immigrant family security and
24 stability by providing legal aid to immigrant families in
25 New York.

1 And, finally, there is the Pro Bono Partnership.
2 Coordinated by Catholic Charities the Pro Bono Project
3 will leverage the participation of over 200 partners, law
4 firms, law schools and volunteer attorneys, to support
5 organizations that provide the direct legal services on
6 the ground to immigrant communities.

7 That being said, it is undisputed that there is
8 more to be done. We can't close our eyes and cover our
9 ears about the very real challenges that we face and this
10 challenge is the very reason that we've convened these
11 public hearings today, ensuring that all New Yorkers have
12 access to quality legal services regardless of whether
13 they face civil or criminal disputes.

14 We look forward to continuing to work
15 collaboratively with you, our partners in state
16 government, and all interested stakeholders, regardless of
17 their opinion on the matter, to identify strategies and
18 make the next steps. We want to build on the lessons that
19 we learned developing the Hurrell-Harring settlement and
20 then ultimately expanding that development statewide and
21 apply those lessons here and we know it is only through
22 careful and thoughtful analysis of the issue from a legal
23 perspective, a policy perspective and a fiscal
24 perspective, with input from everyone that is impacted.
25 From the judiciary, law enforcement, court systems, every

1 aspect, we need to make sure that everybody is engaged
2 because that's the only way we can assure that this
3 laudable and extremely important goal is achieved.

4 On behalf of Mr. David and obviously Governor
5 Cuomo thank you again for the opportunity to speak today.
6 It's been a true pleasure.

7 CHIEF JUDGE DiFIORE: Thank you, Ms. Toll.
8 Ms. Toll, with respect to the Liberty Defense initiative
9 we are all very interested in that initiative. Can you
10 briefly give us a few more details about the initiative?
11 Is there a plan for recurring funding? Is there a
12 mechanism to examine the need that has been demonstrated
13 and possibly expand the program?

14 MS. TOLL: Sure. I think at this point we're in
15 the very first manifestation of rolling out the project.
16 From a fiscal perspective we're always evaluating the
17 dollars impacted in the context of the state budget, but
18 this is an important issue to the Governor and the \$10
19 million is certainly a starting point and I think we're
20 going to have a number of conversations with stakeholders
21 on how those dollars can best be allocated and then for
22 determining the need going forward. At this point we are
23 working collaboratively with our partners to identify
24 where the need is and how we can best access the
25 resources. In many instances we're working with the

1 people directly on the ground. We need their impact and
2 their knowledge in order to best determine how to proceed.
3 I think our job in this is to provide almost a forum or
4 sort of the umbrella to allow a lot of these conversations
5 to succeed. We are not on the ground. We are not working
6 directly with impacted immigrant families who need our
7 services, but we can use the skills that we develop, again
8 with the Hurrell-Harring settlement, conversations with
9 the Legislature and our partners in state government, to
10 really identify what the need is and make sure the people
11 that are providing the services not only have the help
12 they need but are being held truly accountable for that.

13 One of the things we realized from
14 Hurrell-Harring and going forward, as you'll see in the
15 legislation that was passed, is we have reporting
16 requirements and oversight requirements. We want to make
17 sure the dollars and the time and the energy that are
18 being expended on these very noble goals are being used
19 properly.

20 CHIEF JUDGE DiFIORE: Thank you.

21 PRESIDING JUSTICE ENG: If I may, yes.

22 Regarding the immigrant community I'm wondering what can
23 be done to effectuate the stepping out of the shadow, so
24 to speak, of so many in that community who need services,
25 require services, but are fearful of the consequences?

1 How do we bring them into the sunlight?

2 MS. TOLL: That's an excellent question. Thank
3 you. I think we are taking a number of steps in that
4 vein. You're probably aware that on Friday the Governor
5 issued Executive Order 170 that had two very important
6 components. The first component was that any immigrant
7 that seeks public benefits for assistance cannot be asked
8 about their immigration status, unless required by law,
9 which will be a very proactive and positive step for
10 people who need services to not feel they have to remain,
11 as you know, in the shadow and they can come forward and
12 get the help they need without being asked questions that
13 don't need to be asked, frankly, and the second is with
14 regard to law enforcement. Law enforcement officials
15 cannot ask for immigration status unless they're
16 investigating potential criminal activity. And what we
17 found in developing this policy and then putting it in the
18 executive order is we wanted to make sure that immigrants,
19 who are such a vibrant part of our community and such a
20 resource for us, don't feel that they are in any way
21 hindered getting help from the police, from reporting a
22 crime, for seeking help and assistance, and this executive
23 order I think is a very positive proactive step and then
24 when combined with the legal services and the Governor's
25 overall commitment I think we're taking a strong step

1 forward.

2 PRESIDING JUSTICE ENG: Thank you.

3 PRESIDING JUSTICE ACOSTA: Are you working
4 closely with some of those local-based groups, because I
5 know to address those issues there's a level of trust that
6 has been developed over the years where immigrants in a
7 lot of those communities feel comfortable going to those
8 local-based organizations to secure the services that they
9 need.

10 MS. TOLL: Yes. Absolutely. The Governor is
11 committed to working with all interested stakeholders,
12 especially those that have worked primarily with the
13 communities that we're trying to help. I don't think you
14 can really be an active participant or an effective
15 participant in this area without going directly to the
16 individuals who know what the communities need.

17 In many instances the Governor is engaged in so
18 many of these issues, but it's really the people, as I
19 mentioned before, on the ground that know what the exact
20 problems are on a day-to-day basis and we need to be
21 mindful of that. We have made a very concerted effort
22 working with our partners in government, but also direct
23 outreach through our team and counsel's office in terms of
24 the agencies and our local partners in municipalities, to
25 really get this going.

1 CHIEF JUDGE DiFIORE: Thank you, Ms. Toll.

2 MS. GERSTMAN: Thank you very much. I was
3 curious as to whether or not the Governor has had any
4 success in speaking with the administration about the use
5 of ICE agents in the courthouses and the chilling effect
6 that that may have on proceedings.

7 MS. TOLL: That's an excellent question and
8 something I can certainly get back to you on.

9 MS. GERSTMAN: Thank you.

10 CHIEF JUDGE DiFIORE: Thank you.

11 MS. TOLL: Thank you.

12 CHIEF JUDGE DiFIORE: Our next presenter is
13 Steven P. Croley who is a partner in the Washington office
14 of Latham & Watkins and before joining the firm Mr. Croley
15 served as Deputy Assistant to and Deputy White House
16 Counsel for our 44th president, Barack Obama, and of
17 course as General Counsel to the United States Department
18 of Energy. Thank you so very much, Mr. Croley, for
19 joining us today.

20 MR. CROLEY: Thank you so much to you, Chief
21 Justice DiFiore and Justices of the Appellate Division,
22 Chief Administrative Judge Marks, President Gerstman and
23 Chief Barnett and members of the Permanent Commission who
24 are present. I'm pleased to be before you this afternoon.
25 Thank you for the opportunity.

1 As a scholar-teacher, I spent 15 years also at
2 the University of Michigan Law School where I've taught
3 civil procedure and administrative law. I've been a
4 public servant, as you've mentioned, and I've been an
5 attorney for the United States when I served in the U.S.
6 Attorney's Office for the Eastern District of Michigan and
7 I have represented individual litigants as well, pro bono
8 and otherwise.

9 I share the premise of this proceeding, which
10 really needn't go said, but I want to say it to lay some
11 important groundwork.

12 Many of our citizens do not enjoy access to the
13 courts. Why is that? Put bluntly, it's because they
14 can't afford it. It's because litigation is expensive and
15 in particular securing legal representation is expensive,
16 and prohibitively so. This is not a surprise. This is
17 not an accident. Many of our citizens are priced out of
18 the civil litigation system.

19 And I want to emphasize this is true not only
20 for low-income citizens but for modest income in the
21 middle-class citizens as well. We teach our law students,
22 it's almost a cliché, without a remedy there is no right.
23 Well, that has a corollary, which is without a means of
24 advancing a remedy there is no right and many of our
25 citizens lack the means to advance their remedies. This

1 is especially true, I think, for those with strong civil
2 legal claims for whom likely damages are modest. This is
3 well known. This has been known for years and this
4 commission's and this body's work exemplifies some of the
5 best responses to that problem and yet it persists.

6 I'm here today to make one central point or one
7 theme and that theme rests on the following observation
8 which is that access to the courts I think is important
9 for reasons of good public policy. What I mean by that is
10 it's not important just for or maybe not even primarily
11 for the individual litigants. We can debate that and I'm
12 not here to debate that, but it is important because of
13 the social consequences of litigation which, after all,
14 gives expression to our legal system's rights and
15 remedies. Tort litigation, as we all know, deters
16 unreasonably risky behavior. Contracts secures a stable
17 market. Private anti-trust litigation promotes
18 efficiency.

19 There are social benefits and these are
20 important social benefits and, in fact, there is an
21 ancient literature that suggests that funding for legal
22 services returns on the dollar more than the investment.
23 That is from a social point of view in addition to from
24 the individual point of view that this is efficacious in
25 reducing homelessness and poverty and crime and yet the

1 social desirability of access to the courts is not the
2 usual orientation for thinking about the issue. That
3 usual orientation I think is rooted instead in notions of
4 distributive justice. That implies a need to allocate or
5 re-allocate resources to those who lack resources
6 themselves to advance their claims and, accordingly, most
7 efforts towards promoting greater access focus on what I
8 want to call the demand side of access to justice and
9 access to the courts. They contemplate various forms of
10 economic support for those unable to afford it -- greater
11 legal aid funding, more pro bono commitments, relaxation
12 of in-state bar requirements, and so forth. These efforts
13 aim to subsidize access to the courts. That's why they're
14 called legal aid. That is why it's called legal
15 assistance.

16 I want to emphasize a different side of the
17 issue which is not in competition with the usual
18 orientation but a complement, the supply side of access to
19 justice, if you will. A supply-side orientation asks not
20 how to increase resources for those who lack them but how
21 to make the courts cheaper in the first place so that
22 those with fewer resources can access them. If we think
23 about shifting the focus away from individual litigants or
24 would-be litigants toward a systemic view of what is good
25 for society at large, that leads us to a supply-side

1 orientation.

2 I don't want to belabor the point, but let me
3 offer one quick analogy. Public policymakers who are
4 focused on education will focus on policy tools that are
5 both demand side and supply side. On the one hand,
6 student loans, grants and aids, income-sensitive
7 scholarships aim to make education more affordable for
8 those who can't afford it. At the same time, though,
9 educational experts emphasize another set of tools which
10 is to lower the cost of education -- online courses,
11 online universities, robust community colleges -- and
12 that's what I would urge the commission to focus on as
13 well here too. The civil legal system lacks its community
14 colleges. It lacks its low-income housing.

15 Now, I don't want to overstate the claim
16 because, as is true in this state as much as any, there
17 have been efforts to reduce the price of litigation, if
18 you will. Courthouse kiosks and reader-friendly,
19 user-friendly court forms are an important part of those
20 efforts, but I think there is occasion to be even more
21 bold with respect to lowering the price of access to the
22 courts and I'd like to offer several examples to make this
23 theme a little more concrete.

24 First, I think courts should, and we have the
25 authority to do this, develop a new court called a new

1 court of mediums claim. A Medium Claims Court would fill
2 the gap between the small claims proceeding with its
3 jurisdictional limitations and in most states prohibition
4 on representation on the one hand and full-on civil
5 traditional litigation with all the trappings of formal
6 rules of evidence and civil discovery and so forth. A
7 Medium Claims Court would be halfway between the two so it
8 would allow for some relaxation of the rules of evidence,
9 for very truncated civil discovery, for abbreviated
10 proceedings that would be adjudicated by a judge but for
11 which a client could have an attorney present, and so
12 forth. You can vary some of the details, but the point is
13 that such a tribunal would be well suited for claims of
14 moderate size.

15 Another example, speaking of small claims court,
16 is that I think that more experimentation is warranted
17 with respect to small claims as we know it. That is to
18 say experimentation with small claims juries, with
19 allowing lawyers in more of these proceedings, again in
20 the interest of widening the menu of available modes of
21 civil proceedings for individuals who otherwise are priced
22 out of the market for traditional litigation.

23 Let me offer a third example in the same spirit
24 and this is what is known variously in different states as
25 summary jury trials. New York has a version of this I

1 understand. Fast track trials, expedited trials, these
2 are all cousins of one another basically. And these are
3 for a set of cases a little bit bigger than what I might
4 think of as appropriate for a Medium Claims Court. So the
5 parties in a summary jury trial situation stipulate to a
6 proceeding, a mode of civil proceeding, that relaxes some
7 evidentiary rules, that allows deposition testimony to be
8 read in, for example, that relaxes some hearsay
9 requirements, at least for doctors, that allows for
10 discovery but is discovery taken mindful that any trial
11 that might result will be adjudicated according to the
12 summary jury trial rules. In this case discovery is
13 calculated and calibrated appropriately.

14 The summary jury trial existed in the 1980s in
15 federal court. It dissolved for reasons I won't go into
16 today, but suffice it to say the key to successful state
17 experimentation with summary jury trials is twofold; to
18 make them voluntarily and to make them binding. So the
19 parties stipulate in advance not to appeal, the trial is
20 limited to a half a day or a day as the parties see fit,
21 and that resolves the matter. Again, the details can be
22 adjusted according to local needs, according to state
23 needs, but the spirit of this is to broaden the spectrum
24 of civil proceedings, civil procedure modes that parties
25 can elect to take to fill in some of the gap between small

1 claims on one hand and full-on traditional civil
2 litigation on the other hand.

3 I'll make a last point, which is that even in
4 full-on civil litigation, courts can do more under
5 existing procedural rules to insist that parties tailor
6 their discovery, their evidentiary motion practice, and so
7 forth, according to the stakes of the case. And the state
8 analogs to the federal rules of civil procedures and many
9 others provide courts with an opportunity and authority to
10 insist on that tailoring and I think there's room for
11 courts to require more of parties, but what I'm trying to
12 emphasize today is off-the-shelf procedures that parties
13 can elect and know what they are electing to calibrate
14 civil procedure to their case. Otherwise, the judiciary
15 and the judges who make it up will price parties out of
16 litigation. And this is nothing against the judiciary.
17 It so happens I'm married to a judge. What I'm suggesting
18 is the alternative up till now has been for litigants or
19 would-be litigants to drop out of the judicial system
20 altogether and employ private dispute mechanisms as an
21 alternative to litigation and there are other
22 possibilities.

23 So in the end, you know, there's no single or
24 perfect solution certainly to the longstanding problem of
25 insufficient access to the courts. Traditional approaches

1 focus on subsidizing access. They are part of the formula
2 for sure. They are not the whole equation. I think that
3 those seeking to render the civil litigation more
4 accessible should focus also on ways to make it less
5 expensive in the very first place.

6 Thank you so much.

7 CHIEF JUDGE DiFIORE: Thank you, Mr. Croley.
8 Very interesting. So of course we are committed to the
9 supply side which is intriguing and wonderful and I think
10 that in courts are an excellent way to try and increase
11 the supply side. And as I listen to you talk about the
12 Medium Claims Court I'm fascinated by that concept as
13 well. As you're talking I'm thinking to myself how would
14 we accomplish keeping in place the perception of everyone
15 who comes to the courthouse and thinking that everyone
16 gets the same level of access. Is there some danger that
17 we create, in our efforts to reduce the cost of
18 litigation, a system that appears to be two-tiered?

19 MR. CROLEY: Yes. I hear the question and it's
20 an important one. I don't know. What I would say in
21 response is the courthouse is open to everyone and each
22 litigant or would-be litigant can choose and elect the
23 procedure that is most appropriate and most commensurate
24 with the stakes at hand. So now they don't get that
25 choice. Now in theory the courthouse door is open to

1 them, but as practical matter they're priced out of it
2 because even if I have a strong claim on the legal merits,
3 the overhead costs may not be worth it for me or certainly
4 for my attorney to advance that claim. So this would not
5 be something that would be forced upon would-be litigants.
6 Rather I'm suggesting to broaden the menu of procedures
7 from which they can choose.

8 CHIEF JUDGE DiFIORE: Almost an opt in.

9 MR. CROLEY: Certainly an opt in.

10 PRESIDING JUSTICE PETERS: So the court has this
11 open door, but as you've discussed and the reason why
12 we're here is a lot of people can't afford to walk through
13 the front door of the courthouse and get the services they
14 need.

15 MR. CROLEY: Yes.

16 PRESIDING JUSTICE PETERS: It sounds like you
17 spent a lot of time thinking outside the box so I want to
18 propose this question to you.

19 MR. CROLEY: Sure.

20 PRESIDING JUSTICE PETERS: And that is
21 individuals who are middle class and maybe members of the
22 working poor have access to medical insurance to get the
23 medical needs that they have met, but there is no
24 insurance in New York for the legal problems we face and
25 I'm wondering whether you think it's worthwhile to

1 investigate some type of insurance coverage for basic
2 legal advice to individuals who do want to buy their first
3 home or individuals who are suffering with a matrimonial
4 problem or individuals who have a child that is now
5 addicted to heroin and don't know how legally to assist
6 that child can get insurance coverage for basic legal
7 needs.

8 MR. CROLEY: So I have thought about this and
9 there are people smarter than me who have also thought
10 about this.

11 PRESIDING JUSTICE PETERS: And smarter than me
12 as well I'm sure.

13 MR. CROLEY: I don't know about that. The
14 question is is that insurance system one that is
15 subsidized, that is state sponsored, that is purely
16 privately run? Is it an employer plan? If it's an
17 employer plan does the federal government get the tax
18 deduction or the state government? That gets into tricky
19 problems.

20 PRESIDING JUSTICE PETERS: It's not an easy
21 question, but I think it deserves to be raised. The
22 courthouse doors are open. So are the hospital doors
23 open, but usually you have to have some kind of coverage
24 to get in the front door.

25 MR. CROLEY: I agree that the question deserves

1 to be raised and its origin of analysis.

2 PRESIDING JUSTICE PETERS: Thank you.

3 PRESIDING JUSTICE ENG: I am fascinated by the
4 concept of a Mediums Claims Court. Has thought been given
5 to monetary threshold and if there has been what would the
6 reasoning be behind that suggested threshold?

7 MR. CROLEY: There has been thought. I don't
8 think there's any magic number. Numbers you hear might be
9 \$50,000, \$100,000. There would be an inevitable sense of
10 it's just drawing a line somewhere.

11 Summary jury trials are typically conducted for
12 claims that sound in the dozens of thousands of dollars.
13 You could have a Medium Claims Court, though, that parties
14 opted into that was not jurisdictionally limited. You can
15 have it where there is a jurisdictional ceiling higher
16 than a Small Claims Court. To be honest, I don't think
17 there is any magic to it one way or another, but it would
18 be to signal that claims below a certain amount would be
19 especially appropriate for a mediums claim proceeding and,
20 again, when I say court, of course I just mean a judge or
21 magistrate would be sitting in the capacity of a mediums
22 claims judge and providing those truncated or abbreviated
23 rules which, again, the parties will have selected
24 themselves.

25 CHIEF JUDGE DiFIORE: Thank you, sir.

1 PRESIDING JUSTICE WHALEN: Very briefly,
2 Mr. Croley, I want to thank you for your testimony. I
3 think that your approach to this, this thinking outside
4 the box, is a way that we're going to find our way forward
5 in this area and encouraging our imagination and the
6 imagination of people in this room to think of ways to
7 approach this in a different way, while having certain
8 constitutional limitations, is one I think we all should
9 engage in with more energy and thank you very much.

