

SUPREME COURT OF THE STATE OF NEW YORK

- FIRST DEPARTMENT -

-----X
: THE CHIEF JUDGE'S HEARINGS :
: :
: ON CIVIL LEGAL SERVICES :
: :
-----X HEARING

7 Madison Avenue
New York, New York
October 1, 2012

B E F O R E :

HON. JONATHAN LIPPMAN,
Chief Judge

HON. A. GAIL PRUDENTI,
Chief Administrative Judge

HON. LUIS A. GONZALEZ,
Presiding Justice
Appellate Division First Department

SEYMOUR W. JAMES, JR.,
President, New York State Bar Assoc.

ROBERT PORTAS/GLORIA BRANDON
SENIOR COURT REPORTERS

W I T T N E S S L I S T :

HIS EMINENCE TIMOTHY CARDINAL DOLAN,
Archbishop of New York

HON. CHRISTINE QUINN,
Speaker, New York City Council

HON. FERN FISHER,
Director, NYS Courts Access to Justice Program,
Chief Administrative Judge

DR. ELIZABETH BECKER,
Senior Vice President, NERA Economic Consulting

PROFESSOR GILLIAN K. HADFIELD,
Kirtland Professor of Law and Economics,
University of Southern California

CAREY R. DUNNE,
President, New York City Bar Association;
Partner, Davis, Polk & Wardwell, LLP

C L I E N T P A N E L :

ANGELA D'AREZZO,
Client of the Legal Aid Society
(Accompanied by Carol Santangelo)

RICHARD J. USERA,
Client of Legal Services-New York City
(Accompanied by Jennifer Levy)

FREDESVINDA VASQUEZ,
Client of Make the Road New York
(Accompanied by Lorelei Salas and
Francisco Valencia, Official
Spanish Interpreter)

1 OPENING/HON. LIPPMAN

2 (His Eminence Timothy Cardinal Dolan enters
3 courtroom.)

4 HON. LIPPMAN: Good morning. That was not the
5 judge who just walked into the --

6 (Laughter.)

7 HON. LIPPMAN: In a sense it was the judge.

8 We're so honored to have His Eminence Cardinal
9 Dolan be the opening speaker today at this third year of
10 our legal services hearing. I'd mention just before I
11 give you a sense of why we're here that I told the
12 Cardinal that it is kind of a little bit church-like in
13 its ambiance, and I think he sees that that's very much
14 the case.

15 So I welcome -- I welcome all of you to the
16 third year of our legal services hearings. I want to
17 make clear at the outset that nothing is more important
18 to me as the Chief Judge than civil legal services for
19 the poor and the ones most vulnerable and most in need in
20 our society.

21 The template that we've developed in New York
22 has resulted in \$40 million of public funding for civil
23 legal services, the most in the country and yet the tip
24 of the iceberg in terms of the need.

25 These hearings are supported by the Task Force
26 to Expand Civil Legal Services in the State headed by

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1 OPENING/HON. LIPPMAN

2 Helaine Barnett -- Helaine, you want to stand up? --
3 who's the former head of the Legal Services Corporation.
4 And we're so pleased to have her here today. And it's
5 basically -- this whole effort has been triggered by the
6 economic climate in our city, state and country that's
7 resulted in a great decrease in the legal services
8 corporation's budget in Washington, and to Loyola, here
9 in New York. And it is our belief that the judiciary and
10 the profession must stand up for those most in need of
11 legal services for the poor. If we're not going to do
12 it, who is going to do it? And it's not only the money
13 that's involved; the lawyers must give up their time in
14 pro~bono legal services. As you know, we just
15 implemented a new requirement that new lawyers will have
16 to embrace a culture of service and contribute 50 hours
17 of pro~bono legal work assisting those most vulnerable
18 before they will be admitted to the bar. They must
19 embrace a culture of service.

20 It is our mission and our responsibility in the
21 judiciary to foster equal justice. It is our very reason
22 for being. We might as well close the doors of the
23 courthouses if equal justice for all is not what happens
24 inside those courthouses.

25 The economy has hurt those most vulnerable in
26 society. To some the answer is, "Gee, the economy is

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2 tight, we can't afford this." The answer is that we
3 can't afford not to provide legal services for the most
4 in need and not allow them to fall off a cliff during
5 these difficult times.

6 Equal justice is fundamental to our society, to
7 our way of life and to the rule of law. Every civilized
8 society, going back to biblical times, is judged by how
9 it treats its most vulnerable citizens. And certainly --
10 and, Cardinal, you'll forgive me, going back to the old
11 testament and biblical times from the very outset, there
12 is this recognition that you should pursue justice for
13 the high and low, the rich and poor alike. That is the
14 fundamentals of our society and our spiritual side and
15 has been with us for so long. And that's what these
16 hearings are all about, they are pursuant to a resolution
17 in the legislature that asks us to hold these hearings
18 and report back on the needs to fill the justice gap in
19 our state, the justice gap being the difference between
20 the need for legal services and the resources available.

21 And there could be no better opening witness for
22 this hearing talking about our ethics, our morality, than
23 Cardinal Dolan. He honors us, and it moves me personally
24 that he has come here to be our first witness. He
25 epitomizes the highest moral and ethical values in our
26 society. He has fought his entire life to help those

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2 most vulnerable, those who can't help themselves, the
3 poor, the indigent, the working poor, the near poor. He
4 tends to his flock, recognizing that every human being is
5 entitled to the necessities of life and to God's
6 blessings. And it is a great honor for us that he's here
7 today. I believe, and I know the Cardinal believes this,
8 too, that the social agenda of the church under His
9 leadership is not just about spiritual needs, which it's
10 all about, but it's also about the values that we all
11 share and that we all cherish of dignity and justice and
12 respect for every human being, regardless of their
13 station in life.

14 So to know Cardinal Dolan for even five minutes
15 is to love him and to honor him and respect him. His
16 heart is so strong and his compassion is so deep. And
17 New York is very, very proud of Cardinal Dolan. And I am
18 so personally proud that he's here today. So, without
19 any further introduction, everyone knows who we have here
20 as our first witness, it's a delight to have you here.
21 Thank you so much.

22 CARDINAL DOLAN: Thank you.

23 HON. LIPPMAN: We're honored by your presence.

24 CARDINAL DOLAN: The honor is mine. I'm the one
25 who's grateful.

26 Chief Judge Lippman and presiding Justice

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1 CARDINAL DOLAN

2 Gonzalez and Judge Prudenti and Bar Association President
3 James and so many neighbors united in this noble cause of
4 justice and service.

5 Judge Lippman, you're right, this reminds me of
6 a magnificent basilica. This is in better shape than
7 St. Patrick's.

8 (Laughter.)

9 CARDINAL DOLAN: It is like coming into a church.
10 I saw Speaker Quinn when she walked in was looking for the
11 holy water.

12 (Laughter.)

13 CARDINAL DOLAN: But if you try to have a
14 collection, I'm out of here. All right?

15 (Laughter.)

16 HON. LIPPMAN: Fair enough.

17 SPEAKER QUINN (From the audiendce): Late for mass
18 again I am. Sorry, Cardinal. I apologize.

19 CARDINAL DOLAN: I come this morning very grateful
20 for the chance to promote an initiative that I consider
21 crucial and very promising for this city and state that I'm
22 now very proud to call my earthly home. I come with a very
23 deep admiration for you, for your prophetic leadership,
24 Chief Judge Lippman, and I come encouraged by other
25 esteemed jurists, like Judge Prudenti and Mr. Thomas Moore
26 and our own Catholic Lawyer's Guild of the city.

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CARDINAL DOLAN

It's obvious that I come hardly as a legal expert or a politician but only as a pastor, to hartely support an endeavor that I'm convinced is going to bring justice to people who, simply put, have nowhere else to go but to the courts, which enflesh the assurance of this great country that there is indeed equal protection under the law.

See, as a pastor, I daily hear from my sheep. For instance, I daily hear from our Catholic charities about struggling people evicted from their rooms or little apartments without proper notice or a chance of any type of legal recourse.

As a pastor, I daily hear from our parish priests who have people at their door hungry. Why? Because, well, they were terminated from jobs, apparently without just cause a few days before with no severance, no backpay or no benefits.

As a pastor, I hear from educators. I'm thinking, for instance, of Sister Michelle who tells me of her kids at one of our schools, her school in the Bronx, who had to spend the night on the street because of violence in the home, because their moms don't know where to seek protection and recourse from an abusive situation.

As a pastor I hear from our parishioners who run

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the daily soup kitchens; they tell me about their guests who have lost lodging, salaries, maybe their immigration documentation, even their kids in custody battle who cry for somebody to represent them.

As a pastor, I reflect on the assurances to which you hinted, Judge, of the Jewish and Christian scriptures in the bible that God is a Judge who will guard the rights of His downtrodden people and before whom all have innate rights and dignity. And, as a pastor, I praise that God. Because, through Chief Justice Lippman's proposal, civil -- not only criminal, but civil legal services might now be available to those who have no means to afford it otherwise.

As a pastor who happens to be proud to be a New Yorker, I want to be able to boast again that this great state so often in the lead on urgent issues of justice and compassion is once more showing the nation the way. And, as a pastor who happens to be an American, I want to be able to claim that our noble values, such as equal protection under the law, that all stand before the bench as equals and that one has inalienable rights based not on bank accounts or stock portfolios but because what is made in God's image and likeness, that those promises are real not hollow, they're serious, they're not shams.

As a pastor, the refrain I so often hear from

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2 our poor folks is, "I don't know where to turn." Chief
3 Justice Lippman, with your enlightened proposal that our
4 struggling neighbors will now have access to civil, as
5 well as criminal legal representation in our judicial
6 system, and that our attorneys who are, I hope, I want to
7 believe, attracted to their vocations because it's not
8 just a job but a call to serve, that they would pledge
9 hours of pro-bono representation in civil cases, our
10 people will indeed have someone to turn to. God will nod
11 in agreement that his assurances to his people have been
12 realized, and Lady Liberty will smile that the tired, the
13 searching and the poor have here found a sanctuary of
14 justice.

15 So, Judge, God bless your efforts and you can
16 sure count on my prayers and support. And thanks for
17 letting me be the Derek Jeter in a very -- in a very
18 important lineup of people who are going to testify on
19 behalf of this noble proposal. Thank you.

20 HON. LIPPMAN: Thank you, Your Eminency. Again
21 you honor us, and we're so pleased that you're here. And
22 your support is really meaningful and helpful, and we
23 couldn't be happier about it.

24 I'd like to ask you a few questions.

25 CARDINAL DOLAN: Sure.

26 HON. LIPPMAN: As unaccustomed as you are to

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2 testifying in courtrooms.

3 (Laughter.)

4 CARDINAL DOLAN: I'm usually up there. I usually
5 have the big chair.

6 HON. LIPPMAN: That's true. That's true. You
7 could sit in this chair any time you want.

8 CARDINAL DOLAN: Thanks.

9 (Laughter.)

10 HON. LIPPMAN: I did want to ask you a few
11 questions.

12 CARDINAL DOLAN: Sure.

13 HON. LIPPMAN: At the very ground level, what does
14 the local priest do in the local parish when you have
15 someone who comes in with a problem that, while it's
16 obviously a very human problem --

17 CARDINAL DOLAN: Sure.

18 HON. LIPPMAN: -- it has this legal -- These
19 legal implications? What does the local --

20 CARDINAL DOLAN: You got to it, what's he do. Our
21 parish priests, what do the women and men involved in
22 social ministry in our parishes, what do they do? Well,
23 what we -- please God, it's what they will be able to do if
24 your proposal gets traction, which I certainly am
25 enthusiastically on your side. Right now what do they do?
26 Well, you know, they can go light a candle for the people,

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2 because prayer is so important. They can maybe try through
3 human contacts to tend to the problem, maybe knowing people
4 to call or social service agencies. They can, Judge,
5 thanks be to God, go to Catholic Charities of the
6 Archdiocese of New York, because we've got a very robust
7 legal representation network. They could call our Catholic
8 Bar Association that tries its best to rally pro-bono
9 lawyers to tend to their cases. They could do those kind
10 of things, and they do.