10 MR. CROLEY: I appreciate that.

11 JUDGE MARKS: Quick question. I think looking
12 at the supply side is an important way to look at this and
13 no question that some of these summary and accelerated
14 procedures can be very effective and, as you noted, we
15 experimented with that in New York, but just looking at it
16 more generally, should court systems -- as again I think
17 we are in New York very much so looking more generally at
18 addressing delays in backlogs, in processing cases,
19 including civil cases, in the overall expense of civil
20 litigation, doesn't that in itself undermine access to
21 justice and should court systems -- in addition to looking
22 at these individual initiatives, shouldn't court systems
23 as a whole be looking and making every effort to address
24 delays in backlogs in civil litigation and make every
25 effort through better case management and better

1 allocation of resources and attack the overall problems of
2 delays in civil litigation?

3 MR. CROLEY: Absolutely, Judge Marks. I've
4 interviewed attorneys in other states on the topic of what
5 is the source of their cost of litigation and I won't name
6 the states, not New York, but they emphasize that
7 additional delay, docket management, calendar management,
8 paying for witnesses that appear and then have an
9 adjournment, that is an important part of the overall
10 problem of cost. So it's a multifaceted problem. It has,
11 therefore, multifaceted solutions and that's one phase of
12 it for sure.

13 CHIEF JUDGE DiFIORE: Thank you, Mr. Croley.

14 MR. CROLEY: Thank you again.

15 CHIEF JUDGE DiFIORE: Our next presenter is Neil
16 Steinkamp who is a managing director at Stout Risius Ross
17 and leads our Justice For All project which I'm sure he
18 will talk about in his presentation and, Mr. Steinkamp,
19 thank you for being here and thank you to your firm for
20 the level of pro bono services it provides to the
21 commission.

22 MR. STEINKAMP: Thank you, Your Honor, and thank
23 you to the panel. It's an honor to have the opportunity
24 to talk with you today. My name is Neil Steinkamp and I
25 am a managing director at Stout Risius Ross. I lead the

1 firm's pro bono social consulting practice as well. I am
2 here to speak about the commission's work on the Justice
3 For All, or JFA, project for which I and my colleagues at
4 Stout have been engaged as a consultant.

5 I'll begin by providing some background
6 information on the JFA grant and the planning process and
7 then his Honor, Judge Hinrichs, will provide more detail
8 on work of the project in Suffolk County where the
9 commission is incorporating into its strategic action plan
10 a pilot program and where his Honor is the District
11 Administrative Judge.

12 The National Center for State Courts, supported
13 by the Public Welfare Foundation, awarded the Justice For
14 All grant to the New York State Unified Court System on
15 December 15, 2016, and the commission is in charge of
16 implementing it. The grant was provided to seven states
17 to develop a strategic action plan over the course of one
18 year that is intended to ensure 100% effective assistance
19 for all New Yorkers facing legal problems impacting the
20 essentials of life. We began our work immediately. With
21 a one-year time frame to develop a plan it was important
22 to begin our work immediately.

23 As a matter of first priority, the commission
24 decided to begin its work with an initial fact-finding and
25 information-gathering period. We sought to build a

1 foundation of knowledge and expertise of the needs of New
2 Yorkers, as well as community and statewide resources.
3 From those we based our recommendations on how to build a
4 strategic action plan.

5 At the heart of our fact-finding work was the
6 organization of four Community Listening Sessions. In
7 those sessions we aimed to bring together a broad group of
8 stakeholders. So we wanted to make sure we had voices
9 from as many people as possible, not just legal aid
10 providers but libraries and hospitals and schools, as many
11 people as possible from the communities that we went to to
12 hear what the needs of people were, not just the legal
13 needs but what were the needs of New Yorkers in these
14 communities.

15 We conducted four of these sessions and one in
16 Suffolk County, Steuben County, Albany, Queens. With each
17 there was between 40 and 70 participants that came
18 throughout the course of an entire day, sometimes more
19 than a day, in sessions of 60 to 90 minutes each. It's
20 important to know that clients were also part of this and
21 their voices were extremely impactful to hear from people
22 about how they were engaging with the justice system and
23 what could be done to improve access to the justice system
24 for them.

25 From these listening sessions around the state

1 we extracted several preliminary findings and observations
2 that has continued to guide our thinking in the strategic
3 action plan and I wanted to share a few of those.

4 First, there's a significant need for promoting
5 the awareness of the many resources in our communities.
6 We heard over and over again from people in the room that
7 we were in around the state that they didn't know of the
8 other people in the room. It was incredible to hear so
9 many people amongst all of these stakeholders who learned
10 real time of resources that are already available to them
11 in their communities.

12 We learned that many non-traditional
13 stakeholders feel ill-equipped to help people with legal
14 needs, but also that they absolutely want to help people
15 with legal needs, libraries and schools and hospitals who
16 are engaging people who are coming to them as initial
17 points of entry who have legal needs but don't feel
18 equipped that they can help them.

19 We learned that the local judiciary plays a
20 significant role in assisting with the coordination of
21 stakeholders and creating an environment supportive of
22 change. We saw that over and over again, that judiciary
23 played a very important role if change was to happen.

24 We learned that while there are many important
25 differences to the barriers to effective assistance, there

1 are also many similarities to the barriers of effective
2 assistance.

3 And so, as we went from one location to another,
4 they're very different. Steuben County and Queens are
5 very different places, but we heard very similar things
6 and different things and so you begin to appreciate that
7 while there were some things you could do that would
8 impact all regions, there would be some necessity to look
9 at things on a local level, that the needs of our local
10 communities were going to be unique and different.

11 And we learned that technology has the potential
12 for transformative change when combined with improved
13 awareness of community needs. As we heard already,
14 technology certainly plays a role in improving access to
15 justice.

16 From those four sessions that we had around the
17 state we then implemented a process engaging with our
18 commission members, as well as others who were invited to
19 participate, in a three-phase process, the first being
20 assessment, the second being priority setting and the
21 third being strategic action planning, and I'll touch on
22 each of those briefly.

23 In the assessment phase our working groups,
24 which are groups of the commission and other stakeholders
25 that we've identified, have looked to what are the

1 services and resources available within the state's
2 justice system as well as the capacities of the justice
3 system to support more expansive and effective services.
4 We've broken down our commission and invited others and
5 developed these working groups to look around the state at
6 a statewide level and what can we do at a statewide level
7 that would contribute to this strategic action plan.
8 Those three working groups are focused on three areas --
9 basic capabilities, basic services and advanced services
10 within the justice system for supporting effective
11 assistance.

12 The next phase was priority setting. We
13 recognized early on that while there are many, many things
14 that we could potentially do, even at a statewide level,
15 an effective strategic action plan would not mean doing
16 all of them immediately. Instead, it would mean we would
17 need to identify the areas where there would be the
18 greatest impact and where the use of people's time and
19 resources will be the most effective.

20 We've identified ten areas initially where we
21 believe there can be a significant impact and this is
22 where the working groups are now focusing. Those ten are
23 improvements in community integration and prevention,
24 expansion of technology capacity, improved judicial and
25 court staff education, improved access to interpretation

1 services, increased use of translators, improving the
2 development and use of plain language forms, increasing
3 the number of court based help centers, expanding the use
4 of limited scope representation, expansion and efficiency
5 improvements of full-service representation and expanding
6 the role of non-lawyers in providing effective legal
7 assistance.

8 With those priorities in place we now turn to
9 the exercise of strategic action planning. So the
10 question now becomes how can we move forward to develop a
11 plan around those items. In addition, after the initial
12 fact-finding exercise it became clear, as I mentioned a
13 moment ago, that a local plan would also need to be
14 implemented and we looked to the four areas we had visited
15 and identified that Suffolk County would be a particularly
16 valuable place to do a local pilot of closing the justice
17 gap.

18 In Suffolk County you have a relatively large
19 population of 1.5 million people with adverse legal needs,
20 significant language diversity, the highest foreclosure
21 rate in the state, the largest number of veterans in the
22 state, a diversity of rural, suburban and urban issues.
23 It was going to be tough in Suffolk County, but we wanted
24 it to be tough in Suffolk County because that's how we can
25 demonstrate that what we're doing really works. We

1 believe if we can close the justice gap in Suffolk County,
2 that we can create a way to do that around the state, by
3 combining the statewide initiatives with local efforts,
4 that we can significantly close the justice gap in the
5 State of New York. So as we develop a statewide plan to
6 provide effective assistance for all New Yorkers, defining
7 those two is going to be critical.

8 Working with Suffolk County we've already seen
9 really amazing progress and I know that Judge Hinrichs
10 will get into the details of what we're doing in Suffolk
11 County and the progress that we've made today. Thank you.

12 CHIEF JUDGE DiFIORE: Thank you, Mr. Steinkamp.
13 Mr. Steinkamp, you spoke earlier about a certain level of
14 non-awareness of the accessibility, availability of legal
15 services in the community when you were doing your
16 assessment, which always is one of things that's weighing
17 on our minds, making certain people in the community are
18 aware that there are places to go to and how to bring that
19 message of service and availability of services to people
20 in the community and under your priorities I think you
21 listed expanding the role of non-lawyers. Is that about
22 bringing education about services available and legal help
23 and assistance available to the community? Is that what
24 that is?

25 MR. STEINKAMP: I think there can be a number of

1 ways in which non-lawyers could be used to help close the
2 justice gap and I know we have a task force in Suffolk
3 County that is exploring that at a local level, but
4 certainly one of the ways to do that is to use non-lawyers
5 to get messaging to the community about available
6 resources and to work within the provider community to
7 ensure that there's awareness of the resources. As people
8 change, as funding levels change -- things happen in our
9 communities. It changes every day. So certainly using
10 non-lawyers is a way to ensure that there's awareness
11 amongst people in need as well as in the provider
12 community.

13 CHIEF JUDGE DiFIORE: And would that or is it a
14 vision that that would be in the form of educating
15 hospital administrators, school administrators, clergy to
16 whom anyone may turn if they have an issue or problem
17 about what is available in the community? Is that the
18 sort of thing --

19 MR. STEINKAMP: Absolutely. And going beyond
20 that there is so many different resources. Libraries are
21 such a key place, but they need an awareness. What are
22 the tools that are out there. We also think technology
23 plays a role in providing that kind of information, but
24 certainly making sure everyone knows what's available in
25 the community is going to be an important part of that.

1 CHIEF JUDGE DiFIORE: Thank you, sir. Judge
2 Marks.

3 JUDGE MARKS: I know this is a premature
4 question, but in coming up with this strategic action plan
5 to close the justice gap in Suffolk County will you be
6 attempting to estimate the cost of that, financial cost?

7 MR. STEINKAMP: Yes. There will be an estimate
8 of what we think the financial cost will need to be. From
9 an implementation standpoint there will need to be a
10 consideration as to the cost to implement the plan.

11 JUDGE MARKS: And are you going to address who
12 will be paying for that?

13 MR. STEINKAMP: I don't know that in the report
14 that we'll provide to the National Center for State Courts
15 that it will explicitly state that in our strategic action
16 plan, who will be responsible for that, but I know that to
17 the extent that the National Center for State Courts is
18 not able to provide full funding for that, they will be
19 participating in the implementation, but if they're not
20 able to provide all of it we will be seeking sources for
21 additional funding for the implementation.

22 JUDGE MARKS: Thank you.

23 PRESIDING JUSTICE ACOSTA: Would expanding the
24 role of non-lawyers also address the cost issues that the
25 the Chief Administrative Judge mentioned?

1 MR. STEINKAMP: It's great question. I've been
2 thinking about that. I think in some ways it can. I
3 think volunteer forces can be helpful and effective and I
4 think there is other ways to integrate non-lawyers to
5 connect people to the right resources, to help the
6 resources be more effective in their community. So I
7 think there's a number of ways to offset some of the cost
8 by using individuals in our communities, particularly the
9 non-lawyers who are active and interested in participating
10 and assisting and also need some direction.

11 CHIEF JUDGE DiFIORE: Thank you, Mr. Steinkamp.
12 Thank you for being here and presenting today, but also
13 thank you to your firm for its level of commitment.

14 MR. STEINKAMP: Thank you.

15 CHIEF JUDGE DiFIORE: Our next presenter is the
16 Honorable Randall Hinrichs. He is the Administrative
17 Judge in Suffolk County in charge of court operations and
18 70 judges, a thousand employees in his district and truly
19 one of our most talented judicial leaders. Judge.

20 JUDGE HINRICHS: Thank you, Chief Judge DiFiore.
21 Good afternoon. Good afternoon Justice Acosta,
22 Justice Eng, Justice Peters, Justice Whalen, Chief
23 Administrative Judge Marks and President Gerstman. It's a
24 real honor and privilege to be here this afternoon with
25 all of you.

1 I've been the Administrative Judge in Suffolk
2 County since March of 2011. Since that period of time
3 I've come to understand a very positive impact that the
4 provision of civil legal services has in our community.
5 I've also come to understand there are many areas where
6 individuals face crises that affect the very essentials of
7 life without representation. These areas are well
8 documented.

9 You've just heard from Neil Steinkamp who has
10 indicated that Suffolk County has been selected as the
11 location of a statewide pilot to close the access to
12 justice gap. I can say that everybody in the Suffolk
13 County courts is very pleased with this selection by the
14 Permanent Commission and is working very hard with the
15 Permanent Commission and all of our participants in a
16 local task force to close that gap.

17 In January of this year Suffolk was privileged
18 to host a listening session by the Permanent Commission.
19 At that session we were able to bring together a fairly
20 complete and diverse cross-section of interested
21 stakeholders who provided the commission and the Suffolk
22 courts with a comprehensive look at Suffolk's justice
23 resources and barriers. I think in Suffolk County we are
24 very fortunate that we are blessed with very committed
25 service providers, academic institutions that are very

1 willing to participate and that do participate, a very
2 receptive and cooperative county government as well as an
3 extremely cooperative bar association, namely the Suffolk
4 County Bar Association. All of these groups are working
5 right now in a collaborative manner on this project. This
6 collaboration, which feeds off the preexisting
7 relationships in the county, I hope and believe will be a
8 strength of the project moving forward in Suffolk County.
9 Like many suburban communities across New York and Suffolk
10 County, we're faced with immigration issues, problems that
11 our veterans' population has, difficulties in public
12 transportation and dwindling financial resources that the
13 Governor has at his disposal.

14 Following up also on one of the things that
15 Mr. Steinkamp mentioned, in prior years we hosted in the
16 court Law Day events and at these Law Day events there was
17 sort of a kiosk format where you would provide services,
18 advertise, people from the public would come to these
19 events and what I noticed after a couple of years of
20 these, a benefit from them, was that all of the providers
21 were extremely interested in talking to the other
22 providers, you know, who did what, what services were
23 available. As a result of that, in 2015 at our Law Day
24 event we changed the format. We tried to get all of the
25 providers of legal services and other non-legal services

1 together, give a brief explanation of what they provided
2 so everybody would know what everybody else did in order
3 to make the proper referrals. As a result of that, we've
4 compiled a directory of services that we distributed to
5 everyone that they had at their disposal. We sent a
6 directory as part of our start here in this pilot that we
7 are working on right now and it is clear that the updating
8 and supplementing of this resource guide, so everybody
9 knows what's available, getting that distributed to legal,
10 non-legal stakeholders is a very important part of what
11 we're doing.

12 I mentioned it before, but I just want to
13 mention again the cooperation we're receiving from the
14 local service providers, Nassau Suffolk Law Services.
15 Leaders in the field have been incredibly cooperative.
16 Suffolk County Legal Aid, Touro Law School, Suffolk County
17 Bar Association and also the leaders of the Suffolk County
18 government have made and provided access to their
19 operation and we had many shared goals in this endeavor.

20 Now, you heard from Mr. Steinkamp that we have a
21 number of local task forces. I don't want to take up your
22 time going through the minutia of each of these task
23 forces, but the gist of what we're doing, we're trying to
24 assess what we have right now, what's available, what are
25 our resources that we have right now, and part of that

1 assessment process where are we lacking, what do we have
2 and what we don't have, and also an assessment of our
3 priorities of services that we don't provide that need to
4 be supplemented. So that's a very big part of the
5 planning process that's been mentioned, this assessment,
6 prioritizing of resources and planning on how to address
7 that gap.

8 And as I said, my remarks had mentioned the
9 different task forces and these task forces involve a real
10 cross-section from the community. It included libraries,
11 health providers, people from our own libraries that help
12 people on a daily basis, commissioner of the local
13 Department of Social Services. We've got I think a real
14 cross-section of people working on this project, again, in
15 this assessment stage right now and one of the initial
16 pilots that's under consideration is utilization of what's
17 known as a county resource center. The county has four of
18 them around the county, one of which is in Huntington
19 where there will be a DSS office, there will be veterans'
20 services, BOCES, labor department, housing help line,
21 utility, PSE&G individuals there with problems with power
22 issues, the local economic opportunity counsel. There's
23 already these existing frameworks where a number of
24 providers of services are available and what we're looking
25 to do as an initial pilot is to place, you know, a

1 volunteer attorney at this location armed with all of this
2 information about what services are available to try and
3 get the needs together with the people that can help them.

4 Before I get to the gaps, it's clear that the
5 connecting of people that need help with people that can
6 provide that help is one of the big issues that has to be
7 resolved and there's also a portion of the population that
8 really could use help on certain issues that don't even
9 think to ask for help that can really use help. That's
10 also part of what we're doing.

11 I think it would be important in this discussion
12 here just to mention in a very, very general sense some of
13 the gaps that we have preliminarily identified. There are
14 gaps that need to be filled in the area of divorce
15 representation, support representation, particularly
16 enforcement of a prior agreement so-called a post judgment
17 proceeding.

18 Suffolk County, as you might know, has a very
19 large Hispanic population. Approximately 19% of the
20 population is Hispanic. Therefore there are a host of
21 accompanying immigration issues in the county that need to
22 be addressed and it's not just the immigration area. It
23 can translate into other areas for instance, you know, the
24 education area, for instance. One thing that struck me
25 getting involved in this project is like if you have

1 children of immigrants that are having difficulty
2 enrolling in schools, that is a huge problem that needs to
3 be addressed, somebody to get those kids into school.
4 However they got to be in their present situation, those
5 kids deserve an education is the bottom line and we put
6 that very simply. Mr. Steinkamp mentioned a large veteran
7 population. There is a host of issues involving veterans
8 that need to be addressed.

9 In conclusion, I really would just like to say
10 that we are very appreciative of our selection as a pilot
11 county. Everybody in the county is working very, very
12 hard. It has been, I think, a time-consuming endeavor for
13 people in the course of cooperating with this project. We
14 care very much about reaching a successful conclusion and
15 it may sound like a small thing, but the idea that -- I
16 know many jurisdictions have it, but the idea of these
17 resource guides, what's available as a resource in every
18 jurisdiction in the state is sort of, in my mind, a
19 short-term solution, not a solution, but it's a step in
20 the right direction that should be undertaken immediately,
21 I think, in every jurisdiction throughout the state and
22 that would be a recommendation that I had to the Permanent
23 Commission.

24 As I said at the outset, I very much appreciate
25 the opportunity to appear here today. Thank you.

1 CHIEF JUDGE DiFIORE: Thank you, Judge. Judge,
2 you spoke about knitting together existing frameworks to
3 leverage the services that are provided and you spoke
4 about finding ways, I think you said, to most effectively
5 connect the people who need the legal assistance with
6 people who provide it, particularly around immigration
7 issues.