11 And you and I want to be the first to thank all
12 those people that are now part of that ability to
13 respond. And in no way do you and I intend to say, "Oh,
14 that's -- that's just mediocre." It's not mediocre, it's
15 excellent. They'd be the first to say, "But it's not
16 enough. It's not enough." We have to systematize this.
17 We've got to formalize this. We have to make it so that
18 a pastor or one of our sisters or one of our women or men
19 involved in the social ministries of the church have on
20 their Rolodex, "Let's call this number and you're not
21 leaving here until I get you an appointment and that we
22 know that you have excellent legal representation for the
23 civil grievance that you have." That's what this will
24 allow us to do. Thank God we've got some of it now. But
25 what we learn all the time is it's just not enough.

26 HON. LIPPMAN: Thank you. And that's what we're

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2 trying to do --

3 CARDINAL DOLAN: Yeah.

4 HON. LIPPMAN: -- to build these bridges between
5 the legal services community and the places where people go
6 when they're in trouble.

7 CARDINAL DOLAN: Sure.

8 HON. LIPPMAN: And what could be more --

9 CARDINAL DOLAN: Sure.

10 HON. LIPPMAN: -- of a place than the church?

11 CARDINAL DOLAN: Sure.

12 HON. LIPPMAN: And you alluded in your remarks,
13 and I did a little bit, too, about biblical teachings --

14 CARDINAL DOLAN: Yeah.

15 HON. LIPPMAN: -- and that going back as far as we
16 can remember, this idea that everyone should be treated
17 equally --

18 CARDINAL DOLAN: Uh-huh.

19 HON. LIPPMAN: -- is so much a part of our
20 society, the Judeo-Christian --

21 CARDINAL DOLAN: Yes.

22 HON. LIPPMAN: -- traditions. And, you know, I
23 sometimes get into almost feel like a preacher in talking
24 with the bible and what it says. This really is -- this
25 idea that everyone is treated -- everyone is entitled to
26 justice is not just one that we have in the profession;

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2 that really does emanate from biblical teachings.

3 CARDINAL DOLAN: Does it ever. I'd like to think
4 that's the core of the western juridical tradition. That
5 would come from the Judeo-Christian.

6 You just celebrated, Judge, Yom Kippur. And if
7 I understand from my rabbi friends, part of that is
8 repentance. And part of the readings that you have from
9 sacred scriptures on those feast days was God reminding
10 the people of the need for repentance. When he says,
11 "Your fasting is fine. Okay? But this is the kind of
12 fast that I want. This is the kind of sacrifice that I
13 want: That you help a widow, that you come to the aid of
14 the orphan in need, that you take care of the immigrant,
15 that you take care of the hungry and the homeless.
16 That's what I want."

17 I just had the chilling experience, Judge, in
18 when I was made a Cardinal. Okay? Now, a lot of people
19 have heard this story, but it's worth repeating here:
20 That night I got to bring my 900 guests from New York
21 into the Sistine Chapel. Can you believe it? You think
22 this is nice.

23 (Laughter.)

24 CARDINAL DOLAN: And we had it to ourselves. I'm
25 walking into the Sistine Chapel in my new duds. All right?
26 They are -- oh, my gosh, I'm basking in the claim and my

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new fineries and old people led by my whom mom and calling me "Your Eminence" and everything. All right?

And I'm walking up feeling pretty good. And as I get to the top of that room what I do look ahead of me? You know the Sistine Chapel. What's ahead of me? What's there? The last judgment, Matthew 25. And what dawns on me is, "Dolan, when you stand before God, this isn't going to help." He's told us what he's going to ask us: Have you fed the hungry? Have you visited those in prison? Did you take care of the stranger? Did you go to bat for those who didn't have anybody else? Do you look to the widow and orphan? That's engrained. See? That's engrained in the scripture that gave rise to the most noble juridical system known to humanity, western jurist prudence. And we're the sons and daughters of that; right? And if I understand you right, all we want to do is give a steroid shot, a booster shot to something that's already engrained --

HON. LIPPMAN: Absolutely.

CARDINAL DOLAN: -- in our code.

And, boy, God bless you in doing that. So --

HON. LIPPMAN: Thank you, Cardinal.

I have one final question. I know you have to go off to the Bronx where Judge Gonzalez hales from. Our profession, you know, the legal profession, I think is a

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2 noble one. And, you know, we've just put into place this
3 requirement that the new lawyers, before they begin --

4 CARDINAL DOLAN: Bravo.

5 HON. LIPPMAN: -- have to provide 50 hours of
6 legal service for the poor and those who need help. What
7 do you say -- I only ask you this because I know you're
8 going on Wednesday to say something to the Catholic
9 lawyers --

10 CARDINAL DOLAN: To our Catholic Lawyers Guild,
11 yeah.

12 HON. LIPPMAN: How does all this that we're doing
13 today have to do with the profession and what your message
14 is to them in terms of what we think is this noble calling?

15 CARDINAL DOLAN: Bigtime. You know my friend
16 Thomas Moore --

17 HON. LIPPMAN: Of course.

18 CARDINAL DOLAN: -- you know, a very prominent
19 attorney here in town. He studied for the priesthood at
20 one time. And he's now happily married. He discerned
21 another vocation and he's a very prominent attorney. But
22 he's often eloquently told me the parallels that he sees
23 between the call to priesthood and the call to the legal
24 profession, because both are based on what you eloquently
25 call a culture of service. I hear -- I hear some of my
26 attorney friends say to me--and they're not bragging,

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2 they're simply stating a fact--that they are into what they
3 call tithing of time. Very often the biblical concept that
4 you give a tenth back to God. By the way, am I ever for
5 that. But that just doesn't refer to money, it refers to
6 our time. All right?

7 And I've heard lawyers eloquently say to me,
8 "For every ten paying clients I get I make sure I take
9 one who can't pay." That's tithing of time and talent,
10 isn't it? That's extremely pleasing to God and so
11 necessary for our commonwealth.

12 I'd like to think that at the core of the call
13 to the legal profession is a call to noble service, that
14 these men and women would look at this as not a job, not
15 a resume -- All right? -- not just a chance to advance in
16 prestige and clout, but as a chance to be of service. Of
17 service. And I think all you're doing is reminding them
18 of that. All you're doing is saying, "Let's put some
19 teeth into what you are mouthing and let's see that this
20 becomes a reality." I'm with you all the way.

21 HON. LIPPMAN: I know you are.

22 CARDINAL DOLAN: Thank you.

23 HON. LIPPMAN: Thank you.

24 CARDINAL DOLAN: Good questions. I was afraid you
25 were going to ask me if it's a Cardinals/Yankees series
26 what side I'm on. I'm going to leave before that one.

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2 (Laughter.)

3 HON. LIPPMAN: We won't go there of all places.

4 CARDINAL DOLAN: Thank you.

5 HON. LIPPMAN: Your Eminency --

6 CARDINAL DOLAN: Am I dismissed? Thank you.

7 HON. LIPPMAN: -- thank you so much.

8 CARDINAL DOLAN: God to be with you all. Thanks a
9 lot.

10 (Witness excused.)

11 (Continued on the following page.)

12 oOo

1 Quinn

2 JUSTICE LIPPMAN: Okay, so Derek Jeter has
3 hit a home run, so batting second we have our
4 fabulous Speaker of the City Council, Christine
5 Quinn, who has a tough act to follow.

6 SPEAKER QUINN: I know. I'm speaking to you
7 later, Judge.

8 JUSTICE LIPPMAN: This is the third year
9 that Speaker Quinn has been here at these hearings.
10 She batted number one the other two years, and she's
11 batting in the second position. The second is very,
12 very important in setting the table, and she couldn't
13 be a more loyal and supportive person in public life
14 than Speaker Quinn. She not only does this as a
15 public official, but as a passionate believer in
16 helping those most vulnerable in our society, and she
17 doesn't just pontificate, she acts and her good deeds
18 are legendary, and she is a very great public
19 servant, and a great human being, and I couldn't be
20 more proud, or more delighted to have her here to
21 speak to us again this speak year.

22 Speaker Quinn, thank you for being here.

23 SPEAKER QUINN: Thank very much for that
24 incredibly kind and generous introduction, Chief
25 Judge. Thank you very, very much.

26 Chief Presiding Justice Gonzalez, thank you.

Gloria Ann Brandon, Sr. Court Reporter

1 Quinn

2 Chief Administrative Judge Prudenti, thank you.

3 President James, thank you for all of your work, and
4 then if I can number two to Cardinal Dolan, I'm good.
5 I'm good, and I think it's really wonderful that he
6 was here today. It really adds I think a very
7 significant and very important voice in our overall
8 efforts, so I congratulate you, Chief Judge, on
9 expanding our coalition in this benefit.

10 Before I deliver my testimony, I want to
11 thank all of you for including us so significantly in
12 the work of this task force, and also just want to
13 thank you, the members of our General Council, Liz
14 Fein, David Sheehan is here, as well as the members
15 of the Finance Division who have taken this
16 partnership very seriously. I want to thank them
17 because as some of the other people in this room,
18 that what I deliver is really their work today, so I
19 want to thank them.

20 You will see there's a difference in three
21 years. The first time I did this, there were no
22 glasses, but that is life.

23 JUSTICE LIPPMAN: Okay, okay.

24 SPEAKER QUINN: Thank you.

25 I'd like to address the significant work that
26 this historic task force has done under the

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leadership of Chief Judge Lippman in my testimony.
I'd also like to review the work that is the council
has done in support of this task force in the past
year, and offer some suggestions on where we can go
from here to continue to advance the cause of equal
justice in all our community.

Judge Lippman's task force have secured
important funding for legal services and set
significant standards for pro bono work for the legal
profession. I want to congratulate Judge Lippman and
the task force for your tremendous work on behalf of
equal access to justice over the past year.

First, you secured unprecedented stable and
secure funding for the legal services by including
the funding in the judiciary's budget. Let me tell
you something, in negotiating the City's budget, I
really do mean thank you.

JUSTICE LIPPMAN: All right.

SPEAKER QUINN: I commend you for the
commitment of \$25 million for legal services in this
fiscal year. More than half of these funds now
support legal services in our City, and many of our
City residents facing eviction, needing food stamps,
facing loss of Federal benefits, people who are
victims of domestic violence who in the past were

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unrepresented, now because of your work have legal representation, which can make all the difference in the world.

Second, I want to applaud your new pro bono requirement form newly admitted attorneys. I'm making a list of projects they can do with the City Council. This both instills in new lawyers and the legal profession the importance of serving the needy as a central element of every lawyer's work, regardless of where they work and will generate countless hours of legal services, which will then be able to be extended to the New York residents.

On behalf of the New York City residents, thank you.

Since last year, notwithstanding all of this great work, the problem of access to civil legal services has only grown. Poverty continues to rise in New York City. Nearly 1.7 million, 1.7 million New Yorkers are now classified as poor up from 1.7 million last year, and the percentage of New Yorkers living under the poverty line has increased from 20.1 percent last year to 20.9 percent this year, and every point there is a person, not just a number.

Last year medium household income in New York

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City fell over by \$800 and medium earnings for worker fell by over a thousand dollars. Now in light of this, we and the City Council still have provided substantial support for legal services to address housing, education, family issues, health and basic subsistency issues. This includes over \$4 million for civil legal services, and over \$3 million to fund legal representation for residents facing eviction, or foreclosure. The Council is typically concerned by the many immigrants who are being defrauded by people promising to handle their cases when free legal services are available throughout the City, and one of the things I think is a message we need to use your pro bono network to get out there to immigrants don't pay. If someone's telling you to pay, don't use them. You're almost definitely going to ripped off. There's free services that are good services. I think sometimes people just don't understand that. To address this issue of concern, the Council has allocated this year \$4.5 for legal services for immigrants, including to help those who want to become U.S. citizens.

We also starting funding for victims of domestic violence. We have allocated \$1.5 to the Civilian Complaint Review Board to fund an

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2 Administrative Prosecution Unit to address
3 allegations of police abuse, allegations that are
4 primarily made by citizens in lower income
5 communities.