8 JUDGE HINRICHS: Right.

9 CHIEF JUDGE DiFIORE: So what have you found is
10 the largest hurdle to knitting together those
11 organizations and bringing that information to the
12 community, which is always my concern?

13 JUDGE HINRICHS: That's really something that
14 we're in the formative process on now. We've clearly
15 identified that that is an issue.

16 CHIEF JUDGE DiFIORE: So that will be a focus
17 going forward?

18 JUDGE HINRICHS: Absolutely. It's a focus going
19 forward and part of it is the utilization of some of the
20 things that you raised in the last question to
21 Mr. Steinkamp. The public libraries are a big part of
22 what we're trying to do, the use of county resource
23 centers. We've reached out to local clergy.

24 CHIEF JUDGE DiFIORE: Very important reaching
25 out to the clergy.

1 JUDGE HINRICHS: Absolutely. We're looking to
2 expand the ways we communicate to the community to let
3 them know about what services are available to them.

4 PRESIDING JUSTICE PETERS: I have a quick
5 question. You mentioned using, and in fact one of the
6 stakeholders listed in determining the needs was BOCES,
7 which I think is a great idea. Are you accessing
8 community colleges also, because usually the individuals
9 who come from the working class or the middle class might
10 very well be students attending community colleges who can
11 provide you with a lot of information about the problems
12 in the neighborhoods.

13 JUDGE HINRICHS: That's a great solution. I'm
14 an adjunct professor at Suffolk Community College so I can
15 make the right connections there to get that done and
16 that's something we will follow up on. That's a great
17 suggestion.

18 CHIEF JUDGE DiFIORE: Thank you, Judge.

19 PRESIDING JUSTICE ENG: I didn't know that
20 Suffolk County had the largest number of veterans in the
21 state and that's a source of great pride. One source of
22 connection might be veterans' organizations. If you have
23 a lot of veterans, chances are you have a number of
24 veterans' organizations -- American Legion, Veterans of
25 Foreign Wars. Veterans are a tough nut to crack, so to

1 speak, because right now most of the living veterans were
2 volunteers and they served because they wanted to serve
3 and a lot of them carry a high degree of pride and
4 self-sufficiency and that's going to be a challenging
5 group to acknowledge that they need services, but I think
6 one of the first places they might go to is go and talk to
7 a buddy, so to speak. So if you make those connections,
8 make those liaisons, it might help identify who really
9 needs our support and needs our assistance.

10 JUDGE HINRICHS: Thank you. That's very true in
11 our experience. We've seen that through the veterans'
12 court. All of our mentors are from the Vietnam Veterans
13 of America. They do a great job. And we've also seen in
14 the civil area here certain housing initiatives that have
15 been offered and there is the reluctance, like you say, to
16 accept help. We'll definitely follow up in that area.

17 CHIEF JUDGE DiFIORE: Thank you, Judge.

18 JUDGE HINRICHS: Thank you.

19 CHIEF JUDGE DiFIORE: Our next presenter and the
20 final presenter for panel one is Chloe Breyer. Reverend
21 Breyer, since 2007, has directed The Interfaith Center of
22 New York, an organization that catalyzes collaborations
23 among grassroots organizations, religious leaders and
24 civic officials to address social issues including issues
25 around immigration. Reverend Breyer, thank you for being

1 here.

2 REVEREND BREYER: Thank you so much. Good
3 afternoon. It is an honor to be here and thank you so
4 much to Chief Judge Janet DiFiore and to all the judges
5 and lawyers who have worked so hard on this access to
6 justice work which benefits so many of us across the
7 state.

8 As you said, I'm Reverend Chloe Breyer, director
9 for about ten years at The Interfaith Center of New York
10 and an Episcopal priest assisting at St. Philip's
11 Episcopal Church in Harlem.

12 It's my hope to say a word about the importance
13 of access to justice for all from the perspective of our
14 work with grassroots and immigrant religious leaders and
15 their communities across New York City. The Interfaith
16 Center was founded about two decades ago to overcome
17 prejudice by empowering Catholic, Protestant, Jewish,
18 Hindu, Sikh and Buddhist religious leaders to address
19 shared problems and the programs and conferences, the
20 direct service work that we do offers the kind of civic
21 education for religious leaders on the one hand and also
22 with the information about religious diversity to the
23 court officials or educators or social workers on the
24 other hand. The idea is to show that religiously diverse
25 communities can strengthen our civil society rather than

1 threaten it.

2 Well, at The Interfaith Center of New York our
3 experience is that religious leaders are on the front
4 lines addressing poverty and disenfranchised members of
5 the community. As one West African Imam based in East
6 Harlem said to me awhile ago, back in Cote d'Ivoire he was
7 simply a spiritual leader but in New York City he must
8 also be a social worker, an advocate and a psychological
9 counselor for his community. This does not mean he wants
10 to be all these things or that he's particularly good at
11 these extra roles, but it does show that like many
12 religious leaders that does not only include imams or
13 rabbis, priests and ministers as well, want nothing better
14 than to be able to refer the people in need with whom they
15 are responsible to those who are specialists in these
16 important areas and that's really why, it seems to me,
17 that we're here today. If we have learned anything in the
18 past two decades it is the grassroots religious leaders
19 know firsthand about what their community needs and this
20 includes the very great need for access to justice in the
21 form of legal aid, especially for economic issues, housing
22 and so forth, but also for family issues. That includes
23 domestic violence.

24 Well, for about a decade, from 2003 to '12, we
25 partnered with the Unified Court System at roundtable

1 discussions in all five boroughs on particular social
2 issues. This was the inspiration of Judge Judith Kaye's
3 vision for problem-solving courts and it was implemented
4 by Judge Juanita Bing Newton.

5 We at the time also partnered with Law Help and
6 LIFT and our idea was that we would help provide education
7 and legal assistance for domestic violence victims and for
8 those in need of other family challenges ranging from
9 foster care to adoption and even just divorce, which for
10 so many new communities is a huge thing in terms of
11 overcoming both the practical needs that women often have
12 in those relationships but also the new cultural
13 overcoming of stigmas that still are existing in their
14 communities. Frequently, however, it was women who were
15 the victims of domestic violence who were, as you know,
16 afraid too often to come forward, whether it be because of
17 their immigration status or because the economic
18 dependency that they had and thus having to choose between
19 an abusive spouse on the one hand or losing their children
20 on the other.

21 I think we've seen that particularly in Texas,
22 and also the NYPD has in the last year reported declines
23 of reporting of domestic violence incidents as people
24 retreat into the -- and this is particularly important for
25 grassroots and immigrant religious communities. Indeed if

1 there were a single issue that points to the importance of
2 improving access to legal aid for immigrants, it would be
3 the plight of the undocumented domestic violence victims.

4 In addition, though not so life-threatening, is
5 we have issues that come up in these roundtable
6 discussions about custody, adoption and family law, which
7 is so different in this country than it is in other
8 places. And whether you are from another place originally
9 or a part of a disenfranchised community here, these are
10 challenging in ways I think a lot of us can't imagine. I
11 just think of the challenges that so many families have
12 with the supervised exchange of children where there was a
13 mandated visit for a husband, generally, or a male partner
14 and that exchange, however, had to be done under
15 supervision and too often it wound up in a police precinct
16 as opposed to a place of hospitality and safety. And this
17 was an area in which we were able to draw on the sense of
18 hospitalities of many members of houses of worship. In
19 this case the AME Church in Harlem was able to provide
20 that service in a very imaginative way.

21 It's not just family issues where we see there
22 being a gap in access to legal services and education, but
23 also in the area of economic challenges and resiliency and
24 this was particularly true after 2008 as we found
25 ourselves needing to show communities what resources lay

1 within the courts for addressing things like foreclosure
2 or predatory lending, which continues to this day to be an
3 issue that people don't know enough about and certainly
4 don't always have legal representation for.

5 In 2011 we were asked by Judge Fisher to work
6 with New York Legal Assistance to find houses of worship
7 to host mobile legal teams. This was the most direct
8 service work that we did and we were able to connect these
9 mobile legal teams and address some of these issues to a
10 bunch of different houses of worship in the five
11 boroughs -- the Baptist church, Youth Ministries for Peace
12 and Justice in the Bronx, Interfaith Harmony Center, a
13 Hindu place in Queens, and Methodist and Episcopal
14 churches in Manhattan and Brooklyn.

15 These are some of the basic needs, but I want to
16 just close by saying, as many as have already said, that
17 we face a whole new area in terms of access to justice
18 which has been already there, but it has so compounded any
19 issues that we face thus far. And in the area of
20 challenges around immigration I can say that religious
21 leaders are doing a lot of stuff that's pretty interesting
22 ranging from accompanying people to their visits, to
23 appointments that they have at ICE so that when and if
24 they are deported there will be a witness, literally, and
25 someone can then go back and connect with family members.

1 That is happening, along with posting bail for those who
2 are in detention where money is provided or allowed and
3 then finally providing a physical sanctuary in houses of
4 worship and that's something that has come up
5 increasingly, at least in New York and I think other
6 places around the country, and that obviously rests on a
7 very thin line and my impression is that people think ICE
8 has some kind of exception for schools and for houses of
9 worship, though it doesn't seem enshrined in law and
10 certainly these places could use all the legal help they
11 need if and when that change or those conditions are
12 violated.

13 I just want to close with the image that was
14 left with me. We had several religious leaders, one of
15 whom himself had an ICE appointment and was due for
16 detention at 26 Federal Plaza but went in with a whole
17 group of people -- this was back in April -- including a
18 group of people, some of whom were elected
19 representatives, our council people, and encountered a
20 scene which brought one of them to tears on his way out,
21 which was having to have to sit in a waiting room on the
22 ninth floor which was occupied by about 30 women, mostly
23 women and children, and his estimation, which was clearly
24 based on superficial evidence, but nonetheless was about
25 two thirds of them had no representation. So that seems

1 to be quite a challenge for all of us. Thank you so much.

2 CHIEF JUDGE DiFIORE: Thank you, Reverend. You
3 spoke about civics education for religious leaders and
4 I'll make an assumption and assume that you think that
5 there is a place at the table for the courts and the legal
6 services providers as part of that educational system.
7 Have you given any thought or have any idea as to how to
8 bring that education to scale within and amongst the
9 clergy community? You can tell I'm focused on the clergy
10 community.

11 REVEREND BREYER: Again, there's such a degree
12 of diversity with and among those communities ranging from
13 if they've been there for 400 years or 2 years and I think
14 that in general we use -- it's slightly tongue in cheek,
15 but we use the alternate side parking list in New York
16 City which has the exemptions and if you look at them
17 carefully you can see which religious leaders have a
18 sense or which religious communities have come to know
19 what it means to be part of a legal system. In other
20 words, there perhaps were Christmas and Jewish holidays
21 and more recently both the Eves and Diwali. So that is
22 followed by the question of religious exemptions for
23 public school holidays and so forth. So I think that
24 people in terms of like a scaling up of -- jury duty is
25 just a great way. Some of the most practical things that

1 came out of our roundtable were around administration and
2 administrative exceptions for people to know that they
3 could do things like serve on a jury and not have to
4 sacrifice their Sabbath or what have you. I think those
5 basics things from voting to jury duty that are all part
6 of our shared common life are those places that we start
7 increasing education. Seminaries also might be a place.

8 CHIEF JUDGE DiFIORE: Thank you.

9 PRESIDING JUSTICE ENG: I know religious
10 traditions have different degrees of involvement in
11 dispute resolution among their own parishioners. How
12 effective do you think the clergy has been or can be in
13 doing that, in solving problems outside of the judicial
14 setting? Might there be a greater contribution there?

15 REVEREND BREYER: That's a great question. It's
16 certainly one that causes, you know, a degree of
17 controversy, I would say, because on the one hand in
18 certainly restorative justice and also the degree to which
19 family negotiations can be resolved, it is always a
20 question how well does it work for women, in general, and
21 I'm not sure. I really think that's one of the more
22 complicated places to start, but it's a very, very good
23 question as one tries to balance a sense of inclusivity on
24 the one hand, that this a place for which you have a role
25 not only in your own community but in the wider society.

1 CHIEF JUDGE DiFIORE: Thank you, Reverend.
2 Thank you all, members of panel number one. Thank you for
3 being here and presenting your testimony.

4 Before we start panel two, I just want to
5 announce that shortly Judge Acosta must take his leave.
6 He has another commitment in New York City that he must
7 attend to. I don't want anyone to think it's a signal
8 he's not interested. He is. He's traveled here. He just
9 has a prior commitment.

10 So, our next presenter is Abdiel Joseph, a
11 client of Legal Services NYC and Mr. Joseph is accompanied
12 by his attorney today, Peter Kempner. Mr. Joseph, thank
13 you for appearing here, sir.

14 MR. JOSEPH: You're very welcome. Thank you
15 very much, Chief Justice Janet DiFiore. Good afternoon,
16 Your Honors and the esteemed members of the New York
17 State Permanent Commission on Access to Justice.

18 My name is Abdiel Joseph and I'm an Air Force
19 veteran who served in the Desert Storm/Desert Shield
20 conflict. After my honorable discharge I returned to
21 Freeport, Long Island, where my family lived. However, I
22 left my family's home in 1995 as I was finding it
23 difficult to adjust to life outside of the military.
24 Although I had worked in retail, banking and the
25 investment industries, since leaving the military my

1 health issues were getting worse and I found it hard
2 making it through the day. Since 1997, I've been
3 diagnosed with service-connected disabilities and began to
4 receive disability benefits and services from the Veterans
5 Administration and started to rehabilitate myself.

6 In 2002, I entered the VA Voc Rehab program to
7 pursue my education and I'm now in the process of building
8 my own small business. Having an affordable apartment in
9 Brooklyn has allowed me to finish my education and pursue
10 my dreams, but for years my landlord has been trying to
11 drive me out of my apartment to benefit from the
12 neighborhood's gentrification and increase his profits.

13 My troubles with my landlord began when he gave
14 me a weekly lease and that was a way to charge me more
15 than the 12 monthly payments that he was entitled to by
16 law. When he sued me the first time for several weeks of
17 unpaid rent I did not have a lawyer and almost lost my
18 home. After months of court appearances I got a notice
19 from the marshal and my eviction was scheduled.

20 Fortunately, I was able to produce money order receipts
21 proving that I had in fact been overcharged for many
22 months rent. As a result the lawsuit was stopped.

23 My landlord remained, however, intent on pushing
24 me out and over the years he has sued me repeatedly to
25 evict me and has harassed me to leave. Fortunately, since

1 the first case I found the help I needed at Legal Services
2 of New York City. It has been a huge relief having an
3 attorney beside me and sometimes that's all that you need
4 most times. After a hard day at work or at school to come
5 home and see a court notice on your door is extremely
6 difficult.

7 Without an attorney my landlord would have
8 succeeded with his most recent attempt to evict me in
9 which he claimed that he needed my apartment for personal
10 use for one of his family members. Because individual
11 owners are usually allowed to do this, at first it seemed
12 like a lost cause. Luckily my lawyer did some research
13 and was able to prove that the landlord was a corporation,
14 not a person, and so we were able to defeat this
15 fraudulent claim. I would have never been able to win
16 this case on my own.

17 The ability to stay in my affordable apartment
18 has provided my with relief, security and a peace of mind.
19 It has allowed me to be able to function without having to
20 endure the stress and fear of not having a roof over my
21 head. No one should have to fear becoming homeless even
22 once, much less over and over again. Having an apartment
23 where I can sleep and feel safe at the end of the day has
24 been so important throughout my rehabilitation. I would
25 like to thank the Legal Services of New York City for

1 coming through for me time and time again. Thank you.

2 CHIEF JUDGE DiFIORE: Thank you, Mr. Joseph.

3 MR. JOSEPH: You're welcome, Your Honor.

4 CHIEF JUDGE DiFIORE: Sir, I do have a question
5 for you. How were you connected to Legal Services of New
6 York City?

7 MR. JOSEPH: I was referred to Legal Services of
8 New York City by my VA counselor at Houston Street. She
9 referred me there because I confided in her about my
10 landlord/tenant issue and she said I can't help you, but
11 I'll give you a referral and I went down to Chapel Street
12 in Brooklyn and from there they referred me to Legal
13 Services of New York City where I started to work with
14 Mr. Kempner and from there he's been there with me along
15 with his colleague, Mr. Rasmussen, and Legal Services of
16 New York City has been there for quite a few cases that my
17 landlord has brought up against me.

18 CHIEF JUDGE DiFIORE: Thank you, sir.

19 PRESIDING JUSTICE WHALEN: Mr. Joseph, thank you
20 for your testimony. I can recognize how difficult it
21 might be for you to be here today, but your time spent
22 with us is very valuable and we do appreciate it. You are
23 helping us to highlight one of the major problems that I
24 think your testimony is revealing to us all and that is
25 the connecting of the people in need with the services

1 that are there already. My fear, as I'm hearing all this
2 testimony, is we're hitting pockets and we're finding ways
3 to do this, but we have to get much better at it and I
4 sense that there's a very underserved population out
5 there, people that aren't able to make it into a VA
6 counselor like you did and that seems to me to be the
7 trick that we have to solve moving forward, but thank you
8 for helping us understand that.

9 MR. JOSEPH: You're very welcome, Your Honor.

10 CHIEF JUDGE DiFIORE: Thank you, sir, for being
11 here.

12 MR. JOSEPH: You're welcome.

13 CHIEF JUDGE DiFIORE: Our next presenter is
14 Anlly Marily Reyes Galindo who is a client of The Legal
15 Aid Society and she is accompanied by her lawyer, Carina
16 Patritti, staff attorney for Legal Aid.

17 MS. PATRITTI: Good afternoon. My name is
18 Carina Patritti, a staff attorney at The Legal Aid
19 Society, part of the immigration law unit in Manhattan. I
20 am also a union delegate of the Civil Practice of UAW
21 Local 2325 Association of Legal Aid Attorneys.

22 I'm here today with my client, Anlly Marily
23 Reyes Galindo. The Legal Aid Society was able to help
24 Anlly obtain special immigrant juvenile status and
25 ultimately her permanent residency.

1 MS. REYES: Good afternoon. I'm very honored to
2 be here to speak with you today. My name is Anlly Reyes.
3 I'm 20 years old and I am from Cortes, Honduras. I came
4 to the United States in search of the American Dream. In
5 2014 I crossed the Mexican border and came to the United
6 States through Texas. My sister and I were arrested by
7 immigration agents when we crossed into Texas. It was a
8 hard journey, but I came for and found a better life.

9 Leaving Honduras was a difficult decision but it
10 was worth it. My life in my country was not the best. My
11 mother made the decision to come to the United States in
12 2008 when I was only 11 years old. My younger sister and
13 I were left in the care of my grandmother. My father left
14 my sister and me when we were very young. He now has
15 another family, but we do not speak with them at all. He
16 has not communicated with us for many years. Growing up
17 he was not involved in our lives like a father should be.

18 Also, in Honduras we lived in a part of the
19 country that was controlled by gangs like MS-13 and the
20 18th Street Gang. I was studying in a school near the
21 sector where the gangs were. Members of the gangs would
22 follow me on the way home and would call me by name and
23 would harass me by saying things like oh, you're so cute
24 today and when you grow up you are going to be my wife. I
25 was 15 years old at that time and I was very scared

1 because there were cases of child rape in my town and the
2 gangs did what they wanted. Thankfully nothing ever
3 happened to me or my sister, but I was afraid that
4 something would happen to us at any moment. We lived in
5 fear. I always told my mother that I wanted to be with
6 her and I did not feel safe in Honduras. We decided to
7 travel to the United States and we crossed the borders of
8 Honduras, Guatemala and Mexico so we could be safe and
9 close to my mother.