6 Now the council also used our powers to help
7 these New Yorkers. This year the Council passed the
8 Living Wage and Prevailing Wage Legislation. We did
9 this to help people who work in New York City be able
10 to afford to live here, and we are defending these
11 laws in Court right now facing a legal challenge from
12 Mayor Bloomberg. We've also challenged the City's
13 plans to limit access to shelter for single adults,
14 which we are also fighting in court, and we will
15 continue to protect the needy in New York through
16 legislation, oversight, and financial support.

17 We will make sure that the City effectively
18 implements the laws that need to be put on the books
19 to protect all vulnerable New Yorkers.

20 The question for the task force from all of
21 us is where do we go from here to still meet the
22 dramatic unmet needs of New Yorkers?

23 In light of that, I have three suggestions to
24 make for your consideration.

25 JUSTICE LIPPMAN: Sure.

26 SPEAKER QUINN: First, build on your dramatic

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efforts that increased funding for civil legal services. This is not to replace my proposal. Any of the money we put in, or the State of New York puts in. It would be on top of that, a new funding stream that could be funded -- I hope I say this right in a room if you will of lawyers -- pro hac vice. The work that you have done to institutionalize funding for legal services within the budget of the judiciary is historic and momentous. I am floored. Yet we have to continue to find additional funding streams outside of tax revenue to support important things like legal services. That's why I propose that you consider the imposition of the fee for litigants who seek to appear in New York pro hac vice as the attorney can pay a nominal fee to appear pro hac vice. 42 states, and most recently Massachusetts, already charge fees, and at least nine states use the funding for indigent legal services. Models exist to maximize revenue with minimal administrative costs. Certainly no fees would be charged for pro bono representation for poor litigants, but there appears to be a potentially untapped source of funds here that can be used exclusively to support our efforts and civil legal services, and as we understand it, in some states it ranges from about

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2 \$100. Some states charge \$400 for the time that they
3 need to do this.

4 Second, using the crime mapping model, a
5 detailed localized analysis should be done of civil
6 legal services needs. We believe this would
7 increase the efficiency and the effectiveness of
8 precisely targeting legal service resources,
9 particularly if we still struggle to have more
10 resources. The task force in the 2010 Statewide
11 survey was an immensely useful resource. We would
12 like to work with you to take this analysis further,
13 and develop a local analysis of legal services needs,
14 so that we can effectively and strategically target
15 funding and servicing. Mapping has been used to
16 identify crime patterns, to assist police and
17 community efforts to fight crime. We can use the
18 2010 census, income and employment statistics,
19 poverty rates, demographic information, housing data,
20 rates for foreclosure, arrests for domestic violence,
21 for example, to assess needs. Then we can provide
22 services more specifically to match where we have
23 done this pinpoint mapping.

24 Third, we'd like to work with the task force
25 to develop a localized cost benefit analysis of civil
26 legal services to build on the tremendously valuable

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Statewide analysis that you have completed.

The task force consultants report of 2011 clearly demonstrated that the State can actually save money through its financial support for legal services. The report details that \$85 million in savings related to domestic violence, \$116 million for preventing eviction and homelessness, and \$348 million in Federal benefits brought into the State. Now, let's just be clear, if we're owed money from Washington, the place we want it is in Washington, right?

Legal service providers in the City have reinforced the cost effectiveness of legal services and their reports to the council. Providers having estimated that representing New Yorkers facing eviction saves the City \$36,000 per family in avoided shelter costs at a time when we are at an all time high in the shelters. The City also reaches significant savings when New Yorkers are able to recover from a Federal benefit, or obtain employment in debt settlements. That doesn't even include the fact that the since this money is going to low income workers, the vast majority of it gets spent and recirculates through lower income communities generating economic development. Most of it is not

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2 put away in the bank. Most New Yorkers have
3 immediate financial needs, so there is an actual
4 additional benefit.

5 I believe that if we do a program by program
6 analysis at the City level, we can provide
7 justification for a regular and sustained City
8 funding source for legal services programs.

9 We stand ready to work with you on each of
10 these areas, or any other areas where you think our
11 assistance would be of use.

12 We thank for your time, your work and your
13 consideration of our three proposals.

14 JUSTICE LIPPMAN: Thank you, Speaker Quinn.

15 Those are three really I think clear calls
16 that I think we can do on a pro hac vice.

17 You know what the problem is sometimes, and I
18 agree with you, it's an untapped resource, and other
19 states do charge quite handsomely for it. You know,
20 the problem we have, and I know the speaker here, and
21 I know Speaker Quinn, sometimes we get fees directly
22 related to the judiciary.

23 SPEAKER QUINN: Right.

24 JUSTICE LIPPMAN: But, they're taken away
25 for something else, and so we would seek your council
26 --

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2 SPEAKER QUINN: Absolutely.

3 JUSTICE LIPPMAN: -- as to how to get, kind
4 of earmark --

5 SPEAKER QUINN: Absolutely.

6 JUSTICE LIPPMAN: -- those monies for this
7 particular purpose, which is so, to me, such an
8 obvious connection it makes so much sense.

9 SPEAKER QUINN: Absolutely. I think that's
10 exactly right. That's right.

11 And then, there's another thing, we have the
12 model from the other states and other areas.

13 JUSTICE LIPPMAN: Yeah.

14 SPEAKER QUINN: We don't want -- it's not
15 that they're against funding, but that's not the
16 point here, right. The point is to keep this, so we
17 have to have a targeted and mandated, clearly, kind
18 in a lock box, if you will.

19 Two, it cannot surplant funds that are
20 already there.

21 JUSTICE LIPPMAN: Exactly.

22 SPEAKER QUINN: Let's say this raised
23 2-million dollars -- I'm making that up -- and it
24 was 25 last year, right. This can't mean the state
25 puts in 23, and you're at 25. This would take to us
26 27, because 25, as great as it, is it's not meeting

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2 anything, so we would have to create both of those,
3 and it isn't easy, but there are clear precedent to
4 how can do you that.

5 JUSTICE LIPPMAN: No, I agree with you. I
6 think vigilance is in order.

7 SPEAKER QUINN: Absolutely.

8 JUSTICE LIPPMAN: I did see on your other two
9 proposals, which I think can be done, I saw Helaine
10 Barnett shake her head.

11 SPEAKER QUINN: Oh, good.

12 JUSTICE LIPPMAN: We're going to see.

13 SPEAKER QUINN: Great.

14 JUSTICE LIPPMAN: To get your people, and
15 Elaine, and the task force together. That's exactly
16 the kind of work that we should be targeting where it
17 goes, and this cost benefit, as to why it makes
18 sense, you know, are for everybody, and as you know,
19 the task force concluded that for every dollar
20 invested in civil legal services, \$5 are saved by the
21 state. I think that's very true. It's not just
22 another that says gee, this is a good thing. Please,
23 help us. This is where the economic bottom line is.

24 There are a couple of more general questions,
25 you know, which is, what are we going to really
26 prioritize to get our partners in Government to

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2 understand that this is as important as taking care
3 of our sick, our hospitals, educating our kids, all
4 of the funds, making sure people have a roof over
5 their head? How do we get a message across of being
6 able to balance the different government interests?
7 I know these hearing, obviously, is one way of trying
8 to do that.

9 SPEAKER QUINN: Right.

10 JUSTICE LIPPMAN: How do we get the message
11 across that this is a priority? Let these people
12 fall off the cliff, that it so hurts our society, the
13 fact that they are of our society, how do you get
14 this prioritization where people don't say Oh, times
15 are bad. Gee, that's nice, but we just don't have
16 the money?

17 SPEAKER QUINN: Well, in a weird way -- I
18 hope this comes out right -- given how bad times have
19 gotten is almost an opportunity for us in this
20 dialogue because so many people who ten years ago
21 never thought they would be close to the edge now
22 know they're close to the edge. I mean, the way this
23 recession has impacted people, it has been very, you
24 know, broad swathed folks, so I think there's a
25 deeper understanding now that the economic kind of
26 solid ground we thought there was, there isn't. I

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think that has created an understanding in the public that's very helpful in pushing these issues forward.

Two, the foreclosure crisis and the nature of that I think really demonstrated to people how vulnerable you can be in a legal setting.

Three, you need to kind have the dialogue herein, the opportunity of the Cardinal being here could create for ongoing dialogue, him speaking to the lawyers, et cetera sets this up because I think sometimes in the public, or maybe in the press, it's like oh, those people who need those services, and our goal is to break that. It's all people, everybody could be those people at any time, and that's our job here.

You know, the other thing I think is often helpful in these discussions, and the way to kind of break that, those folks' unfortunate attitudes, and we should think about how to do this a little bit, is almost -- this isn't the right way to frame it, but a lump of my network of people who have been served by the legal services, you have the story of somebody now who is a prominent doctor curing cancer, or somehow giving back, becoming a very giving social worker who might have lost their home as a child and not be able to finish high school, or lost their

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benefits, so people can see the long-term, you know, impact of all this. I was at a church on the lower east side the day that President Obama's Executive Order of the Young Dreamers went into effect. There was tons of all free legal services there, and I met a young man who is now applying to be a citizen. He goes to City College. He's an engineering student. He told me he's going to cure cancer. He then took me through a whole description of how based on how he understands DNA, he's going to cure cancer. I really did not understand a word this young man was saying, but I'm fairly sure he's going to cure cancer. Why in large part? Because he gets to stay here now and finish his degree. Why will his paperwork be processed? Why will he be able to access that legal right? Because there were free lawyers there that day. Those are the kind of stories we have to get out, so this doesn't seem tangential. Let's be honest, who wants to think about ending up in Court? Nobody. Who wants to think about getting evicted, or something like that? Nobody. We need to make this not unpleasant, but in an empowering discussion to have because of all of the good we can to do.

JUSTICE LIPPMAN: I think you make such good points. You know, we found that these hearings have

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2 really impressed upon me as long as I've been around,
3 you know, that legal services does not just take
4 people who are totally indigent, unable to do
5 anything.

6 SPEAKER QUINN: No.

7 JUSTICE LIPPMAN: You get people with
8 graduate degrees, and you know, every station in life
9 who at some point find themselves strapped or newly
10 indigent.

11 SPEAKER QUINN: Yes.

12 JUSTICE LIPPMAN: Like a person who for the
13 first time in their life comes into court when the
14 roof over their head is at stake in a foreclosure, or
15 eviction, so it really covers a wide swatch. You are
16 not talking about gee, the people on the street who
17 just don't have a dime in their pocket. I think
18 that's a really, really good point.

19 I guess there's one other general question,
20 and then I'll ask if anyone else has a question.

21 If you looked at this from the most global
22 perspective, what do you think are the obstacles in
23 the broadest sense to systematically develop, what we
24 try to do here is develop a template in New York,
25 having a legislative resolution asking us to do this,
26 holding the hearing, and putting the money in the

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2 judiciary budget because we feel this is the most
3 protection for it, and that it's our mission to do
4 this? What do you think overall? What are the
5 obstacles to having the permanent institutionalized
6 process by which civil legal services are funded,
7 recognizing I think the Cardinal mentioned a couple
8 of times on the criminal side that what's not
9 perfect. We know there's a Constitutional right, and
10 everyone in one shape or another gets representation.
11 What's the obstacle for making what they call a civil
12 kitty, Gideon versus Wainwright, the landmark case on
13 the criminal side, so that people would have a right
14 to representation on the civil side?

15 SPEAKER QUINN: Well, this may seem like a
16 simplistic answer, but the biggest obstacle is
17 forgiveness, right, so anything that doesn't exist in
18 Government, or probably in the law --

19 JUSTICE LIPPMAN: Yes, especially today.

20 SPEAKER QUINN: Right, is difficult.

21 Two, given of the impact of the recession,
22 but really at any time, there's always those of us in
23 budget positions, we're always leary of requiring
24 things that come with money, right, because then
25 they're required, and then they're kind of in the
26 bill locked in before you start budgeting the next

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2 year, and that is an understandable and valid fear if
3 you're in the position, you know, that I'm in, or
4 Silver, Skelos, the Mayor, of the Governor.