10 In April 2014 we crossed the Rio Bravo on
11 inflatable rafts. When I reached the other side of the
12 river, my sister and I were arrested by the border patrol.
13 We spent two days in immigration detention. After that we
14 spent sent 19 days in a shelter for children. After 19
15 days my sister and I received news that we were going to
16 be reunited with my mother and would be able to stay with
17 her but we have to go to immigration court to fight for a
18 chance to get legal status in the United States.

19 On May 1, 2014, I arrived in New York and I saw
20 my mother for the first time in seven years. I felt very
21 happy and very safe to be with her because we were
22 together again. After two weeks of being here my sister
23 and I started going to school in the Bronx. That was a
24 very difficult experience because I felt insecure of
25 myself because I didn't know English and because I was

1 undocumented. It was very hard for me, but I had no
2 choice but to try my hardest. I came here for a better
3 life.

4 My mother's friends told her not to go to the
5 immigration courts because they were going to deport us.
6 They even told her to move because ICE agents were going
7 to arrest us but we didn't listen to them. We wanted to
8 have a chance to stay here legally.

9 Thank God a person recommended us to go to see
10 someone at The Legal Aid Society. I met my lawyer, Carina
11 Patritti, in immigration court where The Legal Aid Society
12 was helping to screen children to see if they are eligible
13 to stay in the United States. She interviewed my sister
14 and me and agreed to help us in our immigration case. We
15 were very happy to have a lawyer, also one that was free.
16 She explained what we had to do and what to expect in the
17 process. She said that she was going to help us to obtain
18 a permanent residence here in the United States. She told
19 me I was eligible for special immigrant juvenile status
20 due to the fact that my father abandoned my sister and me
21 and it was not in our best interest to return to Honduras.

22 Together with the help of my mother and
23 stepfather we all attended Family Court in the Bronx so my
24 stepfather could obtain legal guardianship of my sister
25 and me. I would have two people to watch over us like

1 parents. Thank God everything went well. Going to court
2 was very stressful but my lawyer was always there for us.
3 My mother and stepfather had to have their fingerprints
4 taken. We also had to serve the papers on my father,
5 which meant that we first had to find where he was. Then
6 we had my grandmother go to him and give him the papers.
7 My sister and I gave testimony in front of a judge and
8 talked about Honduras and my life without my father. That
9 was hard to do, but my lawyer explained that it was
10 necessary. My stepfather obtained legal guardianship of
11 us that day, which made my sister and me happy. My lawyer
12 also got an order from the judge that allowed me to apply
13 for the special immigrant juvenile visa.

14 After that my lawyer applied for my papers and
15 after a few months she also helped me get a working permit
16 while I waited for my green card. With the working permit
17 I was able to get a Social Security number, a state ID and
18 work and pay my taxes without any problems.

19 Thank God with the hard work of my lawyer,
20 Carina, after three years of being in this country I
21 received my permanent residency three weeks ago. I'm very
22 grateful because, in fact, she has changed my life and my
23 family. Now I can go to college, get a better job and I
24 definitely feel more safe than before. I'm not afraid to
25 walk down the street or go to school. I feel like I have

1 a future here.

2 The lawyers at The Legal Aid Society work hard
3 every day to help kids from my county and others to become
4 residents of the United States. This inspired me to study
5 law and become an immigration lawyer in the future. I
6 want to help people like my lawyer helped me. Now that
7 I'm a permanent resident I can apply for financial aid. I
8 will begin college in January and hope to study criminal
9 justice.

10 All these years I observed how my lawyer worked
11 hard and worried about me. She always knew what to do and
12 she never let me down. She even helped me with some
13 assignments from my school and gave me advice on school
14 life. If I asked her any questions, she would always
15 respond to me. I just want to say thank you to all those
16 lawyers who do their jobs with passion and help children
17 and young people like me to achieve their dreams. Without
18 the help of my lawyer or the free legal services that help
19 people like me I would not be here today speaking to you
20 all. Thank you.

21 CHIEF JUDGE DiFIORE: Ms. Galindo, you present a
22 very compelling story. Congratulations to you for your
23 strength and your obvious grace and dignity here. I know
24 that the outstanding legal services that were provided to
25 you by your attorney from The Legal Aid Society have

1 brought you this far. Tell me what was the most important
2 thing about your relationship with your lawyer?

3 MS. REYES: The most important thing is that she
4 make me feel like I'm a priority for her. I never felt
5 ignored. I feel that she gave me a very good legal
6 representation and I learned a lot from her about college,
7 about how to behave in this country.

8 PRESIDING JUSTICE ACOSTA: Ms. Galindo, I see
9 that you have an interest in the law and I just want you
10 to know from personal experience that you can be a client
11 of a Legal Aid Society, you can then grow up to go to law
12 school and be an attorney and then be in charge of the
13 largest civil trial office and then be a Presiding Justice
14 in the First Department. It's a wonderful thing.

15 MS. REYES: Thank you.

16 PRESIDING JUSTICE PETERS: So you mentioned in
17 your testimony that people recommended that you stay in
18 the shadows, that there was a fear that ICE might find
19 you, but you went to see Legal Aid because someone
20 recommended that you do that. I'm not going to ask the
21 name of person who recommended that, but can you tell us
22 where you got the recommendation from because of course
23 today, as we're talking about, one of the key important
24 issues for all of us is how information gets shared about
25 access to justice.

1 MS. REYES: That was my friend's mother. She
2 told me you should go look for help because her children,
3 they got their residence and they had lawyers from Legal
4 Aid Society that were helping her also. We wanted to have
5 the chance to stay here legally so we can have a better
6 opportunity to get a better life and that's what I came
7 for.

8 CHIEF JUDGE DiFIORE: Thank you and thank you
9 for being here today.

10 Our next presenter is Robert DiSalvo who is
11 speaking on behalf of his dad, Anthony DiSalvo. He is a
12 client of Legal Services of the Hudson Valley and he is
13 accompanied today by his very able attorney, Shara
14 Abraham. Thank you for being here, both of you.
15 Mr. DiSalvo.

16 MR. DiSALVO: Good afternoon, ladies and
17 gentlemen. It's an honor to be here to talk on behalf of
18 my father, Anthony DiSalvo. He's also among our nation's
19 greatest generation.

20 I want to thank you for the opportunity to speak
21 today and about how important it is for access to high
22 quality, free civil legal services for low-income veterans
23 to ensure that we are able to protect the basic
24 necessities of life.

25 My father has lived the American dream. His

1 parents, Salvatore and Angelina DiSalvo, emigrated to the
2 United States from Sicily in the late 1800s. My
3 grandfather worked as a barber and owned his own shop on
4 116th Street, which is now known as Spanish Harlem today,
5 and my grandmother worked as a dressmaker in the garment
6 district in Manhattan.

7 My father was born in 1928 and will be 90 years
8 old in March of 2018. From an early age my father
9 understood the values of honor and integrity and when
10 Europe was engulfed in war my father felt the call to
11 service. Truth be told, he forged his birth certificate
12 so he could enlist at a young age. My father proudly
13 joined the Merchant Marines and completed a one and a half
14 year tour in the Pacific. In late 1945, with victory in
15 sight, my father joined the United States Army and was
16 stationed on the island of Okinawa where he served the
17 rest of his military service in Japan.

18 He returned stateside after the war and married
19 Vincenza Chirico. He and Vincenza raised two children, me
20 and my brother Anthony. For 27 years my father worked as
21 an automotive and diesel mechanic for the MTA. He never
22 shied away from a hard day's work and has lived his life
23 honorably. As his son I've spent a lifetime admiring my
24 father and following in his footsteps.

25 Unfortunately, my father has been suffering from

1 health problems in recent years. Most difficult for our
2 family has been early signs of dementia. As a family we
3 struggled with our father's desire to remain independent
4 and our concerns for his ability to live his life safely
5 on his own.

6 We had begun to prepare moving my father into a
7 nursing home when the rug was nearly pulled out from
8 underneath us. My father had lived in his apartment in
9 the Village of Chester for eight years. He was a good
10 tenant and a good neighbor, always paid his rent on time
11 and always on friendly terms with other tenants and I had
12 a great relationship with the landlord. As my dad's
13 caregiver, I maintained an open line of communication with
14 the landlord and even told his landlord that the time had
15 come and we were making plans to move Pop into a nursing
16 home.

17 Then, in the dead of winter, my father was
18 served with an eviction notice. I was completely taken
19 aback that the landlord was trying to evict my dad,
20 especially because the allegations in the notice
21 terminating my father's tenancy did not make sense to me.
22 The notice said my father's lease was being terminated but
23 no reason was provided and he wasn't even given the
24 required amount of time before the tenancy was terminated.

25 My father is a survivor, but I knew this was a

1 battle our family could not handle on our own. I
2 conducted an intake with the Legal Services of the Hudson
3 Valley and our case was assigned to Shara Abraham in the
4 Newburgh office.

5 From my first conversation with Ms. Abraham I
6 knew Pop was in good hands. Ms. Abraham told me the
7 notice was defective and she was going to represent my
8 father in court and try to get the petition dismissed.

9 On a bitterly cold night in December of 2016 we
10 had to bring my dad to court for an evening court
11 appearance. Ms. Abraham filed a motion to dismiss and
12 argued passionately for the motion to be granted. For a
13 while there I thought the judge was going to side with the
14 landlord and sign a warrant of eviction. To make matters
15 worse, the landlord's attorney was hostile and
16 argumentative, hurling accusations about my father that
17 were hurtful and untrue, but Ms. Abraham persisted and
18 fortunately the judge granted our motion and the petition
19 was dismissed. I'm telling you I think there was a
20 collective sigh of relief in the courtroom and a real
21 sense of pride for Pop when we walked out of the courtroom
22 in victory. There was even more good news a few days
23 later when Ms. Abraham was able to get the landlord to
24 return part of my father's security deposit.

25 I'm happy to report that my father is doing

1 great now. He is comfortable in his new home and is very
2 well cared for. I have no doubt that the outcome would
3 have been dramatically different if Ms. Abraham was not by
4 our side. Make no mistake, I have no doubt my father
5 would have been evicted that night.

6 Ms. Abraham was an effective advocate for my
7 father, persuasively arguing the law and making clear to
8 the Court what an injustice it would have been to
9 wrongfully evict an elderly veteran and so when she asked
10 me to speak here today I answered yes before she even
11 finished her question.

12 Thank you for allowing me to speak today on
13 behalf of my father's experience and the importance of the
14 Legal Services of the Hudson Valley. Thank you.

15 CHIEF JUDGE DiFIORE: Thank you, Mr. DiSalvo.
16 And I'm sure everyone here collectively honors your dad's
17 service and appreciates you coming here on his behalf to
18 tell his story.

19 If Hudson Valley Legal Services wasn't available
20 to you, what would plan B have been for your family or
21 your dad?

22 MR. DiSALVO: It was a learning process about
23 being the primary caretaker. Me and my wife had been
24 taking care of my dad for a long time. Plan A was found
25 by internet searches. My father being of age he's not

1 able to find information anymore. He's a little behind
2 the times. So plan B was actually scary. We didn't have
3 a plan B. And when we finally came across Legal Services
4 of Hudson Valley I can tell you what, I didn't even have
5 to think of a plan B. I was that sure when I spoke to
6 Ms. Abraham that my dad was really in good hands.

7 CHIEF JUDGE DiFIORE: Thank you so very much,
8 sir, for being here today and thank you for the members of
9 this panel. We very much appreciate you taking the time
10 to come here and to share your stories with us and help us
11 to move forward in our effort to provide services in a
12 responsible and efficient and effective way. Thank you so
13 much.

14 Our next presenter is Kevin McCarthy who is
15 Senior Executive Vice President and General Counsel of
16 BNY Mellon. He has been a driving and an enthusiastic
17 force behind BNY Mellon's commitment to provide pro bono
18 legal services for people around the globe. So thank you,
19 Kevin, for being here today. We appreciate it.

20 MR. McCARTHY: Thank you, Your Honor. I must
21 say that is a tough act to follow. We'll do our best
22 collectively.

23 Good afternoon. And as Judge DiFiore said, my
24 name is Kevin McCarthy and I am the General Counsel of
25 Bank of New York Mellon, a global financial services

1 organization based in New York City. I want to start by
2 thanking Chief Judge DiFiore and the Permanent Commission
3 on the invitation to speak here today and for the
4 opportunity to discuss the critical role that businesses
5 can play in helping expand access to justice in New York.

6 BNY Mellon's passion for ensuring that all New
7 Yorkers, regardless of economic circumstances, have access
8 to basic civil legal services reflects our long heritage
9 in and unshakable commitment to New York and to human
10 rights. Our company was founded by an immigrant,
11 Alexander Hamilton. He created New York's first bank to
12 support the goals of a community and a country. Through
13 wars, crises, political upheaval and terrorist attacks,
14 for 233 years we've maintained our corporate headquarters
15 in downtown Manhattan and sustained our support of local
16 charitable institutions to address our community's most
17 pressing needs and keep our city and our state vibrant.

18 Unfortunately, all these years later, equal
19 justice for all New Yorkers remains aspirational. I saw
20 that firsthand many years ago through my work as a young
21 lawyer with MFY Legal Services, now named Mobilization for
22 Justice. MFY offered free civil legal assistance to
23 low-income New Yorkers in neighborhoods like Chinatown and
24 the Lower East Side. My MFY clients were often immigrants
25 to this country who did not speak English. Their civil

1 legal service needs were basic but incredibly important to
2 them -- representation in housing court to avoid eviction,
3 or before city, state and federal social service agencies
4 to obtain critical benefits, or in litigation to help
5 unskilled workers obtain fair pay for their labor. I saw
6 firsthand just how impactful and life-changing civil legal
7 service representation could be by keeping families in
8 their homes or by obtaining critical health care benefits
9 for their children. It forged in me a deep appreciation
10 of the awesome power of legal representation and the
11 capacity of our justice system to work as it was
12 intended -- for the benefit and protection of all citizens
13 regardless of personal circumstances.

14 As we're all aware, the need for such services
15 continues unabated today. More recently I've had the
16 privilege of serving as a board member of The Legal Aid
17 Society of New York, one of the preeminent legal services
18 organizations in our state and for all the good the
19 society does I've also seen how Legal Aid is often forced
20 to turn away people seeking civil legal assistance. The
21 demand for high-quality civil legal resources is
22 overwhelming the capacity of legal service organizations
23 to represent those who need their services most.
24 Certainly targeted efforts to increase access to justice,
25 not least of which was the creation of the Permanent

1 Commission, have made huge inroads and I applaud Chief
2 Judge DiFiore and the commission for continuing their
3 innovative work in this area and the unprecedented
4 increases in funding for civil legal services you've
5 achieved. The New York City Council's recent vote to
6 establish the right to counsel in New York City Housing
7 Court for low-income tenants facing eviction is another in
8 a series of initiatives that are making our state's court
9 system more equitable and more accessible, but still the
10 need persists.

11 I contend that if all sectors of the business
12 world, the legal profession and the broader community
13 recognize this need and work together, we'd have the
14 capacity to address the demand. A critical part of the
15 solution must include the legal resources within the New
16 York business community. Not only do I think it is
17 achievable, but my experience at BNY Mellon suggests it
18 will benefit those organizations as well as the people
19 being served.

20 In recent years BNY Mellon legal department has
21 found opportunities to help the underserved in our
22 communities through our growing legal pro bono program.
23 Those efforts have energized our lawyers, adding an
24 additional layer of purpose to our professional lives,
25 bringing us closer as a legal team and helping us to

1 attract and retain top talent.

2 While long the bailiwick of private law firms,
3 in-house pro bono work within corporations has come a long
4 way in recent years. According to the Association of
5 Corporate Counsel, just a handful of corporate legal
6 departments had formal pro bono programs in the year 2000.
7 Today more than half of large corporate legal departments
8 have such programs in place. Many corporations like ours
9 have strong successful programs that are serving the
10 community. Our work in building such a program at
11 BNY Mellon shows there are challenges, but they can be
12 overcome.

13 One key challenge is making a compelling
14 business case for the corporate support of legal pro bono.
15 Corporate legal departments are cost centers and we have
16 to show a return on our investment of time and money. So
17 at BNY Mellon we've helped our board and our senior
18 leadership team recognize that our legal pro bono work
19 supports our corporate social responsibility commitments
20 which in turn makes us a more attractive partner to our
21 clients and other stakeholders and gives us an edge in
22 competing for great legal talent.

23 The next challenge involves creating a strong
24 pro bono oriented organizational culture. When we
25 established our program several years ago we knew we had

1 to show our team that pro bono work is not only allowed
2 but encouraged. Our support from the top of the
3 organization had to be vocal, visible and unequivocal. We
4 found champions for this work in each of our company's
5 main locations to provide committed leadership on top of
6 their day jobs. We worked on creating a framework and
7 process for developing and managing pro bono projects, for
8 partnering with legal services and law firm partners and
9 for collecting data and identifying a broad range of
10 opportunities that align with our corporate social
11 responsibility commitments and ultimately igniting the
12 passions of our legal team. If enthusiasm ever became
13 lacking we became advocates to help our colleagues see how
14 valuable and gratifying this work is. And a most critical
15 part is making sure to celebrate our successes and
16 reinforcing how much this work matters and making it a
17 real source of pride for our team.

18 In all these endeavors we benefit from our
19 partnerships with experienced legal services organizations
20 that understand how to work with a corporate legal
21 department to maximize the benefits for those needing
22 services. This includes help in developing projects for
23 our lawyers, often on a limited scope or limited time
24 basis, training our business attorneys in unfamiliar areas
25 of the law, and not least locating the clients for those

1 services. Many of those projects include assisting
2 clients to navigate and complete confusing legal
3 paperwork, helping them apply or seek for reinstatement of
4 benefits or otherwise assisting clients at early stages of
5 the problem where simple intervention can help avoid more
6 protracted proceedings later.

7 As I've noted, our program seeks to ignite the
8 passion of our attorneys for pro bono work through a broad
9 offering of opportunities and demonstrating how beneficial
10 the work can be, not only to the client but to them as
11 well. Last year U.S. Supreme Court Justice Sonia
12 Sotomayor took matters a step further with her contention
13 that all lawyers should be required to provide pro bono
14 legal services for those who can't afford it. This was
15 just a few years after New York State's groundbreaking
16 rule requiring mandatory pro bono service as a
17 prerequisite to admission to the state bar.

18 At BNY Mellon we explored the idea of creating a
19 mandatory pro bono requirement for in-house attorneys.
20 Ultimately, and after much debate, we determined that we
21 could not apply a pro bono requirement consistently around
22 the globe, largely because of the lack of pro bono
23 opportunities and in some cases outright restrictions on
24 pro bono services in many of the jurisdictions where our
25 lawyers work. So we instead created a broader citizenship

1 requirement, an expectation that lawyers and legal
2 department staff commit to a minimum number of hours of
3 community service. We encourage our lawyers to fulfill
4 this requirement through the provision of pro bono legal
5 services wherever possible and that seems to be what
6 they're doing. Since instituting the citizenship
7 requirements in 2016 we've seen a marked uptick both in
8 pro bono participation rates and the number of hours
9 contributed to pro bono activities. Year-to-date 2017,
10 two thirds of our attorneys worldwide have participated in
11 pro bono activities logging more than 1,000 hours of
12 community service.