5 JUSTICE LIPPMAN: Sure.

6 SPEAKER QUINN: That's why the study you have
7 done about cost, doing the City study about cost is
8 so important, because, you know, advocates always
9 tell us that, and they tell us that based on the fact
10 that they have all of their experience, right, but to
11 have it be a documented analysis takes it to a
12 different level of validity that you can then use in
13 a budgeting context, and I think what we need and
14 where we're really headed is to understand that we're
15 not just saying this will cost us more later, but we
16 will actually be able to see it in the ink of the
17 budget process is what we need to do.

18 JUSTICE LIPPMAN: I think what happens every
19 year, you know, the providers live hand to mouth.
20 They're dependent upon coming to seeing our fabulous
21 speaker, you know, or maybe the Chief Justice puts in
22 money, and then they pray that it goes. Instead of
23 saying gee, we can plan year to year to fill this
24 need, and I think it's really a difficult systemic,
25 you know, and I think that's what we need to work on
26 together. I'm not sure exactly how we do it.

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2 SPEAKER QUINN: The other thing I would just
3 add is, we have been talking about civil legal
4 services about 20, 25 years ago, and we may have only
5 been talking about one subset. We all have to think
6 about there's a lot more subsets to that, and that's
7 not bad, but as the need grows, does it ever decrease
8 in one area, so then you shift it over? Are we doing
9 that kind of analysis? Is it just growing? These
10 are important things to understand in the budget
11 context, too that we have to figure out.

12 JUSTICE LIPPMAN: All right.

13 Any questions?

14 JUSTICE PRUDENTI: I would just like to say,
15 I want to follow-up on the Chief Judge's suggestion,
16 it's a very good one, with regard to additional fees
17 for pro hac vice applications.

18 There are other fees that we can look at.

19 SPEAKER QUINN: Typically, if it's not a non-
20 New York lawyer. I'm just saying.

21 JUSTICE PRUDENTI: That makes a lot of sense.

22 SPEAKER QUINN: Right.

23 JUSTICE PRUDENTI: We would be able to work
24 together, and we would really like to do this very
25 much, so that we can come up with a proposal that
26 counsel could support, we can go to Albany, that

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2 shows the percentage possibly of the Court fees that
3 are generated, in addition to the requisite sources
4 that we are able to find dedicated to civil legal
5 services?

6 Is that something that I could reach out to
7 your office on?

8 SPEAKER QUINN: Absolutely.

9 JUSTICE PRUDENTI: And we can work it out
10 together?

11 SPEAKER QUINN: Absolutely. I think it's an
12 important one because that's the point, right, to
13 add, but two, in whatever other fees there are.

14 Also, I actually think there's also a broader
15 message. If we have fees from the entirety of the
16 Court apparatus, the entirety of the justice system,
17 being dedicated to legal services, I think it sends a
18 powerful message of moving our system to a place
19 where it isn't them and us. It isn't the people
20 with the money, and people without the money any more
21 in this system of Court, and laws and justice. We're
22 all in it together supporting each other, so in
23 addition to the money, which is paramount, I think it
24 also sends a message about how we in the state see
25 our justice system, how we see everybody supporting
26 each other in it, and I think that's an important

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2 message and vision for the City and State of New
3 York.

4 JUSTICE LIPPMAN: Anything else, Judge
5 Gonzalez?

6 JUSTICE GONZALEZ: Well, it's intriguing the
7 idea of charging fees to the attorneys for pro hac
8 vice, this is from a provincial perspective, in that
9 here we have a lot of lawyers that come from out of
10 state, and we have judges, we have Justice Mazzairelli
11 who always asks of the law firms isn't there a good
12 attorney here in New York State? That's their pet
13 peeve, but I think she has a point.

14 SPEAKER QUINN: She does.

15 JUSTICE GONZALEZ: What I would be interested
16 in, and again, I repeat myself from a provincial
17 perspective, is that we might be able to, if we could
18 generate those funds, and earmark them --

19 SPEAKER QUINN: Correct

20 JUSTICE GONZALEZ: -- it would be wonderful.

21 I'll tell you what, last week we had a case
22 involving a transaction of \$2 billion. It was a
23 commercial matter. One of the attorneys for the
24 appellant came all the way from Arizona. The other
25 came on the other side from Minnesota. If we were
26 to base, and forget about the equal protection

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2 clause, if we were able to charge based on the states
3 involved \$2 billion, I think in just one case alone
4 it would have been quite a bit of money to provide,
5 obviously, that we can earmark it, and then also it
6 would take some away of the pet peeves that some of
7 our justices had with respect to pro hac vice, so I
8 think it's an intriguing idea. I think it's very
9 worth while of pursuing.

10 SPEAKER QUINN: Thank you

11 JUSTICE LIPPMAN: Justice James --

12 JUSTICE JAMES: You talked about the fact of
13 the profit level decreasing in New York.

14 Have you or your council members found there
15 are an increasing number of residents applying for
16 legal services?

17 SPEAKER QUINN: Yeah, absolutely.

18 I think if you talk to any member of the City
19 Council, they would be able to tell you that the
20 number of people who are calling their offices,
21 stopping by their offices in need of this kind of
22 service is just growing tremendously. I know in my
23 own district office that's true, particularly in the
24 area of housing. I represent the lower west side of
25 Manhattan. There's tremendous pressure on longer
26 term rent protected tenants, and absolutely, at the

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number of homeless folks is just going up with no
particular end in sight, that you hear more and more
stories there, as well.

JUSTICE LIPPMAN: Okay. Thank you,
Speaker, again.

SPEAKER QUINN: Thank you guys.

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2 HON. LIPPMAN: Okay, so thank you, Speaker.

3 Again, you honoring us in being here. And let me say, not
4 only for your verbal support, but we know there's always
5 someone we can go to for doing the right thing. And in
6 this particular issue you always do the right thing. And
7 we'll try to do the right thing, and together we go
8 forward.

9 SPEAKER QUINN: Thank you very much.

10 HON. LIPPMAN: Thank you so much. Greatly
11 appreciated.

12 SPEAKER QUINN: Thank you very much.

13 HON. LIPPMAN: Thank you, Speaker Quinn.

14 (Witness excused.)

15 HON. FISHER: Two home runs. The pressure's on,
16 Chief.

17 HON. LIPPMAN: Two home runs.

18 You could see that this was Speaker Quinn's fan
19 club here (indicating).

20 SPEAKER QUINN (From the audience): I think I did
21 something.

22 HON. LIPPMAN: Okay, we now have a third real
23 slugger here, Fern Fisher, the Deputy Chief Administrative
24 Judge in charge of the New York City courts and our
25 statewide Access to Justice leader who will testify next.

26 I just mentioned that Judge Cirparick from the
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2 Court of Appeals is here today, my colleague. And Judge
3 Acosta from the Appellate Division, Justice Gonzalez'
4 colleague. And we had the pleasure of serving together.
5 Steve Banks, member of the Task Force; Lillian Moy, a
6 member of the Task Force. We're so -- so glad that
7 you're all here with us.

8 And now Judge Fisher.

9 HON. FISHER: Good morning, Chief Judge, Chief
10 Administrative Judge, Presiding Justice and President
11 James. Despite the number of pages I have with me, this is
12 a summary of my written presentation.

13 HON. LIPPMAN: Let me just say I missed -- Chris
14 O'Malley is here, too.

15 Go ahead.

16 HON. FISHER: This year the Task Force has asked
17 me to address two topics.

18 HON. LIPPMAN: Yes.

19 HON. FISHER: I will first address how the
20 17 million in funding awards in the First and Second
21 Department to legal services providers and pro-bono efforts
22 have made a difference in closing the justice gap. Second,
23 I will provide an update on efforts to standardize and
24 simplify practices and forms throughout the state. The
25 latter effort was proposed by the Task Force and is being
26 carried forward by Judge Coccoma, the deputy chief

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2 administrative judge for courts outside the City of
3 New York, and me.

4 If you ask individuals who've been assisted by
5 legal services providers how their lives have been changed by
6 the assistance they've received from the civil legal
7 services grant money, the answer would be a resounding
8 yes.

9 If you asked the provider organizations have the
10 grants made a difference in their ability to provide
11 services, each program will uniformly answer yes.

12 Both clients and providers are grateful that the
13 New York State Court System is forward thinking in
14 understanding the moral imperative to close the justice
15 gap. Our government partners will be happy with the cost
16 savings that legal assistance has produced through these
17 grants.

18 I have provided examples to illustrate the
19 impact of the funding. These examples are a snapshot of
20 the total picture of the success of the funding and the
21 work that legal providers and volunteers have
22 accomplished. And I'm only summarizing the cases; the
23 full presentations are in my written presentation.

24 The civil legal services funding provided
25 critical support for Legal Services NYC, my home office,
26 service delivery system in fiscal years '12 and '13 since

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2 the program suffered from dramatic cuts to Legal Services
3 Corporation funding during these periods. Overall, the
4 civil legal services funding supported the delivery of
5 the legal services to thousands of families and
6 individuals. The grants have allowed NYLAG, the New York
7 Legal Assistance Group, to hire fifteen additional
8 attorneys which resulted in the handling of 5,000 more
9 cases. One of the 5,000 cases was Aron, an 80-year-old
10 deaf individual with limited mobility who's living in a
11 rent-regulated apartment that he had occupied since
12 1960s. The efforts of the attorneys on his case kept
13 Aron, an 80-year-old man, from being evicted. We are a
14 kinder society because of the efforts of that lawyer.

15 Another individual's whose life was altered was
16 Samah, an immigrant from Tunisia who was a domestic
17 violence victim. The law student working on her case
18 under the supervision of a lawyer was able to get her
19 support and a order of protection. But, most
20 significantly, the attorney -- the law student who was
21 assigned to the case -- and I think this is an --
22 illustrative of your rule, Chief Judge -- the law student
23 said, "This was one of the most difficult yet rewarding
24 experiences I've ever had as a law student." And Samah
25 said she felt completely relieved now and is fully truly
26 optimistic about the future.

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2 These grants have allowed providers to assist
3 individuals who have multiple layers of legal problems.
4 Miss P.'s case is an illustration. She was represented
5 by the Legal Aid Society and she was a domestic violence
6 victim who had trouble getting public assistance, and
7 Legal Aid's intervention kept her family from having to
8 stay in the shelter. Miss P.'s life and her children's
9 lives were saved from not having to stay in the shelter
10 any longer, and the City of New York benefited by the
11 savings of no longer keeping the family in shelter.

12 CAMRA [phonetic] used civil legal services funds
13 to serve 1,112 clients in legal matters in the central
14 life categories, including housing, family law,
15 subsistence income, including consumer debt litigation.
16 The majority of these services were provided to people
17 living in Brooklyn, although some were provided in Staten
18 Island.

19 In an eight-month period from last year the
20 Bronx Defenders opened or closed 2,206 essential of life
21 legal matters benefiting 3,531 people. They represent an
22 additional 1,563 people on other legal matters ranging
23 from immigration issues to individual rights. Their
24 early intervention model assisted in keeping many legal
25 issues from ripening.

26 The civil legal services funds last year to the
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2 Center for Family Representation resulted in remarkable,
3 remarkable statistics. Last year CFR kept 73 percent of
4 children of their clients out of foster care entirely.
5 The children and their clients did not enter state for a
6 median of just 2.2 months, which is significantly shorter
7 than the New York State average of 29 months and the city
8 median of 6.4 months. Furthermore, their services
9 provided notable significant cost savings. CFR services
10 cost about \$6,000 per family regardless of the number of
11 children. The minimum cost to keep a child in foster
12 care in New York State is \$29,000 per year per child.
13 CFR estimates that their services generated tax payer
14 savings of \$6.9 million in a single year.

15 Legal services providers attorneys and support
16 staff are the underpaid, overworked heros and she-roes of
17 New York State. Their dedication to serve often is
18 unrecognized, but the Court system knows that they make a
19 difference every day, life by life, and we applaud them.
20 And in my own style, I hug them and kiss them whenever I
21 see them.

22 I want to, however, also recognize the volunteer
23 efforts that the civil legal services funding has
24 provided. These volunteer lawyers and law students have
25 halos over their heads and deserve angel status in my
26 opinion -- and I think the Cardinal would agree with me.