13 Beyond our own internal efforts, if corporations
14 leverage their relationships with law firms to advocate
15 for pro bono, we could increase participation even
16 further. Corporate clients should make clear that
17 pro bono performance will be a criterion in evaluating
18 counsel, communicating that through a request for
19 proposals and during relationship meetings. We can also
20 be creative by building partnerships with law firms on
21 specific pro bono projects.

22 A great example is BNY Mellon's partnership with
23 the Transgender Legal Defense & Education Fund and the
24 Reed Smith law firm to provide legal name change services
25 to the underserved transgender community in New York City.

1 The clients are overwhelmingly young transgender persons
2 of color living in poverty. The partnership has been a
3 win for all involved, helping our clients match their
4 legal names to their gender identities while strengthening
5 the bonds between my team and our Reed Smith colleagues by
6 offering them a rich and rewarding experience.

7 Companies must embrace access to justice and
8 pro bono legal service as essential obligations to our
9 communities. Today those needs are secondary to other
10 social needs that corporations typically address. To
11 quote Judge Lippman in his testimony before this panel in
12 2016: "We need to change the priorities in society. What
13 I mean by that is we know the things that society holds
14 dear -- schools, hospitals, housing. We know how
15 important these things are. I truly believe that legal
16 representation to the poor is every bit as important as
17 each of those areas and everything that we hold so dear in
18 this democracy." I would add that civil legal services
19 are fundamental to access to education, health care and
20 housing, so we have an easier lift than a wholesale shift
21 in priorities. In many cases we simply have to educate
22 corporate leaders on how well legal pro bono services
23 aligns with and helps fulfill longstanding corporate
24 social responsibility commitments. And it can be done.

25 In June of this year the leadership of BNY

1 Mellon voted to include legal pro bono and the expansion
2 of our pro bono efforts as a part of our company's global
3 and formal corporate social responsibility goals. And
4 with that, there's a powerful argument for directing more
5 corporate philanthropy dollars to support legal service
6 organizations that provide a measurable community impact.
7 For example, at BNY Mellon our corporate community
8 partnership initiative provides matching dollars for the
9 hours that our attorneys work on pro bono matters for
10 qualified organizations.

11 So the bottom line is this: There's a role for
12 many in expanding access to justice in New York State. In
13 particular, I see ample opportunity to more fully harness
14 corporate legal resources for the cause. It requires
15 chief legal officers to make access to justice and
16 pro bono work priorities within their organizations. When
17 they do and when they take advantage of the resources that
18 help them do it right, they can build pro bono practices
19 that are self-perpetuating and create at least as much
20 value as they are delivering to their clients in need.

21 Thank you again for the opportunity to share my
22 thoughts.

23 CHIEF JUDGE DiFIORE: Thank you, Mr. McCarthy.
24 Kevin, you spoke about -- well, first let me say obviously
25 your institution has recognized the value of pro bono

1 services and has demonstrated great leadership in this
2 area. What has to happen at a national level to encourage
3 increased and expanded pro bono services by in-house
4 counsel?

5 MR. McCARTHY: It's a great question, Your
6 Honor. I think what you really need to see are internal
7 champions in organizations who feel passionate about these
8 issues, are willing to spend their time to get involved,
9 educate their colleagues. I don't think a solution will
10 be outside requirements pushing these things into these
11 organizations. I believe they'll be resisted as another
12 example of bureaucratic and legislative political pressure
13 and they'll be treated as such and won't be sustainable.
14 You've got to have people who really feel passionate about
15 it. Those who run our pro bono program are lawyers in the
16 department. They volunteer their time. It must be
17 hundreds of hours a year that they volunteer on top their
18 day jobs. That to me is what's inspirational to other
19 people. It's what allows these programs to develop. And
20 there's nothing special about New York City, as much as we
21 may love it. I think these kinds of things can be
22 developed nationwide wherever there are people who are
23 willing to be those champions in internal legal
24 departments, because once you get exposed to what can
25 happen the idea sells itself.

1 PRESIDING JUSTICE ENG: I was very impressed by
2 your presentation and I can imagine the pool of excellent
3 lawyers that you must have in house, but you speak about
4 decision makers. Who is the person to be reached
5 regarding starting the ball rolling? Is it the chief
6 legal officer? Is it someone else in senior leadership?
7 Is it from the board itself? Where do you begin in
8 educating a large organization as to the importance and
9 need for these services? Who do you have to sell?

10 MR. McCARTHY: That's a good question. I think
11 the general counsel of the organization is a critical
12 first step because he or she can be that advocate. It's
13 within their wheelhouse. It's legal pro bono. I think
14 it's their comfort area.

15 A couple of other places, very, very powerful,
16 most large corporations have philanthropy departments. If
17 you can get plugged in with the philanthropy people so
18 they can see the connection between the good of the
19 company and pro bono causes it's a great way to fund it
20 and get traction.

21 I've also seen it work when you can get one or
22 two board members engaged. Members of the boards of these
23 banks and financial services corporations, some of them
24 are the most impressive people you've ever seen. For them
25 to get energized about what the company can do and they

1 sit on that board makes them feel engaged and they have a
2 sense of pride. There is nothing more powerful than a
3 board member putting on the record in a board meeting or a
4 committee their recognition of what we're doing, their
5 compliments on it, their suggestion we do more of it.
6 That really creates support. I think if you cross all of
7 those examples, if you can get those people focused and
8 engaged, you're off to a great start.

9 PRESIDING JUSTICE WHALEN: Mr. McCarthy, thank
10 you for your testimony today. To follow up on what you
11 just said, if we can identify that person, and I think of
12 various companies from my neck of the woods in New York
13 that may be interested in doing this, did you have or did
14 you develop in your experience a blueprint, a corporate
15 blueprint of how to go about this protocol, how to follow
16 up on this and what some of the challenges were and
17 something that maybe could be shared with other companies
18 to help encourage them and to maybe not reinvent the
19 wheel?

20 MR. McCARTHY: It's a great question and the
21 answer is even better, which is we didn't have any secret
22 process. We didn't develop a secret blueprint. What we
23 did was really plug into the law firms that we use most.
24 So we created partnerships with the law firms. The amount
25 of thinking and pro bono activity and engagement that's

1 going on in law firms today is pretty remarkable. The
2 nice thing about working with large firms is they don't
3 just represent us. They represent a swath of corporate
4 America. So we can kind of pick the best ideas that they
5 see around the country. It's really driven largely by
6 that, letting our firms know this is important to us, this
7 is what we want to do, tell us how we can do it right,
8 what are you seeing out there, and it built on itself.

9 PRESIDING JUSTICE WHALEN: Thank you.

10 CHIEF JUDGE DiFIORE: Thank you, Mr. McCarthy.

11 MR. McCARTHY: You're welcome.

12 CHIEF JUDGE DiFIORE: Our next presenter is Beth
13 Essig who serves as Executive Vice President and General
14 Counsel for the Mount Sinai Health System. Thank you,
15 Ms. Essig, for being here.

16 MS. ESSIG: Thank you very much, Your Honor, and
17 thank you to all the members of the panel and the
18 commission for allowing me this opportunity to testify.
19 I'm really honored to be here.

20 I am Executive Vice President and General
21 Counsel of the Mount Sinai Health System and I've worked
22 for that institution as counsel in various capacities
23 since 1979. That's a long time. I am here to talk not
24 about Mount Sinai but of the needs of our patients and how
25 we are seeking to try to meet those needs through a newly

1 launched separate charity, the Mount Sinai Medical Legal
2 Partnership.

3 First, just a little bit about Mount Sinai. We
4 have more than 145,000 inpatient discharges every year in
5 seven hospital sites. More than 18,000 babies are born in
6 our hospitals every year. Our dean likes to say that
7 enough babies are born in our hospital each year to
8 populate a village. There are more than 3 million
9 outpatient visits a year in our system and we have over
10 40,000 employees. And with all that I'm really proud to
11 say we are a US News Honor Roll hospital and one of only
12 20 such hospitals in the entire country. The Mount Sinai
13 Hospital itself is bordered on the north by East Harlem,
14 one of the least affluent zip codes in the nation, and on
15 the south by Manhattan's Upper East Side, one of the most
16 affluent. Mount Sinai Health System is committed to
17 serving our community and providing the same high-quality
18 patient care to all of our patients.

19 However, it became apparent to me over the last
20 40 years that many patients cannot get well unless they
21 are provided with legal services as well as health care
22 services. We all know that to be in need of legal
23 services and unable to access them is extremely serious.
24 The effects on a person of being gravely or chronically
25 ill and simultaneously requiring those services is

1 synergistic and can be catastrophic. We have come to see
2 that providing some patients with outstanding health care
3 services will not make them well unless they also have
4 access to appropriate legal services.

5 As you may know, medical legal partnerships
6 exist in this country. There is about 237 of them now and
7 they aim to integrate health care and legal services so
8 that patients can get well. In the Mount Sinai Health
9 System, legal services have been provided to needy
10 patients in conjunction with some outstanding non-profit
11 legal services organizations in New York such as the New
12 York Legal Assistance Group, NYLAG, Legal Aid and Youth
13 Represents. The Mount Sinai Medical Legal Partnership is
14 a little different. As far as we know we are the first
15 medical legal partnership designed to work with the health
16 system and make sure that we tap into those resources and
17 make sure that our patients get the legal services they
18 need. And we've been able to expand those services and we
19 have also been able to obtain volunteer services directly
20 from lawyers in New York law firms with the help and
21 generous support of law firm pro bono coordinators and
22 others, but the need is huge and we have much to do.
23 We're less than a year old.

24 We have big dreams and we believe that because
25 of our location in New York City where there's so many

1 practicing lawyers, and perhaps even legal departments
2 looking to provide help, we should be able to be uniquely
3 situated to make sure that our patients can get the help
4 that they need.

5 I would like to tell you about a few projects
6 that we have up and running already. These are new
7 projects in the last year.

8 At Mount Sinai Beth Israel we have an amazing
9 transgender program. It's very large and we treat people
10 regardless of ability to pay, a lot of Medicaid patients.
11 Volunteer lawyers provide such services as name change and
12 gender marker services and they provide family law support
13 and sometimes even employment law support because as
14 people go through these transitions in this environment
15 they often have legal needs.

16 Trusts and estates lawyers provide wills and
17 estate planning to gravely ill patients, often in our
18 Hospice program, who are below the poverty level but they
19 nonetheless have assets that require estate planning or
20 who require the designation of a guardian for their minor
21 children that they'll have to leave behind.

22 And with the help of a grant to Legal Aid from
23 the Criminal Justice Investment Institute, Legal Aid will
24 be providing education and other advocacy services to
25 patients in our Child and Family Services Program at Mount

1 Sinai St. Luke's.

2 We have more on the agenda and here are programs
3 that we hope to get going this year and that we are
4 already working on.

5 We have begun to develop a program in our
6 pediatric asthma clinics to address landlord-tenant issues
7 and the conditions in our patients' home that contribute
8 to their failure to get healthy.

9 We hope to make immigration attorneys available
10 to our patients. No surprise, but we have had a
11 remarkable outpouring of immigration lawyers who want to
12 volunteer and help patients in our current environment and
13 we're working to structure a program so that patients who
14 have those needs will have the legal help that they need.

15 We are talking to a couple of law schools in
16 hopes to provide legal services through an academic clinic
17 in one of the local law schools. We think that would be
18 good and synergistic also and, as you know, we have a
19 medical school and our medical students are interested in
20 working with law students.

21 We expect very soon to be working with NYLAG on
22 a new program to provide legal assistance to students and
23 their families who are patients in some of our
24 school-based health clinics. We go into the community and
25 provide health care in schools.

1 And we are exploring ways to address child
2 custody and related issues in abuse situations.

3 Perhaps most ambitiously, we plan to work with
4 our population health enterprises. Those are
5 organizations such as the Mount Sinai Accountable Care
6 Organization that's designed to improve long-term health
7 outcomes and reduce unnecessary and avoidable utilization
8 of health care resources. We hope to learn how addressing
9 the legal needs of our patients impacts the health
10 outcomes of individuals and populations and how it
11 improves quality and value. This is consistent with the
12 goals in the Accountable Care Organization and other
13 initiatives that we've begun exploring. We hope that
14 providing legal services to our patients will reduce costs
15 and improve quality. In fact, since most of the health
16 care is funded through the state's Medicaid program, we
17 believe that providing effective legal services may
18 actually reduce the ultimate cost to the state.

19 There is much work to do and we hope that with
20 the ongoing support of the legal community and various
21 legal service providers we will be able to serve our
22 patients and our communities. Thank you for your
23 attention and for all the good work of the commission.

24 CHIEF JUDGE DiFIORE: Wow. Congratulations to
25 you. Just a phenomenal model on so many levels. Thank

1 you very much. To your knowledge are there any other
2 health care systems that are comparable to this model?

3 MS. ESSIG: There are wonderful medical legal
4 partnerships around the country. There are organizations
5 often based in law schools. Yale Law School has a
6 fantastic medical legal partnership program and it does
7 programs in hospitals and works collaboratively, but it's
8 run out of the law school. We are running it out of the
9 general counsel's office very much with the same spirit
10 and I watch my staff get into the act and excited about
11 their ability to work on these programs and get the help
12 from our legal service providers. It's a little bit
13 different.

14 PRESIDING JUSTICE PETERS: I just think it's an
15 extraordinary idea and, as you know, of course, in New
16 York, particularly in my department, the 28 counties from
17 Sullivan County up to the Canadian border, there are only
18 two law schools so all the rest of the counties and the
19 medical facilities don't have access to law students. So
20 I think your idea of doing this, quote, in house with
21 local lawyers is brilliant and thank you for sharing it
22 with us.

23 MS. ESSIG: Thank you so much.

24 CHIEF JUDGE DiFIORE: Thank you very much.

25 MS. ESSIG: Thank you.

1 CHIEF JUDGE DiFIORE: Our next presenter is John
2 Kiernan who is a partner at Debevoise & Plimpton. He is
3 also the president of the New York City Bar Association.
4 We're all aware, I'm sure, of John's long and deep
5 commitment to access to justice. It was my pleasure
6 earlier this year, month actually, to appoint John as
7 co-chair of the New York State Task Force on Legal
8 Assistance Related to Hurricane Harvey and, unfortunately,
9 that task force seems to be growing and ever increasing in
10 its mission. Mr. Kiernan, thank you so very much for
11 taking the time to come here today.

12 MR. KIERNAN: Thank you, Judge. Good afternoon
13 all Your Honors and thank you to the members of the panel
14 and the members of the Permanent Commission for this
15 opportunity to testify today on behalf of the New York
16 City Bar Association. As in past years we at the City Bar
17 want to start by expressing our deep gratitude and
18 applause to the Judiciary for allocating \$100 million of
19 its budget to funding of civil legal services for
20 low-income New Yorkers who face threatened loss of
21 essentials of life. It's a tremendous commitment on your
22 part.

23 This year we're also celebrating New York City's
24 passage of the path-breaking law 214-b providing for free
25 legal services to low-income tenants facing eviction. New

1 York City's example is already inspiring discussions in
2 other cities and it suddenly seems no longer naive to
3 anticipate the day when Americans broadly consider
4 unthinkable that a person could be evicted from his or her
5 home by court order without legal representation.

6 Now, even with these great allocations of
7 government funds and all of the pro bono generosity of the
8 private bar and the corporations that you've been hearing
9 about today, we all know that the available resources
10 remain far short of what is needed. Those shortfalls make
11 it especially important to pursue efficiency in
12 identifying what our clients need and calibrating the
13 scope of services to be provided given the clients' needs
14 and the competing demands for limited free legal services
15 and in protecting clients against the grinding experience
16 of repeated rejections of their request for help. So my
17 testimony today will focus on just one component of the
18 effort to improve efficiency in the delivery of legal
19 services that hopefully resonates with some of the other
20 comments made by others today which is the creation of
21 communities of providers who use technology and
22 organizational planning to pursue efficiency and cost
23 effectiveness and to achieve some of the connections that
24 are correctly identified as so important.

25 So the communities and portals directed to this

1 purpose range from low-tech versions that have been around
2 for many years to high-tech versions using increasingly
3 sophisticated forms of artificial intelligence to promote
4 more efficient communications and allocations of
5 resources. At the City Bar Justice Center, for example,
6 our legal services hotline provides many of the benefits
7 that the more technological and sophisticated systems are
8 capable of providing just using lots of human input, elbow
9 grease and a lot of human resources and costs.

10 Experienced hotline attorneys determine through escalating
11 sets of questions adapted to a caller's particular
12 circumstances whether the caller is eligible for free
13 legal services, whether the caller's problem can be
14 handled through brief legal advice or referral to
15 self-help resources or forms and, if the matter requires
16 more sophisticated assistance, which legal assistance
17 provider should handle it. This centralized information
18 processing and triage is far more efficient than
19 establishing the same infrastructure at a lot of different
20 individual providers.

21 Now, on the more sophisticated side, the City
22 Bar Justice Center will be sponsoring, just in the next
23 few weeks, the rollout of a consumer internet portal
24 called the New York City Consumer Help Finder that we hope
25 will show what can be achieved when providers work with

1 each other using modern technology. Starting from a
2 recommendation from the Permanent Commission on Access to
3 Justice and working with a grant from the New York State
4 Community Trust and with technology developed by a case
5 management software company known as Legal Server, the
6 consumer law practice groups at the City Bar Justice
7 Center, CAMBA Legal Services, Mobilization for Justice,
8 CLARO and Urban Justice Center have combined and developed
9 a common portal that operates like a decision tree to
10 confirm clients' eligibility, determine their needs,
11 categorize the kind of assistance to provide them and
12 allocate to them to the most appropriate source of further
13 legal services through a so-called automated routing
14 portal. Like a hotline, this portal will feature tiers of
15 questions with particular client answers triggering either
16 the privilege of information or acceleration to
17 appropriate next sets of questions in a way that should be
18 easy to use and effective at getting clients what they
19 need with less of the human intervention and costs that
20 were associated with the hotline method of pursuing the
21 same process. And the routing tool will be designed to
22 take advantage of the participating providers' different
23 locations and areas of expertise while reducing that
24 searching burden on low-income clients.

25 Now, while this consumer help finder shows

1 promise to be particularly cutting-edge and productive,
2 and possibly a model for other efforts, other examples of
3 legal services providers pooling of intake of resources or
4 engaging other pooling efforts in the interest of greater
5 efficiency actually abound, usually having the common
6 feature that the participants were brought together by the
7 government or by a private sponsor or funder or by the
8 demands of a disaster. On the government front, for
9 example, the New York City's Office of the Civil Justice
10 Coordinator devotes enormous resources and skill to
11 allocating funding and responsibilities to a wide range of
12 legal services providers and encouraging them to work
13 together. This work includes calling for all different
14 forms of cooperation, splitting work and developing
15 synergies between different organizations. Most
16 prominently, the hugely challenging infrastructure for
17 providing the free legal representations that are funded
18 by new law 214-b is being hammered out right now as an
19 example of this creation of synergies and collective
20 action.

21 As another example, until recently the provision
22 of pro bono and other legal services to microentrepreneurs
23 in New York City was almost entirely the provenance of
24 three or four organizations whose conduct in synergistic
25 forms has largely been limited to knowing about and

1 avoiding duplication of effort with each other's areas of
2 coverage, but a recent Small Business Administration grant
3 to Volunteers of Legal Service has fostered a new joint
4 effort among providers again looking for collective
5 advantage that comes from exploring things together.

6 Now, private pro bono has also made big strides
7 in recent years to evolve from projects handled by
8 individual lawyers, in-house counsel and firms to a more
9 collective community effort. As Kevin McCarthy and Beth
10 Essig have illustrated today, corporate in-house lawyers
11 have formed joint pro bono efforts, sometimes with their
12 outside lawyers, sometimes with legal services providers
13 and sometimes triangulated with all three working
14 together, to take advantage of the enormous power that
15 corporations have that is attached to, as they have
16 described, the increasing sense of corporations today that
17 their membership in the larger community includes an
18 element of social responsibility as part of their identity
19 and also part of what makes their employees proud to work
20 there.

21 Legal services organizations trying to enlist
22 pro bono support have seen advantages of helping firms to
23 benefit from work product developed by other firms.
24 ProBono.Net, essentially a crowd-sourced resource to which
25 many contributors provide content for other pro bono

1 providers to use, is an impressive application of
2 technology to improve volunteer lawyers' capacity to
3 provide free legal services again in more efficient and
4 cost effective ways. And the Association of Pro Bono
5 Counsel, which didn't exist 15 years ago, now is
6 tremendously effective at coordinating efforts by
7 volunteer lawyers at firms all over the country to improve
8 efficiency and enhance communications and avoid
9 unnecessary or avoidable duplications of effort.

10 Disasters have the same capacity to stimulate
11 coordination of efforts because the sprawl of need is so
12 vast and the demand for organization among
13 well-intentioned volunteers is so essential. We saw the
14 coordination of efforts among legal services and pro bono
15 providers in response to 9/11, Superstorm Sandy and the
16 President's travel ban this past January. And as Chief
17 Judge DiFiore mentioned, we're seeing it now most recently
18 in response to Hurricanes Harvey and Irma. Volunteers for
19 disaster relief tend to have the appealing characteristic
20 of embracing the roll-up-the-sleeves, barn-raising sense
21 of collective effort. The help that gets stimulated by
22 seeing large numbers of people in need, that sensibility
23 seems to be a particularly important ingredient for making
24 these relief joint communitarian efforts as effective as
25 possible.

1 Another source of organized collective effort to
2 leverage legal services efficiently has been the expanding
3 use of non-lawyers along with lawyers in addressing issues
4 for low-income clients. Sometimes the collective action
5 has been of the "one stop" variety combining legal
6 services with social services that seem essential to
7 provide fully effective assistance. Other times the
8 collective action has also included non-lawyers assisting
9 lawyers who supervise them in the delivery of legal or
10 paralegal services. I was going to use Legal Hand as an
11 exemplar of that effective use of lawyers with providing
12 supervision of non-lawyers who are out in the community,
13 but I yield to Sirrah and Jose to provide you more
14 granular details of how effective that is.

15 So does this process work? At this point
16 virtually no data yet available answers whether
17 community-sponsored portals for delivery of legal services
18 for multiple sources actually enhance the efficiency, but
19 intuition suggests that if well managed they should. That
20 intuition presents the question why coordination isn't
21 more universal and why rollout seems so dependent on
22 earmarked and external funding or the imperatives of a
23 disaster. Two practical constraints may be in play.
24 First, to the extent a pooling of capabilities means that
25 individual legal services providers might end up with more

1 clients and more matters, that isn't necessarily something
2 they really want or can readily absorb. They are already
3 turning away clients or providing clients less than they
4 would like to because of sheer demand. As a practical
5 matter, arrangements like the consumer portal's automatic
6 routing tool will only work if the entities to which the
7 matters are referred are generally able to take on those
8 matters. Embracing synergies that yield more matters will
9 likely have an appeal to a provider only if those
10 synergies at least equally lay off matters to other
11 providers best suited to handle them. That is part of the
12 big challenge attached generally to providers' outreach to
13 clients that Justice Whelan asked a question about a few
14 minutes ago.

15 A second major impediment is the organizing
16 efforts often require a lot of unglamorous work on
17 logistics and technical details by legal services staffs
18 who are not always naturally organized for or disposed
19 toward that kind of work. Providers tend to think of
20 resources that are directed to managing themselves as an
21 allocation away from the compelling alternative of serving
22 the needy clients right in front of them. These
23 logistical arrangements don't come naturally. It has
24 taken nearly 18 months of work to get the consumer portal
25 to its current state of near readiness and another

1 entity's recent efforts to erect a similar portal for
2 veteran-related matters essentially fizzled following the
3 loss of momentum in setting it up and working out its
4 bugs.

5 Earmarked and external funding tends to negate
6 these problems and stimulate the efforts needed to make
7 these portals work. Once in place, these programs really
8 do seem capable of providing the benefits they're designed
9 to provide. With increasing technological capacity,
10 expanded roles of artificial intelligence and,
11 importantly, increased growing ability of poor clients to
12 access this technology over the internet, the future
13 expansion of these kinds of offerings seems both desirable
14 and likely. Thank you.

15 CHIEF JUDGE DiFIORE: Thank you, sir. So, John,
16 the idea of communities of providers is obviously very
17 thoughtful and promising and sounds to have a lot of
18 potential. Have you given any thought -- I know you're a
19 city bar -- about the potential in more rural areas and
20 whether or not that concept or structure can work?

21 MR. KIERNAN: I think the answer, Judge, is it
22 can and should work and as you get into smaller
23 communities of course the sense of communitarianism
24 already exists. The lawyers already know each other. The
25 people who have the capacity to influence tend to already

1 gather with each other in various ways and one of the
2 things we're exploring in connection with our response to
3 these disasters is the establishment of more of a network
4 of upstate, non New York City law firms, law schools,
5 legal services providers using the opportunity, as I say,
6 for the barn-raising capability created by disasters to
7 see if we can get them together. That's showing a lot of
8 early promise. What we find is that in each community the
9 story is a little different. In some places you want to
10 work with the county bar associations and the biggest
11 firms, in other places there's a legal services provider
12 who already has served as a gathering point or a law
13 school that is providing the central -- actually putting
14 the pieces together, but the concept seems not only
15 exportable but really sort of in need of exportation. As
16 I say, 15 years ago it didn't exist for the big firms and
17 when you look at the corporations now you see
18 organizations like the Association of Corporate Counsel
19 having, as part of its agenda, thinking about how
20 corporations can develop pro bono and I think this
21 communitarianism sensibility is likely to grow.

22 PRESIDING JUSTICE ENG: I want to thank you, of
23 course, for your service and for the tremendous
24 contribution to the community and to pro bono needs.
25 Speaking about pro bono, we were talking all afternoon

1 about private pro bono. Now, there's a public sector as
2 well and the public sector is heavily constrained
3 regarding pro bono services. As an illustration, I have
4 some 200 lawyers in the Second Department, including the
5 ancillary agencies, the law department and everything
6 else. I get an occasional request from some of the staff
7 attorneys to perform pro bono services and I find I'm very
8 constrained, depending on what the request is, and I
9 certainly can't hand out public time legally. I don't
10 think there's any way I can do that. I'm wondering if in
11 your experience if you've found a way or are aware of a
12 way where there can be pro bono contribution by public
13 sector attorneys.

14 MR. KIERNAN: It's a very complex and important
15 question, Justice Eng. I'm going back a few years in
16 time, but I would say about eight or ten years ago there
17 was actually a protocol developed with the New York
18 Attorney General's office to identify what kind of work
19 public sector --

20 PRESIDING JUSTICE ENG: New York AG?

21 MR. KIERNAN: Yes. I'll do a little digging to
22 see if I can find it for you. It was complex, as you
23 said, because so many of the issues that call for pro bono
24 involved matters that could appear or become a subject
25 before the agency, but there were a number of public

1 education efforts that seemed to be kind of the main area
2 where government lawyers could contribute without running
3 into a problem -- public education, going into the
4 schools, mock trial and moot court competitions, those
5 sorts of things. I see my state bar colleague has
6 thoughts about that.

7 MS. GERSTMAN: I just, in follow up to Justice
8 Eng's question, I can tell you that the state bar did pass
9 a set of protocols for specifically state and federal
10 employees and left open the question of municipality
11 employees, because there's too many differences among
12 different localities at this point, and I believe that the
13 Attorney General protocol that Mr. Kiernan referred to was
14 the product also of our Access to Justice Committee and
15 our attorneys in public service had also negotiated that
16 and I'm happy to provide any of that information.

17 PRESIDING JUSTICE ENG: Thank you.

18 MR. KIERNAN: Why don't Sharon and I knock heads
19 and try to get a useful response to you.

20 CHIEF JUDGE DiFIORE: Appreciate that. Thank
21 you very much, Mr. Kiernan.

22 Our next presenter will appear remotely, or not.
23 We are going to move along while we attend to a technology
24 glitch. So next up is Sirrah Harris who is a senior staff
25 attorney at Legal Hand in Crown Heights. Thank you for

1 traveling to Albany.

2 MS. HARRIS: Thank you and good afternoon, Chief
3 Judge and distinguished members of the panel. I'm Sirrah
4 Harris and I am a senior staff attorney at the New York
5 Legal Assistance Group and the on-site attorney at the
6 Crown Heights Legal Hand office. I've been working at the
7 Crown Heights Legal Hand office since it opened in late
8 2015 and I'm very grateful for the opportunity to talk to
9 you about the work we do and the impact we've seen so far
10 and how our work relates to the goals of the Permanent
11 Commission on Access to Justice.

12 Legal Hand neighborhood storefront offices are
13 staffed by non-lawyer volunteers who are trained to spot
14 legal issues and direct visitors to appropriate
15 information and resources to address the visitors'
16 individual situations. They work directly with visitors
17 from the community who are seen on a walk-in basis. The
18 most common issues that we see are housing benefits and
19 family law matters. Volunteers provide visitors with know
20 your rights information, assist with applications and
21 forms and make advocacy calls on behalf of visitors in
22 order to help them address their issues and the goal is to
23 address those issues before they become legal problems.

24 So an example of how this has worked effectively
25 is in the housing context. In my office at Crown Heights

1 more than once I have seen visitors come in who have found
2 a rent demand that the tenant has proof that they've
3 already paid and the Legal Hand volunteers are able to
4 help a tenant write a letter to the landlord disputing
5 that and providing proof of the payment and helping them
6 avoid a nonpayment case.

7 Volunteers also regularly help visitors apply
8 and certify for benefits such as SNAP, Supplemental
9 Nutrition Assistance Program, and SCRIE and DRIE, the
10 Senior Citizen and Disability Rent Increase Exemptions,
11 and they are able to help individuals reach out to the
12 agencies that manages programs when they come in with
13 questions about their cases.

14 For issues or situations where a visitor needs
15 direct legal assistance, volunteers provide contact
16 information for the various legal services offices with
17 relevant practices.

18 Legal Hand differs from traditional legal
19 clinics and direct service offices because of our
20 open-door holistic approach to serving the community.
21 Visitors to our office can ask for help with any issues
22 affecting their life, not just strictly legal issues. So
23 in addition to helping with legal information, volunteers
24 help visitors with a myriad of other services such as
25 creating e-mail accounts and making phone calls and faxes

1 and copies and they also help with resumes, job search.
2 These services, which aren't strictly legal in nature, can
3 be essential in helping the visitors maintain stability
4 which is vital to resolving legal situations.

5 So it's due to our walk-in structure and our
6 holistic practice that our Legal Hand offices are able to
7 attract members of the community that might not otherwise
8 feel comfortable seeking out assistance. As such, we're
9 able to identify and assist with issues that may not have
10 otherwise gotten attention until they were fully formed
11 legal problems.

12 For one example, we had a visitor to our Crown
13 Heights office who was a disabled senior citizen. He
14 initially came in because he lost a money order. The
15 volunteers were able to help him find the proper forms and
16 fill out the forms to request a refund and it wasn't until
17 a subsequent visit the visitor came back and mentioned he
18 had a problem with his SCRIE benefits. He had consulted
19 an attorney who wasn't able to help directly with the
20 SCRIE issue and told him what he needed to submit to SCRIE
21 and the Legal Hand volunteers were able to help him submit
22 the necessary documentation and in this case the visitor
23 came back and let us know he received the SCRIE benefit
24 and was actually owed a credit of around \$9,000 from his
25 landlord, and he also received his refund from his money

1 order.

2 The impact to our community really lies in our
3 ability to do proactive and preventative work rather than
4 reactive work that is usually required of legal services
5 providers. Legal Hand offices are able to focus on
6 empowering and educating community members. In the past
7 year just in the Crown Heights office we have hosted more
8 than 30 community education workshops on topics including
9 eviction proceedings, housing repairs, custody and
10 visitation orders, orders of protection, uncontested
11 divorces, public assistance issues and fair hearings,
12 employment discrimination, financial literacy and elder
13 abuse.

14 Since we opened nearly two years ago we have
15 seen an increased number of people coming into our office
16 looking for resources before a case has started, such as
17 rent stabilized visitors coming in at the point they get a
18 renewal lease or coming and getting information about
19 their rent histories. We have volunteers helping visitors
20 learning how to respond to debt collection letters and
21 information on how to dispute that and ask for
22 verification. We had a visitor in our office who had
23 their SNAP case closed due to a missed recertification and
24 our volunteers were able to help that person reapply and
25 then the same visitor came back multiple times the

1 following year to check the recertification dates and do
2 the recertification on time thus avoiding another case
3 discontinuance or possible fair hearing.

4 Because visitors are comfortable coming into our
5 office with their questions, when a visitor does require
6 legal assistance beyond what our volunteers can assist
7 with, we're usually able to direct them to appropriate
8 referrals at the earliest point in their case.

9 Legal Hand is furthering the goals of the
10 commission by providing an open door to legal and other
11 stabilizing resources in our underserved communities. All
12 Legal Hand offices are open at least one day a week after
13 traditional work hours and one weekend day. We're able to
14 reach people who previously did not know where to go to
15 access help or whose schedules and commitments did not
16 allow them to access more traditional service providers.

17 A great example of the impact of Legal Hand's
18 accessibility is the case of a senior citizen in our Crown
19 Heights community who first came in to ask a volunteer for
20 help with taking photos with her cell phone. She came
21 back again soon after to ask about options on how to get
22 repairs done in her apartment. She had made multiple
23 complaints to her management company that had gone
24 unanswered and she told the volunteer she used her cell
25 phone to take pictures of the condition and she wasn't

1 sure what to do next. Our volunteer gave her information
2 about her rights and options for making complaints
3 regarding the needed repairs and helped her print the
4 pictures from her cell phone. The next week the visitor
5 came back and told us that she had gone to her management
6 office after her visit to Legal Hand with her photos and
7 with a written demand and the next day the management
8 company sent someone to start the repairs. So Legal Hand
9 helped that visitor regain her housing stability without
10 resorting to rent strike or litigation.

11 As an attorney who has practiced in the area of
12 housing and workers' rights and consumer debt I'm well
13 aware of the need for services that can help people find
14 solutions to their problems before they end up in the
15 court system. It often seems, as a direct legal services
16 provider, that there can never be enough lawyers to meet
17 the need and that with a full caseload you're really
18 limited in the amount of services and support you can give
19 your clients to help them with the collateral issues that
20 aren't directly within the sphere of your immediate case.

21 So Legal Hand provides an essential resource
22 that helps people stay out of the court system through
23 education and early intervention and also has the unique
24 ability to work with community members repeatedly and on
25 an as-needed basis to immediately assess issues or address

1 issues that come up and provide a range of resources to
2 help resolve interrelated various issues that are often
3 compounding forces that lead to legal situations.

4 Now, while the focus of Legal Hand's work is
5 helping visitors to resolve issues so they can avoid legal
6 cases, our office also helps to improve the experiences
7 visitors have once they are connected to the legal
8 referrals. Some of the most common challenges legal
9 services providers have in their representation are the
10 stage at which they receive the case, the ability to
11 communicate effectively and efficiently with their client
12 and collect documents, and then the collateral issues in
13 the clients' lives that affect their ability to work on
14 the legal issue at hand.

15 Legal Hand offices are able to add a support
16 system for the attorneys working with our visitors that
17 enhances their ability to provide effective legal
18 assistance. Our volunteers help visitors connect to legal
19 services at the earliest point in their case. They're
20 also able to help visitors get assistance with sending or
21 receiving documents that help their attorneys and on the
22 collateral assistance related to ongoing cases, that can
23 help avoid additional legal issues or exacerbating current
24 ones.

25 For example, a visitor to our office with a

1 nonpayment case can get help at our office resolving
2 issues with food stamps and that can help avoid the need
3 for a fair hearing but also provide and preserve economic
4 stability which aids in their ability to resolve their
5 nonpayment situation.

6 Legal Hand offices, through their use of
7 non-lawyer volunteers, add capacity to the legal services
8 system in New York City. It is because of the fact the
9 volunteers do not have to be lawyers that we're able to
10 have offices fully staffed six days a week with people
11 ready to offer assistance.

12 The neighborhoods that our offices serve contain
13 diverse, multifaceted communities that have various needs
14 and face unique challenges with accessing justice
15 solutions. The Crown Heights neighborhood, for example,
16 that my office serves is home to a large Black, West
17 Indian and Hasidic Jewish communities, just to name a few
18 of the long-time populations residing around my office.
19 In addition to those communities it's a neighborhood in
20 flux from a growing wave of gentrification. The various
21 members of the community that come to us have a range of
22 needs and a range of comfort levels with the justice
23 system and unique approaches as to how they access help.

24 Since we've opened almost two years ago we've
25 gained the trust and acceptance of our neighbors and on

1 any given day our office really is a cross-section of many
2 populations in our neighborhood. This is a result of
3 Legal Hand becoming an integrated part of the neighborhood
4 through our visible storefront presence and our open-door
5 approach to serving visitors. The volunteers, who are
6 usually community members themselves, are able to listen
7 to and understand the issues facing visitors in a way an
8 outside lawyer might not be able to and may have trouble
9 with, which makes the assistance they give more valuable,
10 more meaningful and more accessible. It is thanks to the
11 atmosphere that these volunteers help to create that
12 allows Legal Hand to thrive in the neighborhoods and
13 become integral pathways to legal solutions in our
14 community.

15 I thank you for your time and I'm happy to
16 answer any questions you have.

17 CHIEF JUDGE DiFIORE: Thank you, Ms. Harris. I
18 think that your testimony is really underscored, number
19 one, with all the preliminary success of the Legal Hand
20 program and thank you for all that you do, but it really
21 underscores the need and importance of trained volunteers.

22 So at this point we will segue into Jose
23 Torres's testimony. Jose serves as the volunteer
24 coordinator in the Jamaica office and we're anxious to
25 hear from you about what your work involves and how you

1 coordinate the volunteers.

2 MR. TORRES: Thank you. I want to thank the
3 Chief Judge and the commission for allowing me the
4 opportunity to address you. My name is Jose Wellington
5 Torres and I am pleased to be the volunteer coordinator at
6 the Jamaica site for Legal Hand.

7 At Legal Hand our trained, non-lawyer community
8 volunteers provide free legal information, assistance and
9 referrals to help resolve issues that affect visitors'
10 lives in areas such as housing, family, immigration,
11 divorce, domestic violence and benefits and try to prevent
12 problems from turning into legal actions. We train
13 community volunteers to provide this legal information to
14 our visitors. Currently Legal Hand is operated out of
15 three neighborhood storefront sites, one in Crown Heights,
16 Brooklyn, one in Brownsville, Brooklyn, and one in
17 Jamaica, Queens.