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2 The civil legal services funding provided \$162,000 for
3 all departments to NYLAG, the Brooklyn Bar Foundation of
4 the New York County Lawyers to partner with the courts to
5 provide limited scope representation to consumer credit
6 defendants in Civil Court.

7 In 2011, 3,577 defendants were assisted by law
8 students and volunteer lawyers. And, thus far, from July
9 of 2012, 2,666 defendants have been assisted by
10 volunteers. The results of representations are a stark
11 experience compared to the experience of an unrepresented
12 defendant. This effort has national attention for
13 success with limited scope representation and the use of
14 volunteers. With just a little bit of money and a
15 productive partnership, thousands of lives have been
16 improved.

17 With the numbers of unrepresented litigants
18 still coming into court, the Task Force urges
19 simplification and unification of all court procedures.
20 The simplification and uniformity journey is ongoing.
21 Judge Cocco and I have formed subcommittees in the
22 following areas: Landlord and tenant, foreclosure,
23 family, consumer credit, small claims, surrogates,
24 Supreme Court and divorce. The subcommittees each have
25 judges and/or court clerks and bar leaders from across
26 the state. The landlord and tenant subcommittee is

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2 tweaking a final draft of a tenant answer in a
3 non-payment proceeding and then we will move on to other
4 things. The family committee has finished a child
5 support modification form that could be used to develop a
6 new DIY program. The foreclosure committee is working on
7 a foreclosure handbook for owners and a uniform
8 settlement conference order. The consumer credit
9 committee is reviewing all consumer credit practices and
10 forms to ensure that defendants receive uniform access to
11 justice and plaintiffs can rely on uniformly. The
12 divorce committee is tackling simplifying the morass of
13 the uncontested divorce process and forms. The Supreme
14 Court is looking first at a uniform court person's
15 petition and procedure. And the surrogates committee is
16 reviewing the Article 81 system.

17 All forms will be made into plain language.
18 Each subcommittee will send their work product to the
19 main committee chaired by Judge Cocco and me and then
20 onto Judge Prudenti and/or the administrative order as
21 required. It is a big process.

22 In the words of The Carpenters, and I'm dating
23 myself, "We have only just begun." Courtrooms are still
24 filled with unrepresented litigants and the numbers seem
25 to keep coming. And legal services providers turn away
26 more people than a democratic society should turn away.

Robert Portas, RPR, CRR

1 HON. FISHER

2 Without the funding Judge Lippman has obtained thus far,
3 the thousands served would be living different lives.
4 However, we still have far to go before we can rest. The
5 destiny end, a permanent civil legal services funding
6 that's adequate for all.

7 Judge Lippman, we wish you good health and a
8 sustained abundant energy level so that you may lead us
9 to journey's end.

10 HON. LIPPMAN: Thank you.

11 HON. FISHER: Thank you so much.

12 HON. LIPPMAN: We appreciate it. Thank you for
13 your testimony. A couple of quick questions:

14 When you look at, you know, in your role as sort
15 of the overall Task Force -- not Task Force, the overall
16 access to justice head in our state, what do you see as
17 the real holes today? Is it more by location? Is it by
18 type of service that's necessary? Where are we lacking?
19 Is it some parts of the state we're doing okay, other
20 parts not so well? Or we're doing okay with domestic
21 violence victims but not on foreclosures? Is it just an
22 overall need or are there pockets?

23 HON. FISHER: Chief, it's still an overall need.
24 And I think we're putting our best efforts out, but we
25 still have more and more to do. I mean, clearly rural
26 areas are hard to tackle because of the geographical --

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1 HON. FISHER

2 HON. LIPPMAN: Geographical?

3 HON. FISHER: -- it's just really hard. And I
4 think we have to look at more technology to try to span
5 that problem.

6 HON. LIPPMAN: Upstate technology would be very
7 important.

8 HON. FISHER: It would be very important. And I
9 think we can make some strides there. But overall it's
10 just the same problem, every place, everywhere, every type
11 of bread and butter issue.

12 HON. LIPPMAN: The need is so great.

13 HON. FISHER: The need is great. We have our
14 fingers in the holes in the dike, but we're still getting
15 holes other places.

16 HON. LIPPMAN: What do you see on the ground in
17 terms of the viability of providers? Are they still --
18 even with monies we've been lucky enough to get, the other
19 monies they get from different places, what's the viability
20 of our providers? They're still living hand to mouth?

21 HON. FISHER: They're living hand to mouth. And I
22 think they're doing an heroic job with the funds that they
23 have, but we're putting a lot of pressure on them by the
24 lack of funding. Their staff attorneys are overwhelmed,
25 their executive directors are overwhelmed, and yet they
26 keep in the course. And you've got to give them credit for

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1 HON. FISHER

2 that.

3 HON. LIPPMAN: Thank you.

4 One final question: Volunteers, what else do
5 you think we should be doing? You know, the bar has done
6 a terrific job in putting in for the new members the
7 50-hour requirement. What else can we do to promote
8 pro~bono?

9 HON. FISHER: Well, I think that the law student
10 requirement certainly will produce more law students,
11 because we have many already. I think that's a great step
12 in the right direction. I think, you know, this is my
13 issue and everybody knows it's my issue, I think more
14 limited scope, opportunities for volunteers to make it
15 easier to volunteer as long as it's the appropriate case
16 and they're appropriately trained.

17 HON. LIPPMAN: A structure.

18 HON. FISHER: We need more of an infrastructure
19 with that. And we can expand that outside the city.

20 I am very pleased to see that there's a CLARA
21 [phonetic] program opening up in Westchester. That is
22 fantastic. We could see more CLARA programs throughout
23 the state. There's a lot more we can do. I think
24 limited scope is appropriate for certain kinds of cases.

25 HON. LIPPMAN: Okay. Anything else? Okay.

26 Thanks.

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1 HON. FISHER

2 HON. FISHER: Thank you.

3 HON. LIPPMAN: Judge Fisher, as always. Keep up
4 the fight. You're doing great.

5 (Witness excused.)

6 HON. LIPPMAN: I would mention that also from the
7 Task Force, Mark Cunha is here over there (indicating),
8 Shelley Dropkin, uh-huh, Debbie Wright is here and Marsha
9 Levy is here somewhere. Marsha. Denise Cronstat
10 [phonetic] is here and Nadia Greeb is here. That's from
11 Assembly Woman Weinstein.

12 Anyway, our next witness will be Dr. Elizabeth
13 Becker, the senior vice president of NERA Economic
14 Consulting.

15 Dr. Becker, great to have you.

16 DR. BECKER: Good morning. Thank you for having
17 me.

18 I also would like to thank you, Speaker Quinn,
19 for really T'ing up my topic very nicely in asking for a
20 cost benefit analysis of the provision of civil legal
21 services. I -- as an economist, I think it's important
22 to recognize that returns to the provision of civil legal
23 services far outweigh the cost of providing them. I have
24 been asked by the Task Force to focus on one specific
25 type of benefit that is --

26 HON. LIPPMAN: Doctor, move the mic a little

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1 DR.E.BECKER

2 closer to you.

3 DR. BECKER: Okay.

4 HON. LIPPMAN: I can hear you perfectly, but some
5 of the others can't hear.

6 DR. BECKER: I've been asked to evaluate the
7 economic benefit from just one type of benefit that's
8 enjoyed by low income New Yorkers as a result of the
9 provision of civil legal services, and that's what's the
10 economic benefit that flows to the direct beneficiaries of
11 federal benefits that are received as a result of provision
12 of civil legal services, and then what is the overall
13 impact on New York State as a whole from the flow of those
14 federal benefits into the state.

15 I've been asked to look at the economic benefit
16 to the beneficiaries of the federal benefits in two
17 different ways. First of all focusing only on the
18 benefits that are enjoyed in 2011 alone, just that one
19 year alone. It also has been shown that once
20 beneficiaries are enrolled in a program the duration of
21 their participation in the program can extend for many
22 years. The estimates are nine to ten and even ten
23 and-a-half years, depending upon which particular federal
24 program you're looking at.

25 So recognizing that there is an investment value
26 that's been created as a result of the provision of civil

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2 legal services that can generate economic benefits far
3 into the future I've also been asked to look at what that
4 longterm value created is as a result of the efforts that
5 have been made on the behalf of low income New Yorkers.

6 I also was asked to evaluate the impact on
7 New York State as a whole. Once that money from the
8 federal programs comes into the families who have enjoyed
9 benefits that they otherwise would have lacked, they have
10 that money available to spend on food and clothing and
11 housing, and that generates benefits to others.

12 HON. LIPPMAN: Ripple effect.

13 DR. BECKER: Yeah. There's a large multiplier
14 effect.

15 And then, lastly, in recognition that New York
16 is a net sender of money to Washington, I was asked to
17 put it in context and provide some information about how
18 much of a return to favor treatment relative to our
19 outflow of funds to Washington we're enjoying as a result
20 of some of these federal benefits coming back into the
21 state.

22 So, in a nutshell, the economic value of the --
23 well, the positive financial impact in 2011 alone of
24 access to benefits from several specific federal programs
25 is about \$378 million. That's just 2011 flow of funds
26 for the federal benefits alone. The longterm positive

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1 DR.E.BECKER

2 financial impact is far greater than that, because the
3 expected duration of participation in the programs is so
4 long.

5 HON. LIPPMAN: 370 is what comes in?

6 DR. BECKER: One year.

7 HON. LIPPMAN: In one year?

8 DR. BECKER: 2011 alone. 378 million.

9 HON. LIPPMAN: Now you're talking more ripple
10 effect from them.

11 DR. BECKER: Right. The long term estimate of
12 positive financial impact could range as high as
13 \$682 million if you projected participation of ten years in
14 the program once -- in these programs once enrolled. So if
15 you put those together you're over a billion dollars in
16 economic benefits from participation in these programs.

17 HON. LIPPMAN: Over how long a period is the
18 billion dollars?

19 DR. BECKER: That would be if you estimated it for
20 ten years.

21 HON. LIPPMAN: Right. In a decade.

22 DR. BECKER: Right.

23 In a more modest estimate, if you assumed that
24 the participants would continue in those programs for
25 only five years instead of ten years, you're still
26 very -- you're still at about \$900 million. So very

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2 close to a billion dollars total.

3 HON. LIPPMAN: Just talking about federal monies
4 coming in, not any other benefits?

5 DR. BECKER: That's correct. That's correct.

6 The multiplier effect of that for New York State
7 as a whole is that it's about 1.5 of a multiplier effect.
8 So if you apply that to the 378 million for the 2011
9 benefits you're over 500 million just for 2011 benefits.
10 And if you apply it to the billion dollars that you've
11 have generated over the ten-year period, you're getting
12 to about a billion and a half dollars in benefits for
13 New York State as a whole over the ten-year period.
14 There's very significant benefits that are flowing both
15 to the direct beneficiaries of these programs and to
16 New Yorkers as a whole.

17 Putting it in context of what New York State's
18 excess tax burden is to Washington, New York State
19 receives back in expenditures from the federal government
20 less than 80 cents on the dollar for every dollar in
21 taxes that we send in federal taxes. It's about 79 cents
22 on the dollar. And that leaves us with an excess federal
23 tax burden of about \$20 billion a year. And so if you're
24 looking just at the \$378 million in 2011 of how much
25 we're receiving back in funds for participation in these
26 programs, we're reducing our excess tax burden by only

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1 DR.E.BECKER

2 about 2 percent. So we're putting a little drop in the
3 bucket for fairness relative to -- being treated relative
4 to Washington, but certainly there could be more added to
5 that to restore our position relative to our contribution
6 to Washington.

7 To just provide a little bit more detail, the
8 specific federal benefits that I evaluated were
9 supplemental security income, which is a federal program
10 that makes monthly payments to low income people who have
11 a few resources, low asset values, and who are age 65 and
12 older or who are blind and who are disabled. The
13 eligibility for SSI does not depend upon having
14 participated in making contributions to social security;
15 the social security disability income program is an
16 additional federal program that pays monthly benefits to
17 people who cannot work because they have a medical
18 condition that is expected to last for at least a year or
19 result in death. That eligibility is tested with very
20 specific and detailed rules about years of work and about
21 contributions into the social security benefits program.

22 (Continued on the following page.)

23 oOo

1 Dr. Becker

2 DR. BECKER: Another Federal benefit that is
3 tied to state benefits is unemployment compensation
4 benefits. Generally speaking, unemployment
5 compensation is provided at the State level.
6 However, because of the extreme nature of the economy
7 that we're in now, the Federal Government has
8 provided an emergency extension of unemployment
9 compensation benefits that supplements the benefits
10 that unemployed persons would get at the State level,
11 so if you take into consideration the Federal
12 extension, there are some Federal benefits flowing to
13 New Yorkers in unemployment compensation.

14 Medicaid, again, is a program that is funded
15 at the State level, but some of the provisions of
16 Medicaid benefits is reimbursed by the Federal
17 Government, as well, so there is Federal support
18 coming in if we're be able to provide needy persons
19 with access to Medicaid benefits, and the earned
20 income tax credits is another category of Federal
21 benefits, so persons who are working and paying
22 taxes, but at a sufficiently low income may actually
23 get some earned income tax credits on their Federal
24 taxes if they are aware of and are able to properly
25 qualify for those earned income tax credits.

26 And then, there are a variety of smaller

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2 benefits, like veteran's benefits, for example, that
3 fall into a more miscellaneous category. I was
4 provided with data from my old office that detailed
5 the incremental benefits that were received as a
6 result of the provisions of the civil legal services,
7 and used that information in order to provide the
8 estimates that I talked about, the short term
9 benefits, the long term benefits, the benefits to New
10 York State overall, and then used them publicly
11 available sources to estimate what the reduction in
12 New York excess state tax burden would be as a result
13 of that money flowing in.

14 JUSTICE LIPPMAN: Just a couple of quick
15 questions.

16 You know, there's so much talk in Washington
17 these days about entitlement and cutting back
18 entitlements, and but the point is that what you are
19 reporting on are really monies that are just what
20 that term means, that people are entitled to, and yet
21 New York there's so many people who can't access it
22 because of a lack of a legal knowledge to be able to
23 interface with the different bureaucracies. Is that
24 really a more layman's way of describing what's going
25 on?

26 MISS BECKER: Yes.

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2 If you look at the qualification for those
3 benefits, these really are benefits for the neediest
4 people. They're benefits for blind, disabled
5 persons, persons who are older and lack access to
6 resources to support themselves, and to your point
7 about needing civil legal assistance in qualifying
8 for and maintaining these benefits, I have a Ph.D in
9 Economics. In looking at what you need to do to
10 qualify for benefits, I'm not sure I could work my
11 way through it myself.

12 JUSTICE LIPPMAN: That's what it is. It is
13 ironic that so many of these benefits are designed to
14 help those most in need, you have to be a nuclear
15 physicist to figure it out.

16 MISS BECKER: I am truly amazed. In order to
17 understand what your qualifications are, if you go
18 on-line and look at the application process,
19 particularly for the services for disability income,
20 that particular program is extremely difficult to
21 qualify for, and the process can take -- there's a
22 warning even on the Government web site that the
23 process could take up to a year to qualify for those
24 benefits. It's something that I think a low income,
25 or an elderly person might have extreme difficulty in
26 being able to navigate through that.

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1 Dr. Becker

2 JUSTICE LIPPMAN: None of the individuals are
3 short-changed.

4 The person who really needs the help of state
5 is short-changed because in some fashion or another,
6 those people wind up being, quote, "a burden" on the
7 state because they're not getting what they're
8 entitled to, and the Federal Government contributes
9 to this gap that we're talking about between what we
10 give to the Federal Government, and what we give back
11 here.

12 DR.BECKER: That's right. They're going to be
13 a burden to the State because they're going to need
14 these services and the support coming from some
15 source, so having them get it from source to which
16 they are entitled from the Federal Government I think
17 is the wisest way to make sure they're taken care of,
18 and the other economic benefit is that the rest of
19 New York State, New York State residents as a whole
20 enjoy benefits from the fact that this money flows in
21 and gets spent on things that we are providing, and
22 that it also, as a consequence of that extra money
23 coming in and being spent in New York State, there's
24 job creation, as well. It's estimated about 5,600
25 jobs would be created from the inflow of funds from
26 2011 alone.

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1 Dr. Becker

2 JUSTICE LIPPMAN: Just one other quick
3 question; when you talk about the analyses, and
4 Speaker Quinn was talking about it, and we know what
5 the task force has done with your help and others, a
6 number of these sites, how difficult is it to target
7 these kind of studies to a particular part of our
8 City or State?

9 Is it much easier to do the broader based
10 numbers, or can you do a kind of thing that Speaker
11 Quinn was talking about, kind of a cost benefit
12 analysis broken down into a kind of more discreet
13 area, rather than the State? Most of the data comes
14 Statewide.

15 DR.BECKER: Well, the data that I was looking
16 at were Statewide, but the way I understand Loyola is
17 maintaining the data, it would be evaluated on a
18 regional basis.

19 JUSTICE LIPPMAN: Good.

20 DR.BECKER: We talked about providing some
21 estimates that would be done on a regional basis, and
22 didn't undertake that exercise this year, but because
23 the detailed data is coming from the organizations
24 that are actually providing the civil legal services,
25 you can engage in that exercise, and then the
26 multiplier affects. Those multiplier, multipliers

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1 Professor Hatfield
2 are also available on a regional basis, so you can
3 also estimate separate regional multipliers.

4 JUSTICE LIPPMAN: Any other questions?

5 JUSTICE PRUDENTI: Just one follow-up
6 question, Dr. Becker.

7 Dr. Becker, you told there are over 370
8 million people in 2011 seeking Federal benefits.

9 When you are looking at the data, is there
10 any way to know what additional benefit they could
11 have been entitled to if we were able to navigate the
12 system?

13 DR. BECKER: If there are additional unmet
14 needs that had been met, I mean, I don't have the
15 information to know that, but I think that based on
16 the testimony from the folks that have come in before
17 me, there are clearly additional unmet needs.
18 There's untapped access to benefits that I think you
19 would probably characterize it as actual value of the
20 benefits, the money that's coming in from the people
21 who have benefits, Social Security, so I think
22 there's -- you know, if you had an estimate of how
23 much unmet need there is, you could project some
24 unmet value I think, as well.

25 JUSTICE PRUDENTI: Thank you.

26 JUSTICE LIPPMAN: Anything else?

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1 Professor Hatfield

2 Thank you, Doctor. Thank you for all your
3 help.

4 DR. BECKER: Thank you.

5 JUSTICE LIPPMAN: It is really greatly
6 appreciated.

7 The next witness is Professor Gillian
8 Hatfield, and I've had the pleasure of dealing with
9 Judge Hatfield -- I'm not sure which Professor
10 Hatfield before, and she is the Kirkland Professor of
11 the Law and Economics at the University of Southern
12 California Law School, and I had pleasure of hearing
13 her up at Harvard Law School. I think she brings a
14 little different prospective to this issue of dealing
15 with the legal problems of the needy, so Professor,
16 thanks so much for coming and great to have you.

17 PROFESSOR HATFIELD: Yes. Thank you, Chief
18 Judge. Justice Gonzalez, and President James, thank
19 you so much for having me talk to you about a part of
20 the access to justice problem we don't talk about
21 very much, and those are the solutions that we need,
22 in addition to more money, which we also very much
23 desperately need.

24 As a lawyer, and an economist, and -- I'm a
25 triple threat of equivocating, but I want to
26 unequivocal here.

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1 Professor Hatfield

2 Money alone can't solve the access to the
3 justice problem. We are behind in terms of the whole
4 country in terms of how much money we put into Legal
5 Aid, and funds for the courts, and the Judges in the
6 United States. It is still only a component of the
7 problem.

8 The thing I think it's a major mistake for
9 the profession and the judiciary not to be focusing
10 on this point is changes in the regulatory
11 environment to allow non-JD assistance to people with
12 needs. It's perfectly feasible to do this
13 intelligently and in ways that protect the people who
14 need assistance to do it with insuring quality, help,
15 and substantially reduce the Court burden. That's
16 the thing that we don't talk about very much, and I
17 think --

18 JUSTICE LIPPMAN: Certainly, here in the U.S.,
19 right? Around the world there's a lot more of what
20 you are talking about.

21 PROFESSOR HATFIELD: Yes. Absolutely, that's
22 right, and we are exceptional for the stance to which
23 we require every instance in which somebody has a
24 legally required J.D. Bar license.

25 JUSTICE LIPPMAN: Professor, I don't want you
26 to scare the press too much.

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1 Professor Hatfield

2 PROFESSOR HATFIELD: I think this is actually
3 a great solution to our under employment problem for
4 lawyers, as well.

5 JUSTICE LIPPMAN: I think this can mesh.

6 PROFESSOR HATFIELD: I agree. I'm an
7 optimist. Again, the economist part of me, as well
8 says -- you know, I have another economist in the
9 room. Fortunately, we are way up there on the demand
10 curve. If we can bring that cost down, there's so
11 many people who can get assistance. There's still
12 lots of money to be made for a lot of people I think.
13 I'm an optimist.

14 Let me put in prospective the reason I say
15 this is essential. It cannot be something that we
16 just push to the side any longer. I think it's quite
17 a crisis. We need to address it, and that is the
18 disproportion, which is the size of the need that you
19 can concededly ever do with public funding, which I
20 say we absolutely need more public funding. We're
21 behind on that, as well, so your task force report
22 focuses on the fact that there are a million low
23 income households living at 200 percent or less of
24 the poverty level in New York. At least that was
25 true in the 2010 study. We heard earlier that is
26 probably a higher number today. That's some three

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2 million people they have an average of one-and-a-half
3 legal problems. Those are who have trouble, we're
4 looking at one-and-a-half million legal problems in
5 just that group at any one time if you stop people on
6 the street. If you would wanted to provide one hour
7 of legal help for those people at the \$200 an hour
8 that is the average rate for a general solo small
9 firm practitioner, right there we're talking about
10 \$300 million for one hour of help. Of course, that's
11 not very much. Measure that up against the
12 twenty-five million that's available to your
13 judiciary for the civil legal services initiative.
14 If you spent all of that on help for all of these
15 individuals, it's seven and-a-half minutes of help
16 per household. It's really nothing.

17 How about pro bono? Clearly, a very
18 important part of our initiative, a very important
19 part of attorneys's obligations to the profession I
20 think, and obviously, something that the State of New
21 York has taken very seriously here. If the 150,000
22 New York attorneys were going to try and meet this
23 need, they'd have to put in ten hours each additional
24 each year pro bono for every hour of assistance that
25 you needed for that 1.5 million legal needs.

26 Another little bit of data; the national

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average from the ADA 2008 pro bono study showed that the national average for attorneys is spending 28 hours a year on pro bono services directly to individuals. Attorneys also provide pro bono services to organizations. Directly to individuals is 28. They spend an average of 24 hours per case that they work on. That's roughly one person helped per attorney per year. 150,000 attorneys, that's 115,00 New Yorker's with legal problems. That's ten percent of the need among low income households. If I had some visuals here, I'd say here's what we can do with the essential Legal Aid pro bono and public assistance money that we can do, but here's the size of the need, and to fill that gap, we can't only focus on money. That doesn't even -- looking at those numbers, the reason I think this goes up, and up, and up, and can't reach maybe that ceiling means something here. That doesn't include the upfront legal advice for people before they get into the problems that Legal Aid needs studies focus on.

The legal needs study focus on the are you in an eviction situation, are you facing foreclosure, are you in a family crisis? Of course, the organizations, incorporations that can access a lot of legal help, where do they use most of their legal

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help? They use it up front to avoid those problems, to get advice about the law, advice how to handle things, to understand their regulatory obligations, so this is -- the need goes up tremendously. This is why I say it's expanding access to justice, and helping to solve a problem with the Court, and the Court burden absolutely requires increasing the supply of lower cost legal help, and I think that requires non-J.D. legal assistance. I know this is something that can cause lawyers in the room to get kind of, you know, foggy headed, and assertive, how can we talking about this, but I want you to think about medicine.