18 Since its inception in the fall of 2015 Legal
19 Hand has become fully integrated into the civic life of
20 Jamaica, a dynamic neighborhood serving an incredibly
21 diverse population. Legal Hand is open six days a week,
22 including one evening a week and Saturdays, and serves on
23 average 209 visitors per month or about 52 visitors per
24 week. We have assisted over 3,000 residents to date.
25 This assistance comes in many forms from procedural

1 education on court functions, which includes explanation
2 of court documents, helping visitors understand the
3 timelines and potential outcomes of court matters, to
4 discussing issues of benefits and housing. In all cases
5 we connect our visitors to resources that can help address
6 their concerns.

7 An example of the type of issues we see is from
8 a visitor who was a domestic violence victim and a mother
9 of two children, one of which is disabled, who came into
10 Legal Hand because she had lost a Section 8 rent subsidy
11 voucher because she hadn't recertified on time. She had
12 also missed a deadline to appeal the decision and only
13 found out about the issue through her landlord. She had
14 not informed Section 8 of the domestic violence issue in
15 the household and had been told by Section 8 that her
16 appeal had been denied and was therefore facing a housing
17 crisis. With the assistance of a volunteer the visitor
18 was able to connect with a Section 8 representative, work
19 with the volunteer to explain her situation, obtain a copy
20 of an order of protection and help send a written request
21 for her appeal to be reprocessed due to her hardship.
22 Thanks to the work of the Legal Hand volunteer her request
23 was granted and she has now another chance to have her
24 Section 8 reinstated rather than facing eviction
25 proceedings in housing court.

1 Another example of how Legal Hand provides
2 visitors solutions to their issues outside of the court
3 system is a visitor who came into Legal Hand because she
4 had recently been notified that her rent had been
5 increased to \$511 a month even though her income was only
6 \$667 a month and her husband was unemployed. Legal Hand
7 helped her to draft a rent increase grievance letter and
8 explained that she needed to take the letter to her
9 building's management office. Twenty minutes later the
10 visitor returned to Legal Hand and told us that the
11 management office had agreed to lower her rent by \$175 a
12 month. With the help of Legal Hand this visitor was able
13 to continue to live in her apartment without any court
14 involvement.

15 In addition to helping individual visitors Legal
16 Hand is also addressing the justice gap. On the simplest
17 level Legal Hand helps triage cases, which cases need to
18 go to a legal service provider for assistance, allowing
19 for more effective resource allocation. If it is a simple
20 issue that can be resolved without a legal case, it should
21 be.

22 In an anonymous survey 78.9% of the visitors
23 reported that Legal Hand had actually solved their issue.
24 Legal Hand is a terrific outlet to give light to the many
25 resources developed by providers that often fail to make

1 it into the hands of the people who need it most.

2 In addition, Legal Hand is building communities
3 that can assist themselves without the need for lawyers.
4 I hope I didn't offend anybody. Legal Hand's volunteers
5 are helping their neighbors. For example, when surveyed
6 over 92% of visitors felt welcomed and respected at Legal
7 Hand.

8 To sustain our level of community engagement we
9 currently have 27 dedicated volunteers who, on average,
10 donate 39 hours of their time each month to help us
11 address the gap in legal representation in the civil court
12 system. Our volunteers are incredible -- eager to learn
13 and eager to help.

14 An example is Carol Vilsaint-Mortimer, a
15 community resident, a small business owner who is a staple
16 of our project, or Dora Grizell, a local activist and
17 community leader who has helped the project access all the
18 goings-on in Jamaica. Without them we would not be as
19 effective in establishing the legitimacy in the community
20 needed to effectuate change.

21 We conduct biannual volunteer recruitment
22 drives, conduct intensive training to bring them on board
23 and then continue to provide trainings throughout their
24 time at Legal Hand. These trainings include typical know
25 your rights workshops as well as how to conduct interviews

1 and the difference between legal advice and legal
2 information. Our volunteers have also helped us develop
3 auxiliary tools when they see a need.

4 Our know your rights workshops have also been
5 very successful. These workshops happen weekly and are
6 free to the community. We have engaged 800 people via
7 these workshops. For example, this month we are featuring
8 workshops concerning housing affordability in response to
9 the large number of visitors we see facing housing issues.

10 Another important tool is our broader community
11 engagement and outreach. We host job fairs for youth,
12 participate in community panels and engage in larger
13 initiatives like the Queens Borough President's Task Force
14 on Immigration. This engagement protocol allows us to
15 participate in broader discussions with other stakeholders
16 and community members concerning the issue trends we see
17 from our visitors.

18 Another critical tool we use to support our work
19 is our partnerships with other projects. These
20 partnerships help our visitors access a broader variety of
21 resources. Our partnerships have included the New York
22 Commission on Human Rights, which helps our visitors
23 address discrimination issues, the Financial Clinic, an
24 organization which provides financial education to
25 visitors, and HPD, Housing Preservation and Development,

1 which provides Legal Hand visitors with the opportunity to
2 apply for affordable housing units.

3 Legal Hand is a revolutionary idea, helping a
4 community to help itself resolve problems before they get
5 to court. Our visitors' concerns can help drive policy
6 recommendations on ensuring meaningful access to justice.
7 Legal Hand is almost a volunteer run and operated
8 think-tank testing out new ideas.

9 Access to justice is not just about the lack of
10 equity in accessing the courts. Instead, Legal Hand is
11 showing that access to justice needs to be addressed
12 within the larger context of what initially drives
13 communities to access the courts.

14 Thank you for the work you are doing in
15 addressing this critical issue and thank you for allowing
16 me to present these remarks.

17 CHIEF JUDGE DiFIORE: Thank you, Mr. Torres. We
18 agree that Legal Hand is indeed a revolutionary idea and
19 forgive me I was momentarily distracted and I may have
20 missed this. Did you discuss your own background and how
21 you came to be at Legal Hand?

22 MR. TORRES: My background is very diverse.
23 Prior to working at Legal Hand I was assistant director of
24 a YABC program which is a group which actually works with
25 disenfranchised youths who haven't necessarily graduated

1 high school on time so they are looking for outside
2 resources to try to achieve this and prior to that I was
3 actually a clinical case manager working with the HIV
4 population throughout the City of New York.

5 One of the things I noted with this project is
6 the fact that we are acting as a bridge to all resources,
7 because as a case manager one of the things we are doing
8 and one of the things we do is try to bring resources to
9 people who are disenfranchised and so what struck me when
10 I initially started with this project was just that, the
11 idea that we are going to act as a bridge and try to bring
12 individuals who might necessarily have a reason to go to
13 court, catch them earlier on in the life cycle of the
14 issue to prevent them going to court. I'm not trying to
15 prevent anybody from having jobs, but it is imperative
16 that we try to see issues before they become these
17 metastasized balls that affect the community en masse.
18 The saying is that one straw broke the camel's back, but
19 in fact if you look at other straws beneath that straw,
20 this is what usually happens when you communicate. When
21 you get to the court you're getting the end result of a
22 lot of other litigating circumstances that drove that
23 person into that. So as a community activist in this
24 community and person engaged in this community I am part
25 of a project that actually addresses this.

1 CHIEF JUDGE DiFIORE: We're going to have to
2 find a way to calm you.

3 PRESIDING JUSTICE PETERS: Could you tell me,
4 how do you find your pool of volunteers, because they are
5 non-lawyers providing assistance in these challenges
6 problems that your volunteers will face. It is not an
7 easy task.

8 MR. TORRES: No, it isn't, but I think we have a
9 galvanized community. I think members of these
10 communities are well aware of the issues and so the issue
11 is actually picking from a large pool of individuals, how
12 do we best serve the community using the resources. They
13 connect us to services in the community. They have a
14 better understanding of what tethers the community
15 together and so for us we have -- depending on the
16 communities we have different systems. I like to mix the
17 bag up with my volunteers a bit and so we do have young
18 individuals who are entering law school. We also have
19 retired individuals who are looking to serve because they
20 want to. It's kind of a very diverse pool of individuals,
21 but it also reflects the adversity of the communities that
22 we serve. It is speaking to the fact that the communities
23 want to address these issues and are looking for vehicles
24 and I think Legal Hand does provide that.

25 CHIEF JUDGE DiFIORE: Thank you, sir. Thank you

1 very much.

2 Our next presenter and final presenter from this
3 panel is Kenneth C. Frazier who is chairman of the board
4 and chief executive officer of Merck. Hopefully he is as
5 forgiving as he has been patient. We apologize about the
6 glitch, sir. Thank you for being here and agreeing to
7 present.

8 MR. FRAZIER: Thank you, Your Honor. Chief
9 Judge DiFiore, Presiding Justices Acosta, Peters, Eng and
10 Whalen, Chief Administrative Judge Marks, New York State
11 Bar President Gerstman, other distinguished guests, ladies
12 and gentlemen, my name is indeed Ken Frazier and I am the
13 chairman and chief executive officer of Merck & Co., Inc.

14 It is an honor and a privilege to appear before
15 you and the members of the New York Permanent Commission
16 on Access to Justice this afternoon to provide my views
17 and those of my colleagues at Merck about the importance
18 of continuing efforts to address the very substantial and
19 critical unmet need for legal services by the poor and
20 disadvantaged residents of New York State. I would also
21 like to explain what's at stake for corporations like
22 Merck in promoting, supporting and otherwise seeking to
23 expand and strengthen legal services in New York and
24 indeed across the United States and why this is a matter
25 of vital self-interest to the business community.

1 For more than a century Merck, a leading global
2 biopharmaceutical company, has been in the business of
3 inventing and bringing forward medicines and vaccines for
4 many of the world's most challenging diseases. Today,
5 Merck continues to be at the forefront of the search to
6 advance the prevention and treatment of diseases that
7 threaten people in communities around the world including
8 cancer, cardio-metabolic diseases, Alzheimer's disease and
9 infectious diseases like HIV and Ebola. In short, our
10 business is about addressing unmet medical needs, but in
11 order for us to carry on this difficult, costly and
12 time-consuming work we need a stable and predictable
13 business environment to which the rule of law is a central
14 defining characteristic.

15 Perhaps our most precious asset, although not
16 reflected on our balance sheet, is public trust.
17 Consequently, our biggest liability is distrust. The
18 growing distrust of business threatens all companies.
19 This is especially true for Merck because of the long
20 investment lead times that are inherent in the discovery
21 and development of life-saving medicines. Our business
22 depends on public trust which is rapidly eroding just as
23 faith and confidence in other societal institutions is
24 rapidly decaying. Without trust there can be no
25 sustainable business model for a company like ours.

1 Enlightened businesses and their leaders can
2 hardly afford to be indifferent to the needs of their
3 customers, employees, the communities in which they live
4 and operate and society in general. Business has a huge
5 stake in social cohesion that our justice system serves to
6 promote. That cohesion stems in large part from the faith
7 people have in what we come to refer to as the system.
8 Corporations in particular must demonstrate that they
9 don't seek to take advantage of their customers or the
10 general public. Do people believe we are looking for
11 every opportunity to take advantage of them? Are we fair
12 in our deals? When they are wronged will we try to deny
13 them recourse?

14 As Merck's CEO and former general counsel I'm
15 responsible for vigorously defending the rule of law, the
16 sanctity of contracts, respect for property rights,
17 including intellectual property rights, and advocating for
18 fair methods for the resolution of business disputes.
19 Respect for the rule of law is therefore fundamental to
20 our ability to operate effectively and profitably in
21 various markets. Also fundamental to such a legal regime
22 is that all people feel that the justice system is fair,
23 transparent and accessible and provides due process to
24 every citizen. Put simply, companies like Merck need fair
25 and equal access to justice and we can't only want it for

1 ourselves.

2 As a health care company we realize that access
3 to justice is often necessary for patients we serve to
4 have meaningful access to quality health care. In our
5 business it often takes as much as 20 years to develop a
6 new drug. Therefore, rules for drug development, patents
7 and market access have to be stable and predictable.
8 Individuals need the same fairness, stability,
9 transparency and accountability in order to protect
10 themselves and their families and reach their full
11 potential as human beings.

12 Here in the great state of New York the gap
13 between the legal needs of low-income New Yorkers and the
14 available resources is staggering. Almost 20% of New
15 York's population qualifies for LSC-funded legal services.
16 That's almost four million people. The income eligibility
17 for LSC-funded legal services is \$15,000 for a single
18 person and roughly \$31,000 for a family of four.

19 Data from LSC's newly-released *Justice Gap*
20 report revealed that 71% of low-income households
21 experienced at least one civil legal problem in the past
22 year. Over the past year LSC-funded legal aid providers
23 in New York State were forced to turn away 36% of eligible
24 people who came to them with eligible civil legal problems
25 due to a lack of resources. And I might add

1 categorically, that's only the people who recognized their
2 problem as a legal problem.

3 Alexander Hamilton said that "the first duty of
4 society is justice." This is not an abstract idea. It
5 must be a concrete reality. As Justice Powell said, "It
6 is fundamental that justice should be the same in
7 substance and availability without regard to economic
8 status." Judged by that standard we are not a just
9 society.

10 In our society economic inequality is growing
11 worse and appears to be a structural phenomenon. Both
12 acutely and over the long term our legal institutions must
13 therefore help ameliorate the pervasive inequalities in
14 wealth, income, health, housing and education that
15 characterize our society. No one else is going to do it
16 for us. This President won't do it. This Congress is not
17 going to enact laws that operate to reverse these
18 inequities and the U.S. Supreme Court's constitutional
19 jurisprudence is, I'm sorry to say, too often indifferent
20 to the actual needs of real people as they live, work and
21 interact with each other. So we as business people,
22 lawyers and judges need to advocate for investments in
23 civil legal services to help make equal opportunity and
24 equal access to justice a living, breathing reality.

25 Without lawyers to protect them, people living

1 in poverty cannot stop an improper eviction that will
2 leave their family homeless. They cannot block an illegal
3 foreclosure that stems from a predatory lending practice.
4 They cannot access the protections of New York's strong
5 statutory shields against domestic violence and sexual
6 assault. They cannot receive life-sustaining benefits
7 like Social Security and Medicaid or emergency assistance
8 to which they are entitled under the state and federal
9 government safety net. Without question, civil legal
10 services are indispensable to those who need legal
11 representation in what are often life and death matters.

12 I thank the panel and Your Honors for your
13 generous listening this afternoon.

14 CHIEF JUDGE DiFIORE: Thank you, Mr. Frazier.
15 Mr. Frazier, you are obviously one of those enlightened
16 business leaders. We asked earlier, and I don't know if
17 you had the opportunity to see any of the testimony that
18 preceded you, but we put a question to Kevin McCarthy who
19 spoke about in house pro bono.

20 MR. FRAZIER: From New York Mellon.

21 CHIEF JUDGE DiFIORE: How do we expand that?
22 Who are the key decision makers at your level and at
23 mid levels below you that need to be persuaded or perhaps
24 the spark has to be ignited? What would you say to that?

25 MR. FRAZIER: I think there's two levels for

1 this. First of all, I think it's really important, as
2 Mr. McCarthy said, to help in-house lawyers realize that
3 they are part of the fabric of the broader profession and
4 they have exactly the same responsibilities that all
5 lawyers do. Just because you come to work in a
6 corporation doesn't mean that you have less responsibility
7 than other lawyers who may practice, for example, in law
8 firms.

9 And as work is being done to encourage those
10 efforts in various organizations around the world, I'm
11 very proud to say that at Merck we were one of the first
12 companies to really get into this about 20 years ago and
13 roughly half of our lawyers are currently doing pro bono
14 activity and that's a significant number given the fact
15 that many of our lawyers are patent lawyers who don't
16 normally think of themselves as lawyers who appear in
17 court. So I think there is a movement underway. I think
18 we need to encourage in-house lawyers to do that.

19 Secondarily, as you probably know, or you may
20 know, I am co-chair of the Leaders Council of the Legal
21 Services Corporation nationally and we're doing everything
22 that we can to encourage CEOs and other business leaders
23 to in turn encourage their lawyers to engage in pro bono
24 activity and to support them so that they end up doing
25 that in a way that makes a lot of sense. So at both the

1 in-house lawyer level and CEO level I think there's a lot
2 we have to do to encourage currently people to do this.

3 CHIEF JUDGE DiFIORE: Thank you very much,
4 Mr. Frazier, and thank you for your patience and your
5 grace in dealing with our technology difficulties.

6 MR. FRAZIER: This is a very important issue,
7 Your Honors, and I thank you very much again for your
8 generous listening this afternoon.

9 CHIEF JUDGE DiFIORE: Thank you, sir. That
10 concludes this panel. Thank you all very much for your
11 time and attention in these important matters. Thank you.

12 Welcome to our final panel. Thank you for your
13 patience as well. We will start with Gail Spicer who is a
14 client of the Legal Aid Society of Northeastern New York
15 and Ms. Spicer is accompanied by her lawyer, Laura Dwyer.
16 Thank you. Ms. Spicer.

17 MS. SPICER: Thank you for holding this hearing
18 and inviting me to testify. My name is Gail Spicer and I
19 speak today as a client of the Legal Aid Society of
20 Northeastern New York. I am a widowed homeowner living
21 with my nine-year-old granddaughter Abby in rural
22 Cambridge and I was facing foreclosure. Because of the
23 Legal Aid Society I was able to save my home, which is the
24 only home my granddaughter has known.

25 My husband and I purchased our home in 1984. My

1 adult son Jonathan and Abby lived with us. In 2009,
2 Jonathan became disabled from an accident. My husband
3 passed away in 2012 so Jonathan and I pooled our income,
4 but we were having trouble making ends meet because our
5 only source of income was SSI and SSD. So I missed some
6 mortgage payments in the spring of 2014. I tried to fix
7 the problem by contacting the bank, JP Morgan Chase,
8 numerous times. I submitted multiple loan modifications
9 on my own, but the bank continued asking for more
10 documents or didn't respond at all. After one year of
11 these efforts I was still getting nowhere with Chase.

12 In May of 2015 I attended the first settlement
13 conference at court and immediately contacted Legal Aid
14 Society and met with Laura Dwyer. Ms. Dwyer attended the
15 rest of the settlement conferences with me and helped me
16 apply again for a loan modification. While that
17 application was being reviewed my son Jonathan passed away
18 suddenly and unexpectedly. He was only 36 years old. My
19 granddaughter Abby bounced around from place to place with
20 her mother until I was granted custody of her.

21 Unfortunately, her mother does not pay child support
22 consistently and my expenses have increased. Ms. Dwyer
23 looked at my situation and obtained an adjournment from
24 the court and worked with me on my budget. Ms. Dwyer
25 submitted a new application and I was approved for a loan

1 modification in July 2016, just two years from when I
2 first missed a payment, just over.

3 Right after I started paying my mortgage under
4 the modification Chase increased my monthly payment by a
5 large amount and would not explain why. Ms. Dwyer reached
6 out to a contact at Chase and was able to learn they
7 miscalculated my escrow. She worked out an affordable
8 repayment plan without any late fees being incurred which
9 prevented the bank from filing another foreclosure.