The health care system involves multiple professionals, many professionals. It's a team support, so in the provision of health care, we have RN's. We have nurse practitioners. We have pharmacists. You can get your flu shot at the drugstore now. We have radiologic technologists. We have chiropractors, physical therapists, certified registered midwives, certified registered nurse anesthetists, registered massage therapists. It goes dot, dot, dot, on, and on, and on. A number of these professionals, other than M.D. trained doctors, can provide services directly to people with health care

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1 Professor Hatfield
2 needs. The nurse practitioner can work in a clinic,
3 not under the direct supervision of a doctor, and he
4 or she is trained to provide various levels of
5 assistance, various levels of care, and --

6 JUSTICE LIPPMAN: Can you determine where they
7 can provide in our case services, and where they
8 can't? What's the dividing line between, I guess,
9 it's the same issue as within the medical community,
10 you know, where do you need a doctor, and where can
11 you get something else, and how do you deal with the
12 issue that because we've been concerned in New York
13 for many years about the unauthorized practice of
14 law?

15 PROFESSOR HATFIELD: Right, right.

16 JUSTICE LIPPMAN: How does that work?

17 PROFESSOR HATFIELD: So, I think one of the
18 things is that this is something that we need to
19 determine, what would be a reasonable set of
20 guidelines for it, but it's very clear --

21 JUSTICE LIPPMAN: If you can set the line
22 pretty much where you think appropriate.

23 PROFESSOR HATFIELD: Well, that's right.
24 This is something that the U.S. has literally up
25 until last month, as you know in Washington state,
26 has no experience with this. Washington state has

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1 Professor Hatfield

2 only just begun. They're looking to establish an
3 environment for this. The UK --

4 JUSTICE LIPPMAN: That's in effect in
5 Washington?

6 PROFESSOR HATFIELD: Yes. September, 2012,
7 they've just set up the forum.

8 JUSTICE LIPPMAN: I know you're just going to
9 bring up the United Kingdom.

10 PROFESSOR HATFIELD: Yes.

11 JUSTICE LIPPMAN: What's going on there now?
12 They have this different approach, which relies to a
13 significant degree on non-lawyers, and yet that's all
14 being cut back now in the UK.

15 PROFESSOR HATFIELD: Well, the UK has always
16 allowed, you know, anybody, pretty much anybody to
17 give legal advice. You can't call yourself a
18 solicitor. If you are a member of a solicitor's
19 association, you can't appear in Court, unless you
20 are a barrister. They're bringing that down. They
21 have always allowed organizations, consumer
22 organizations, community organizations, online
23 services, paid services to provide services, so if
24 you are a union rep --

25 JUSTICE LIPPMAN: What is being shut down?

26 PROFESSOR HATFIELD: Legal Aid is being cut

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1 Professor Hatfield

2 back. I don't have the numbers in front me, but they
3 are many, many, many times ahead of us in terms of
4 the amount per person of Legal Aid. I think they
5 would have to drop to a third, or less than what they
6 are currently doing to be where we are today. They
7 have full Legal Aid across all --

8 JUSTICE LIPPMAN: Legal Aid meaning lawyers?

9 PROFESSOR HATFIELD: Legal Aid meaning both
10 lawyers and --

11 JUSTICE LIPPMAN: Also, a great support
12 system.

13 PROFESSOR HATFIELD: So, for example, they
14 have organizations that can be non-lawyer staffed
15 that will specialize in assisting people in Housing
16 Court, or with benefits, and there has actually been
17 studies in the UK to demonstrate that the specialized
18 organizations that, you know, have done thousands,
19 and thousands, and thousands of housing cases, or
20 benefits cases, they develop protocols. They've
21 developed expertise, and they actually produced a
22 higher quality result than the solo practitioner that
23 are the -- often people go to as an alternative
24 because solo practitioner doesn't have the
25 organizational support, the expertise, and can't
26 specialize. This is I think one of the key things.

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1 Professor Hatfield

2 I know it's very important to think about quality in
3 doing this. I want to reassure you, I'm very
4 confident, there's many ways to assure quality. It's
5 important to remember that a key source of quality in
6 services is specialization.

7 JUSTICE LIPPMAN: It's hard for us to
8 understand. President James can probably. We're so
9 used to the fact that, and pride ourselves on the
10 fact that lawyers provide legal advice, and if you
11 are not getting advice from a lawyer boy, you're
12 wading in troubled waters because you just don't know
13 what you are getting. It's just the way they do
14 this. In places where that's done, is it regulated
15 by the Government? Who ensures that the standards of
16 what one would want them to be?

17 I understand what you're saying. Maybe
18 someone doesn't have the talents of a trained lawyer
19 as a whole, but in a particular niche, could be able
20 to provide very specialized on folks legal advice?
21 What ensures that quality?

22 PROFESSOR HATFIELD: So, in any of these
23 sessions we are not talking about necessarily
24 unlicensed providers, unregulated providers. You
25 can still license. The nurse practitioner is
26 licensed, so let's think about Washington state.

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1 Professor Hatfield

2 They created a category of limited licensed legal
3 technicians. That's still a license.

4 JUSTICE LIPPMAN: That's the --

5 PROFESSOR HATFIELD: That's the Washington
6 one. That's still a licensed provision. That still
7 requires certification. That still requires, you
8 know, enables the threat of the regulatory board will
9 take away your license to practice if there's
10 complaints.

11 JUSTICE LIPPMAN: In the broadest strokes,
12 what do they do in Washington state?

13 PROFESSOR HATFIELD: In Washington state --

14 JUSTICE LIPPMAN: This new category.

15 PROFESSOR HATFIELD: Yes. You're going to
16 press my memory, but as I recall, I can check up on
17 this and confirm. So, they can help people fill out
18 forms. That means more than serving the scribner,
19 which is all that's really allowed, even in states
20 that have licensed document preparers. They can say
21 here's what they're looking for on the form, here's
22 what that means. They can furnish legal documents,
23 whether it's court orders, subpoenas. Talk can talk
24 about and respond on Court procedure. They can't
25 represent anybody in Court. They can't appear in
26 Court. They can't speak to the other side. They

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1 Professor Hatfield

2 can't represent in that sense, but I think they can
3 assist in some of the drafting of this, but a lot of
4 it is really assistance for pro se, unrepresented
5 individuals, so they're not representing, but they
6 can provide a lot more assistance, and explain some
7 basics, and they are obligated under the terms of,
8 again, the licensed instructions being worked out,
9 and being obligated to pass on and recommend somebody
10 to speak to a lawyer for anything that goes beyond
11 their scope and competence.

12 JUSTICE LIPPMAN: What do you think can be the
13 impact in a state like New York, let's say for the
14 sake of argument, doing something along the lines of
15 Washington state?

16 PROFESSOR HATFIELD: What would be the
17 impact?

18 JUSTICE LIPPMAN: Impact on this particular
19 justice gap that we're interested here in, which is
20 the gap between legal services, the need for legal
21 services for the poor, and people of modest means as
22 compared to the resources that might be available?

23 What could that do in New York?

24 PROFESSOR HATFIELD: I think that can make
25 such a difference.

26 Number one, it can, so my colleague before
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1 Professor Hatfield

2 me spoke about the multiplier effect. I want to
3 think about there's a way in which allowing the
4 instructions in place can really multiply drastically
5 the effect on the public both by providing structures
6 in organizations, and protocols that can make
7 effective use of the lawyer's use of the services
8 that you have, so that can somebody can be, using for
9 example, a differently licensed individual for
10 assistance in interpreting a form. Then when you
11 need representation, or when you need more than
12 advice, if you're going to defend your eviction claim
13 by saying that your roof is falling in, you have no
14 heating, as you heard about at one of your earlier
15 hearings, you need -- I don't think you need a J.D.
16 for somebody to bring something along. I think you
17 can also -- because if you really put it together
18 with the lower cost services, and you allow community
19 organizations to do it, remember right now we're not
20 only closing out for profit organizations, we are
21 closing out other community organizations, unions,
22 and so on.

23 JUSTICE LIPPMAN: What about, do you think the
24 legal service providers would welcome assistance in
25 terms of the array of services they apply under their
26 roof to a lot of these people?

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2 PROFESSOR HATFIELD: Yeah. I think, for
3 example, I know it's a scary option for a lot of
4 lawyers to think about, although I think it's very
5 important for us to keep in mind our primary
6 obligation to regulating the profession to provide
7 access, and not preserve our current, our current
8 market position on that, but I actually think the
9 law, if you are able to work, for example, if you are
10 a licensed attorney, and you were able to work with
11 non-lawyer providers, you could, basically,
12 significantly increase your capacity to perform your
13 own services because there wouldn't be the same kind
14 of direct supervision that was required. It's a
15 little bit like if I'm a doctor, and I had a nurse
16 practitioner, I can ask the nurse practitioner to
17 work in a clinic without having to come to me for
18 approval on everything that he or she is required to
19 do. There's many ways in which you can. One of the
20 key things that drives up the costs of legal services
21 for ordinary people is incredibly small scale that
22 the practitioners operation. We don't have the
23 benefits of sharing organizational capital, the phone
24 calls. Anything in the light of that scale should
25 reduce the cost, as well.

26 JUSTICE LIPPMAN: Thank you. Professor,
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1 Professor Hatfield

2 that's a good thing.

3 President James --

4 PRESIDENT JAMES: You discussed, or you
5 talked about preparing the cost of a solo
6 practitioner. Legal services providers, if they had
7 paralegals working under the supervision of an
8 attorney, wouldn't that, in effect, provide the same
9 type of services that you are discussing because then
10 you would have an organization, which was working
11 with the non-attorneys and providing them with
12 guidance?

13 PROFESSOR HATFIELD: You really need
14 something. I think, for example, you could be at the
15 courthouse and working, working in an office that
16 doesn't have the direct supervision in order to; yes,
17 it would be helpful, and I assume there is some use
18 of paralegals that goes on at legal services
19 corporation. Again, what we're thinking here is you
20 need to enable people to come in and start
21 performing, and serving in these organizations, in
22 organizations that aren't funded through public
23 money. We can certainly do more.

24 JUSTICE LIPPMAN: You are talking about
25 community based, and not necessarily not-for-profit.

26 PROFESSOR HATFIELD: Not necessarily

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1 Professor Hatfield

2 not-for-profit, yes. I think you can have both
3 profit and not-for-profit organizations that are
4 doing this.

5 JUSTICE LIPPMAN: But, in answer to President
6 James's question, there's really -- it's optimal use
7 from the perspective of what your suggesting and
8 would not necessarily be in a big legal services
9 entity, it would be more sort of on a localized basis
10 where people come in and get help, and wouldn't
11 necessarily be going to a lawyer?

12 PROFESSOR HATFIELD: Yeah.

13 JUSTICE LIPPMAN: They're going to some for-
14 profit or not-for-profit entity that provides in,
15 quote, "legal assistance," and maybe those people are
16 in some way registered, or in some way licensed --

17 PROFESSOR HATFIELD: Yes, yes.

18 JUSTICE LIPPMAN: Is the template that you are
19 talking?

20 PROFESSOR HATFIELD: Yes.

21 And part of the opportunity is also provided
22 services on-line, on the phone, and in other kinds of
23 environments in other sessions.

24 JUSTICE LIPPMAN: Very interesting.

25 Anything else as presented?

26 JUSTICE PRUDENTI: The only question I have,

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1 Professor Hatfield
2 again, if you can follow along with what the
3 President was saying so far is that, you know, in New
4 York there's extensive use of this, and the
5 difference, if I understand correctly what you are
6 talking about in the Washington state guidelines,
7 they set up individuals, whatever you might call
8 them, paralegals, or whatever they may be called, are
9 licensed individuals that are on their own, not with
10 the structure of a law firm?