10 Without her and the Legal Aid Society I would
11 not have known what to do or where I would have gone. It
12 is important to me to keep my home because of the memories
13 of my husband and son and even more so because it is the
14 only home Abby has ever known. Being able to live with me
15 has given Abby stability, safety and happiness. She is a
16 fourth-grader at Cambridge school. She plays basketball,
17 does choir and art and went to the town swimming program
18 over the summer. She loves playing with our dogs and
19 finds comfort in the memories of her father. Legal Aid
20 also helped me obtain custody of Abby and SNAP benefits
21 for her. By staying in my home I can also continue to
22 help the community with church work and the food pantry.

23 I am grateful to the Legal Aid Society for what
24 they did for me and for Abby but also what they do for the
25 community. I believe everybody should have access to

1 legal representation even if they can't afford a lawyer.
2 I hope you will do all you can to ensure that Legal Aid
3 continues to help people.

4 CHIEF JUDGE DiFIORE: Thank you, Ms. Spicer. We
5 think that Abby is lucky to have such a strong and
6 committed and dedicated grandma.

7 MS. SPICER: Thank you.

8 CHIEF JUDGE DiFIORE: Tell me, how did you come
9 to connect to your lawyer?

10 MS. SPICER: The first time I went to court they
11 recommended Legal Aid. I contacted them the next day.

12 CHIEF JUDGE DiFIORE: Someone in the court did?

13 MS. SPICER: They gave me a paper and if I
14 remember right Legal Aid was right on top and Laura helped
15 me ever since. We became really good friends.

16 PRESIDING JUSTICE ENG: We are all very moved,
17 of course, by your testimony and by your statement and so
18 happy that you got a good result. So many potential
19 clients really don't know what to expect of a lawyer, from
20 a lawyer, some are unrealistic, some misinformed. I'm
21 just curious, have you ever been to a lawyer at any
22 another time?

23 MS. SPICER: Way back my husband was during an
24 accident, but nothing like this ever happened before, but
25 he had a stroke, my husband, so income had just kept

1 dwindling. He had a major brainstem stroke so I was
2 taking care of him. We had a book shop. We did shows and
3 we could no longer do that so things got really tight and
4 then he passed away suddenly.

5 PRESIDING JUSTICE ENG: So you've had very
6 little contact with lawyers.

7 MS. SPICER: But I recommend them to everybody
8 now.

9 CHIEF JUDGE DiFIORE: Thank you, Ms. Spicer.

10 MS. SPICER: You're welcome.

11 CHIEF JUDGE DiFIORE: Our next presenter is Ray
12 Krahm who is a client of Nassau Suffolk Law Services and
13 Ray is accompanied by his lawyer, Lynn Iacona, and Marcia
14 Vogel. Mr. Krahm.

15 MR. KRAHM: Hi. My name is Ray Krahm and I am a
16 client of Nassau Suffolk Law Services, NSLS. I was born
17 with Down Syndrome. NSLS helped me greatly with struggles
18 I had with my school district.

19 I was in regular education from kindergarten
20 until the end of fourth grade. When I was going into
21 fifth grade the school district said that I should go into
22 special education in an inclusion class. Up until then I
23 loved school. I had a lot of friends and passed all my
24 classes and then came fifth grade and it was the roughest
25 year ever. Some of the kids started bullying me and the

1 teachers did not do anything to help me. When my parents
2 found out what was going on my family and I decided to
3 move to a new school district.

4 In the new district middle school started in
5 fifth grade. Even though I passed fifth grade in my own
6 school my family and I decided that it would be good for
7 me to repeat fifth grade in my new school. I loved it
8 there. I was in an inclusion class and some of the kids
9 had disabilities and some didn't. The kids were very nice
10 and I had tons of friends. I was involved in many club
11 like drama, band, community outreach, courtyard club and
12 art club. I was a Cub Scout and then a Webelo Scout and
13 earned the Boy Scout Arrow of Light award. I also took
14 tae kwon do classes for five years and I got a junior
15 black belt. Drama was my favorite because I always had
16 dreams of becoming an actor and I loved being able to live
17 my dreams with friends.

18 A few month after I started fifth grade the
19 inclusion teacher said that I should move into a smaller,
20 self-contained class. My parents went to a CSE meeting
21 and they were convinced to move me into a self-contained
22 class and have me become an "alternately assessed"
23 student. The school district did not make it clear to my
24 parents that being alternately assessed would mean being
25 labeled "severely disabled" and would stop me from taking

1 the Regents exams. Of course without taking the Regents
2 exams I would not be able to graduate with a high school
3 diploma. This did not make sense to me since I did well
4 in middle school and passed all my classes. I was even on
5 the honor roll many times, almost every quarter.

6 When I started high school I was again placed in
7 a self-contained class and stayed alternately assessed.
8 It was not until the end of ninth grade my parents found
9 out that I would not be allowed to take the Regents exams.
10 As soon as my mom found out that I could not take the
11 Regents exams she called the high school psychologist.
12 The psychologist talked to the director of pupil personnel
13 services. Because I was alternately assessed I would not
14 be able to sit for the Regents exams. My mom felt
15 blind-sided. My family tried to convince the school
16 district to let me take the Regents but we were not
17 successful.

18 My mom then called an advocacy group and spoke
19 to many people in the group and kept on telling each one
20 my story. After months of conversations she was told that
21 the group could not help me. She was then given a list of
22 agencies and organizations that could possibly help. NSLS
23 was on that list. The day that my mom called the NSLS was
24 one of the best days of my life.

25 Ms. Marcia Vogel, the disability advocate of the

1 Education and Disability Rights Project, EDRP, of NSLS
2 called my mom back right away. After hearing my story
3 Ms. Vogel involved Ms. Lynn Iacona, the EDRP attorney.
4 Since that day they have been with me and my family every
5 step of the way.

6 Ms. Iacona and Ms. Vogel spent countless hours
7 working to help me. In addition to all of the legal work
8 Ms. Iacona has done, Ms. Vogel has gone to many CSE
9 meetings with my family and even visited a BOCES Special
10 Career Education Program with us. After my family and I
11 decided that the BOCES program was not the right program
12 for me, Ms. Iacona and Ms. Vogel helped me get an
13 internship at the theater of a local university. That
14 internship was one of the best experiences ever and it
15 helped me earn a special vocational certificate called
16 CDOS.

17 Ms. Iacona and Ms. Vogel also successfully
18 fought to change my assessment label so that I could take
19 the Regents exams. I got a 72 on the algebra Regents and
20 I am so happy that they believed in me.

21 Despite the struggles that I had with my school
22 I had a great time socially. Just like in middle school I
23 was in a lot of clubs in high school. Some of them were
24 drama, art club, best buddies, interact club, multimedia
25 production and yearbook club. Many of the photos I took

1 were even featured in my senior yearbook. I was crowned
2 homecoming king. I was the best buddies ambassador and
3 gave a speech at the Audi Quattro Cup event in July of
4 2016. I also went to both my junior and senior proms and
5 to two of my friends' junior and senior proms. So far
6 I've been in 26 school and community theater plays. I am
7 also proud to say that I'm giving a speech at the National
8 Down Syndrome Conference event in November.

9 Thanks in great part to Ms. Iacona and Ms. Vogel
10 I received both a vocational certificate and my high
11 school diploma and I have started community college and
12 have just auditioned for my 27th play and I am now able to
13 go after my dreams and live a life I love.

14 Thank you for your time.

15 CHIEF JUDGE DiFIORE: Ray, not only was your mom
16 blind-sided, but you were blind-sided. But your story,
17 and I think everyone up here will agree with me and
18 everyone in the room will agree with me, is a wonderful
19 story of strength and perseverance and bringing the right
20 connections together of services to people who need
21 services, particularly young people in the educational
22 setting. If you hadn't been connected with this group do
23 you ever think about what might have happened?

24 MR. KRAHM: I would say without Lynn and Marcia
25 there is like no words, because without them I wouldn't be

1 here today. I just want to say thank you so much to both
2 of them.

3 CHIEF JUDGE DiFIORE: We're so pleased that you
4 came forward and shared your story and your story will be
5 the impetus for official funding and official services. I
6 promise you that. Any questions for Ray from the panel?

7 JUDGE MARKS: Actually, a question for the
8 lawyers, but let me just say, Ray, I was very impressed
9 with your testimony. You really have a lot to be proud
10 about and your parents must be so proud of you.

11 Why can't a student take the Regents exam? I
12 can see why a student shouldn't be required, but what's
13 the theory behind a school district telling a student he
14 or she can't take a Regents exam.

15 MS. IACONA: If a student is alternately
16 assessed they are deemed to have a severe disability and
17 this district decided that instead of giving him the
18 opportunity to take the Regents exam it prohibited him
19 from taking that exam, which he didn't then have the
20 opportunity to get a Regents diploma.

21 JUDGE MARKS: What's the downside?

22 MS. IACONA: The downside would be he wouldn't
23 have the opportunity to access the Regents --

24 PRESIDING JUSTICE PETERS: Why did the school
25 say no is what we're trying to find out?

1 JUDGE MARKS: Are they concerned about the pass
2 rate for the district?

3 MS. IACONA: That could have been an issue. I
4 don't know for certain why they were so obstinate about
5 that. You wouldn't think there would be a downside and
6 they would have offered him that opportunity, but they did
7 not. They initially said that they were going to give him
8 that opportunity, but as time wore on they refused to do
9 that and so then Ray was put in a situation of having to
10 take the alternate assessments and not being able to
11 obtain a diploma and not being able to get any vocational
12 certificate as well. So that was a problem.

13 CHIEF JUDGE DiFIORE: Thank you.

14 PRESIDING JUSTICE PETERS: I suggest, Ray, that
15 you become the champion of the rights of everyone that
16 might not get the same opportunity you have. I look
17 forward to seeing you practicing law some day.

18 CHIEF JUDGE DiFIORE: Thank you. And our final
19 presenter today, and thank you for your patience, is Jamie
20 Peterson who is a client of Legal Assistance of Western
21 New York and she is accompanied here today by David Pels
22 and Kelly Perine.

23 MS. PETERSON: Hi. Thank you for having me.

24 CHIEF JUDGE DiFIORE: You're very welcome.

25 MS. PETERSON: It's beyond an honor to sit here

1 right now. I cannot express enough gratitude for the
2 services that I have received through Legal Assistance of
3 Western New York through David and Kelly.

4 It was very unfortunate events that landed me in
5 their office. I was young and scared and unfortunately
6 had been taken advantage of. Domestic violence had
7 changed my life. I made the decision to put an end to it
8 focusing on bettering my life for myself and my two young
9 daughters. It is so much easier said than done. Our New
10 York State's court system is so intimidating to someone
11 that doesn't understand it or ever use it. I have no
12 legal background at all and I wished that there was some
13 way we could change that.

14 I called 911 and filed charges. That was the
15 easy part. I tried to manage all the court appearances,
16 the financial stresses, the protection orders, the
17 visitation and the other demands all on my own but I
18 failed terribly. I appeared for the initial hearing but I
19 was a day too late. I had missed it. It was the previous
20 day. I was panicked and hysterical and ready to just give
21 up. The court officer could see I had a very sick look on
22 my face and walked me to the District Attorney's office.

23 Thanks to the District Attorney's secretary I
24 was moved into the right direction towards Legal
25 Assistance of Western New York. I was referred to our

1 local domestic violence program, the NET, and the staff
2 members there were so kind and understanding. They
3 referred me to David Pels of Legal Assistance of Western
4 New York for representation in Family Court. I met with
5 David and Kelly within just a few days, on May 9, 2007, to
6 be exact, just a little bit over ten years ago. It was at
7 that moment I realized I was never going to be alone again
8 to handle our complex court system.

9 David and his staff have represented me through
10 all the custody, visitation, child support hearings. They
11 worked alongside our District Attorney and had my case
12 approved to be moved to the integrated domestic violence
13 court. It was the perfect place for me to have ended up.
14 This created fewer hearings and less appearances and only
15 one judge to render the decisions on all the issues
16 involved.

17 The emotional support they've given me has far
18 outweighed the legal support. I never walked into the
19 courtroom alone. It was often arranged for me to be
20 seated in a private room so I didn't have to endure the
21 looks from my ex-husband. His intimidation was and still
22 is very brutal. Kelly, the paralegal there, she has often
23 put her own physical self in between me and him so that
24 she could block the view, the intimidating looks, the
25 comments and his ability to engage with me. I can imagine

1 that that's probably where a lot of cases are dropped. It
2 makes me sad.

3 David and Kelly were there for me through all
4 the IDV hearings as the District Attorney presented the
5 criminal portion of the case. David was in the courtroom
6 and Kelly was right beside me in a secluded room away from
7 my ex-husband trying to make conversation about anything
8 other than the obvious and I was granted custody of my two
9 daughters. My ex-husband was convicted of second degree
10 harassment and I was granted a two-year stay away order
11 under both a family offense proceeding and the criminal
12 proceeding. He was also ordered to attend the batterer's
13 program for 26 weeks as well as parenting classes. It may
14 seem very minimal, but he was finally having some sort of
15 legal consequences for his actions that I had put up with
16 for all those years.

17 I finally had a feeling of being somewhat safe
18 knowing that I had a copy of the protection orders in my
19 purse, at work, at my friend's house, at my family's
20 house, at the girls' school, in my car. David explained
21 to me his boundaries so I knew what his limitations were
22 and I was prepared if anything were to happen.

23 David and Kelly have spent countless hours
24 deliberating on my behalf in and out of the courtroom
25 without fail. I believe that the total is somewhere

1 around two custody cases, four support cases and support
2 violation cases and recently an unemployment case, along
3 with initial support during the IDV court cases. There
4 were multiple hearings for each. Without them I would
5 have definitely given up. I probably would not be sitting
6 here today if it weren't for them. Without them my two
7 beautiful girls would not have received and continue to
8 receive financial support from their father and I would
9 only be God knows where. Without them I would not have
10 received my unemployment benefits and I've cried and I've
11 smiled with them many times. They're a huge part of the
12 past ten years of my life and they have improved my
13 quality of life mentally and financially.

14 So now it's been ten years since the first time
15 I walked into their office and they have made it possible
16 for me to continue to receive child support in an
17 appropriate amount based on his current wages. They have
18 fought to have support continue through my daughter's 21st
19 birthday and I still receive for my 18-year-old daughter.
20 We have won exactly what the court allows. Medical,
21 orthodontic expenses and some college tuition has been
22 awarded to me. The most recent violation hearing in
23 January '17 awarded me the reimbursement of thousands of
24 dollars toward orthodontic expenses, including a portion
25 of the insurance reimbursements that my ex-husband was

1 pocketing, exactly what was ordered. We argued countless
2 times in and out of the courtroom, but it was finally
3 enforced.

4 David has also represented me in January of 2016
5 through a New York State unemployment hearing where I was
6 inappropriately fired from my job for over ten years for
7 aggressive behavior. He and Kelly helped me gather the
8 evidence that I would possibly need to prove my case --
9 coworker statements from that day, job performance
10 reviews, physician and manager statements, and I was even
11 able to obtain a statement from the problem coworker who
12 admitted using profanity toward me as well as threatening
13 bodily harm. I was prepared for anything. David and
14 Kelly were both there. They sat with me through the
15 telephone hearing and I believe that we may have smiled
16 during that phone call when an administrative law judge
17 was so obviously unimpressed with my ex-employer's
18 decision-making skills that led to my termination. I
19 think we actually could hear her jaw hit the bench. The
20 administrative law judge found that I had not engaged in
21 any sort of misconduct and that my separation from
22 employment was indeed under non-disqualifying conditions.
23 I was awarded my full unemployment benefits. Of course my
24 previous employer appealed it, but once again David took
25 action and submitted a response to the appeal board and we

1 won.

2 I am such a non-confrontational person and I
3 usually apologize for anyone else's wrongdoing and focus
4 on the solution. I'll take the blame if that's what's
5 need to resolve an issue, one of my greatest weaknesses.
6 I forget that the rest of the world doesn't always
7 function this way. I wouldn't have attempted to try to
8 solve these issues without their help and support. From
9 someone's perspective that knows nothing about how the
10 court systems works it is easier to just give up and I
11 would have. I often feel so guilty for using their
12 precious time. I've often even tried to manage these
13 issues without them but ended up calling them anyway.
14 They have never allowed me to leave a courtroom without
15 exactly what the law states that I am allowed.

16 Today I am remarried to a wonderful man. I'm a
17 mother of two daughters, a stepmother to two daughters and
18 a son. I am a daughter of aging parents. I'm a sister to
19 one brother, an aunt, cousin, a best friend and a mommy to
20 two adorable Yorkies. I'm also a grandmother. My oldest
21 daughter is a mommy and has purchased her first home. My
22 younger daughter just graduated from high school this year
23 and just began college. My two stepdaughters are
24 currently in college and my stepson is a Marine currently
25 serving our country in Japan.

1 I am very happy, blessed, safe and successful.
2 All of these things are outcomes because of the services
3 that Legal Assistance of Western New York has provided to
4 me. I have left the field of health care to once again
5 live in my childhood home and I'm helping care for my
6 aging parents. I have started a new photography hobby
7 taking pictures of my friends and family and I tell them
8 thank you for making me smile. I focus each day on making
9 someone else's life a little better. I am their success
10 story and I am a survivor.

11 I've also recently become a member of the board
12 of directors for Legal Assistance of Western New York. I
13 think David was going to miss me. I'm looking forward to
14 being able to give back in a way that the organization has
15 helped me for so long. I cannot express the amount of
16 gratitude that I have for them and for their support and
17 services. They are truly invaluable. Thank you. Thank
18 you.

19 CHIEF JUDGE DiFIORE: Thank you, Ms. Peterson.
20 Your testimony is certainly a loud declaration in support
21 of the IDV concept and provision of services through Legal
22 Assistance of Western New York and it speaks to the
23 importance of allowing the victims the strength and
24 services they need, number one, to hold batterers
25 accountable for their behavior and which also frees up a

1 victim of domestic violence to seek the services and
2 pursue legal remedies that are necessary to survive and
3 move forward in life which you have so magnificently done.
4 I assume you agree with all that.

5 MS. PETERSON: Absolutely.

6 CHIEF JUDGE DiFIORE: What would you say to
7 those who are interested in funding legal services?

8 MS. PETERSON: Wow. A lot. I would say a lot.
9 I don't know where I'd be if they didn't help me. It's so
10 hard, the forms and to file things and what steps to take
11 and where to go and who to talk to. It's so confusing.
12 And as soon as I walked into their door all of those
13 things were taken care of. It's invaluable. I wish that
14 I could repay them. I wish I could give them a fraction
15 of what they've given me and I know they're doing it not
16 for just me. They're doing it for many other people too.
17 Talk about making our community better. Please fund them.
18 Please.

19 PRESIDING JUSTICE WHALEN: Just briefly,
20 Mr. Pels and the other attorneys here, you were here
21 throughout all of the testimony, and all of the other
22 lawyers. Your clients have been inspirational, but I have
23 to tell you that I've been inspired by the lawyers that
24 have appeared before us today and the efforts that you all
25 make on behalf of your clients. It really is inspiring

1 and thank you all.

2 CHIEF JUDGE DiFIORE: Well, unless there are any
3 further questions, that concludes the 2017 statewide
4 Hearing on Civil Legal Services in New York. We thank you
5 to our final panelists, Ms. Spicer, Ms. Peterson and
6 certainly you, Ray Krahm, for coming forward and sharing
7 your wonderful stories with us. Your stories of survival
8 are a testament to the importance and the value and the
9 need for funding for legal services. Thank you very much
10 for being here. Thank you all.

11 (Proceedings concluded at approximately
12 4:45 p.m.)

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