11 PROFESSOR HATFIELD: Yes.

12 JUSTICE PRUDENTI: They're duly licensed
13 attorneys?

14 PROFESSOR HATFIELD: Yes, yes. That's right,
15 that's right. That's also the indicated throughout
16 the U.S.

17 JUSTICE LIPPMAN: Judge Gonzalez, anything
18 else?

19 JUSTICE GONZALEZ: No.

20 JUSTICE LIPPMAN: He's not sure. That's why
21 Professor Hatfield is here, to suggest that maybe we
22 have to look at new avenues.

23 PROFESSOR HATFIELD: Yes.

24 JUSTICE LIPPMAN: Anyway, thanks so much. So
25 interesting to get this different prospective on it
26 because I think the issues, we know we're seeking

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2 public monies to go in a certain direction, and we're
3 seeking volunteer efforts on the part of the Bar to
4 supplement that.

5 The question is, what's the mix of that with
6 maybe some other mechanism of providing the service,
7 so it really is very entertaining. I so appreciate
8 your coming down and coming here, and as always, it
9 was interesting and provocative.

10 Thank you so much.

11 PROFESSOR HATFIELD: Thank you, Judge. Thank
12 you, Judge.

13 JUSTICE LIPPMAN: Provocative in New York.

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1 C.DUNNE

2 HON. LIPPMAN: Our next witness is the president
3 of the New York City Bar Association, President James,
4 who's counterpart here in the city, the president of the
5 storied New York City Bar Association, Carey Dunne who's a
6 partner in Davis, Polk & Wardwell and is the president of
7 the city bar.

8 President, I'm so grateful to have you here.

9 MR. DUNNE: Thank you. And, Chief Judge Lippman,
10 Judge Prudenti, Justice Gonzalez, Mr. James, just for
11 the -- so the record's clear, I am not a Ph.D. in
12 economics.

13 (Laughter.)

14 HON. LIPPMAN: To set the record straight.

15 MR. DUNNE: A couple of hard acts to follow there.
16 I'll do my best. I do have a sense this is about money, so
17 that's economics, I suppose.

18 I'm obviously honored to testify before you
19 today. As you know, the city bar has long been committed
20 to providing access to justice. We work to achieve this,
21 as I think you know, both on the local, national,
22 international levels. In addition to our legal and
23 policy work in this area, our public service affiliate,
24 the City Bar Justice Center, is the arm through which we
25 provide direct legal services which tries to leverage the
26 efforts and the resources of the city's legal community

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2 to bring access to justice to low income individuals.

3 The city bar in particular applauds the Chief
4 Judge and -- as well as the Task Force, for its efforts
5 and leadership in this area which have made, we think,
6 New York a nationwide leader in the provision of these
7 services to the poor. We note that as a result of these
8 efforts and despite our difficult economic times our
9 judiciary budget provided a \$12.5 million increase in
10 legal services funding both last year and this year for
11 combined 25 million which we think is a remarkable result
12 in these times.

13 As we all know, however, this funding increase
14 is well short of where we need to be. Unfortunately, we
15 are still confronting an intractable demand for civil
16 legal assistance that all of we legal service providers
17 and all of the considerable pro~bono efforts that are
18 being brought to bear cannot still come close to meeting.

19 There are a lot of statistics obviously thrown
20 around; one that I just can't get past is the number of
21 2 million, that is over 2 million New Yorkers who walk
22 into court each year without legal counsel. They
23 generally obviously don't have the skills and often even
24 the language ability to pursue, defend their legal
25 positions and are therefore very much at risk of losing
26 shelter, subsistence or their families in many cases. We

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2 think that if these parties received representation not
3 only would their chances of success be greater but their
4 cases would be more efficiently and effectively handled
5 by the court system and they might be able to recover
6 some of the hundreds of millions of dollars which
7 New Yorkers are owed every year in federal benefits for
8 which they're eligible but which in many cases are not
9 receiving.

10 Unfortunately, nothing happening in the larger
11 world these days gives us any comfort that these needs
12 are going to be met any time soon. Recent census
13 statistics show that the poverty level in New York City
14 grew in 2011 to 20.9 percent with almost 1.7 million
15 residents classified as poor. Median income obviously
16 declined, unemployment still stubbornly high. And these
17 figures don't even reflect those who have given up
18 looking for work.

19 So obviously these statistics are -- painted a
20 very difficult picture. And we note also that given the
21 redistribution of federal legal services that's likely to
22 happen as a result of increased funding to other
23 jurisdictions around the country given what's happening
24 to their communities, even if the national allocation of
25 legal services' monies remains the same, the award that's
26 given to New York may actually see double digit declines

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2 in the coming years.

3 So what can be done? We think it's -- there's
4 no real silver bullet as we see it, it comes down to
5 money and to money in the form, frankly, of pro~bono
6 resources. We need -- you know, desperately need more
7 additional civil legal services funding. We think that
8 there is no single means of providing these services to
9 the poor which is as effective as the tried and true
10 experienced legal services offices and lawyers that
11 operate so heroically in our communities. They simply
12 need more money, both to offset federal losses and to try
13 to meet the enlarging need.

14 We note that they, as reported, turn away at
15 least 80 percent of those that come to them for help. So
16 we urge that the judiciary budget continue to include
17 substantial increases to move closer to the \$100 million
18 goal that has been set by Chief Judge Lippman.

19 We also, again, need to get help from other
20 sources. And mobilizing the private bar remains a
21 judicial secondary way which can help to achieve this
22 goal. Many lawyers obviously have heard the call and
23 give very generously of their time. For example, the
24 City Bar Justice Center, we have 2,171 trained volunteers
25 who work with the staff every year and which last year
26 assisted nearly 20,000 people in need. And that was an

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2 increase of a value of pro~bono legal services donated
3 through these programs from 18 million two years ago to
4 \$20 million last year. So these things can be increased
5 in various ways.

6 And -- However, even with these efforts between
7 our bar associations and others and the private legal
8 community, the current pace of pro~bono activity still
9 needs to be increased. And obviously one of the
10 questions is how to do that. For this reason we fully
11 support the recent 50-hour requirement that was imposed
12 for admission to the New York Bar. We applauded that
13 from the outset. We see the requirement as something
14 that will hopefully inculcate the spirit of pro bono
15 throughout the profession exposing new lawyers to the
16 rewards of pro~bono service. And, honestly, with 9,000
17 new lawyer applicants each year, that should generate a
18 substantial amount of new legal services. We think that
19 the rules now applied are flexible enough to give
20 students a broad range and means in which to help do
21 that. It's now obviously up to legal services providers
22 like the city bar, law schools, bar associations and
23 others to develop ways to make sure that this gets
24 implemented in practice, and we are committed to helping
25 the community do that in every way possible.

26 We also need experienced lawyers to do more.

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2 There has been a lot of effort to encourage pro~bono,
3 obviously, among established lawyers, but that should be
4 intensified. We've at the city bar long been in favor of
5 the controversial concept of mandatory pro~bono services
6 for admitted lawyers. We recognize that there is a lot
7 of dispute about this and has been for years. We also,
8 however, support another perhaps secondary approach to
9 encouraging admitted lawyers to provide pro~bono service,
10 and that is the mandatory reporting of pro~bono
11 activities, which is a topic which has received perhaps
12 less attention to the more controversial form of
13 mandatory pro bono services, would not be mandatory
14 pro~bono.

15 In 1997 the city bar for the first time proposed
16 that New York lawyers be required to report the extent of
17 their pro bono commitments, as well as their monetary
18 contributions to organizations which provide free legal
19 services to the poor. That report is submitted along
20 with my written testimony today. At the time back in
21 1997 that proposal drew on the experience of Florida,
22 which was then the first state to establish the
23 reporting -- mandatory reporting of pro~bono activities
24 and financial contributions. And in -- the experience
25 back then was that as soon as Florida imposed this rule
26 upon its lawyers that the reporting and contributions to

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pro bono organizations grew substantially, we think as a result of the reporting requirement. Since then, eight different states now have forms of this mandatory reporting in place, and we think it's time for New York to do the same. It could be handled in a wide number of ways, but probably the easiest, as we proposed back in 1997, would be simply an additional series of questions for the biennial form that gets filled out with respect to registration renewal.

That's just one of a number of details which would need to be worked out. But, frankly, at this point, having just been through the 50-hour implementation and coming up with the rules there I think that it will follow nicely on the heels of that effort. For example, the question of what defines pro~bono has already in my view been settled as a result of that effort and could be adopted here as well.

So it's just a suggestion, but it's been I think successful in the states which have done it to date. And we at the city bar would be happy to work with the Task Force in coming up with additional ideas along these lines or to help implement such a proposal.

So, in closing, we face an historic opportunity to step up the funding for legal services, as well as through pro~bono efforts. We think that new bar pro~bono

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2 requirement will bring law schools further into pro bono
3 work and will become partners more with legal services
4 providers and bar associations which can only help. We
5 must -- we take -- we need to take what we've learned
6 from the past 50 years of expanding access to justice and
7 create smarter and more efficient ways to reach more
8 people, and the city bar pledges its full support for
9 these efforts.

10 HON. LIPPMAN: Okay, thank you, President Dunne.
11 A couple of questions. Let's start with the last specific
12 proposal on mandatory reporting:

13 How would it work if we asked lawyers to put in
14 the number of hours that they work each year or whatever?
15 Is the contribution an alternative to that, in other
16 words? Or it's just again reporting information? Or is
17 it sort of suggesting -- which I don't think it's a bad
18 thing. That was originally suggested when Victor
19 Marrero's report years ago came out recommending
20 mandatory pro~bono, they said, "Well, if not, then
21 contribute." Would this be, "So report to us your hours
22 and at least if you're not going to report the hours,
23 tell us, you know, you've made a contribution to legal
24 services"?

25 MR. DUNNE: Right. That's obviously one of the
26 questions of how it would be framed. And I believe that is

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2 the way we framed it back in 1997. I can't speak at this
3 point on that issue for all the other states. But, yes,
4 one clear way to do it would be -- First of all, I think
5 it's important -- it would be important to articulate
6 aspirational goals at least -- again, not mandatory -- but
7 to --

8 HON. LIPPMAN: Right.

9 MR. DUNNE: -- issue something that suggests that
10 we said it's a goal for lawyers to do.

11 HON. LIPPMAN: For lawyers.

12 MR. DUNNE: And I think back then it was
13 250-dollar, you know, contribution or, you know, 20 or 25
14 hours of service. It was rather modest, at least at that
15 time.

16 HON. LIPPMAN: Right.

17 MR. DUNNE: It could be tweaked obviously at this
18 point.

19 HON. LIPPMAN: So there could be some relationship
20 between the hours and --

21 MR. DUNNE: Yes. But, you know, for those who
22 don't have access to the resources necessary to offer
23 pro~bono or for personal reasons prefer not to, then the
24 aspirational goals would suggest that they could meet the
25 same aspirational standards by making a contribution. And
26 that contribution obviously also could be geared according

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2 to one's, you know, compensation level, as well, which was
3 part of the earlier proposal where there would be an area
4 on the form where you'd be asked to give a range of your
5 income for the year and the aspirational goal for your
6 contribution would be measured against that as well. So
7 there are a variety of ways in which that could be done.

8 HON. LIPPMAN: I think the reason why I asked,
9 obviously while we're -- the focus of so much of our
10 efforts is on this public funding of civil legal services,
11 the providers depend on so many different sources of
12 income, including what would be a logical constituency
13 contribution from the private bar.

14 MR. DUNNE: Right.

15 HON. LIPPMAN: So I think it sort of plays
16 together nicely.

17 Let me ask you another question: We talk about
18 pro bono work, in particular city bar, as you say, for a
19 long time is a supporter of mandatory pro~bono, I think
20 15 years or so.

21 MR. DUNNE: At least that, yes.

22 HON. LIPPMAN: Yes.

23 How do -- How does the economic woes that we
24 have today affect your organization, Seymour's
25 organization at the state level, affect lawyers'
26 willingness to give voluntary pro~bono? You think it's

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2 made a difference that the economy is so bad, many
3 lawyers themselves are struggling?

4 MR. DUNNE: Well, they're obviously struggling.
5 But, in fact, I think the fact that our in kind value of
6 the hours that we've enlisted people to put in rose
7 actually last year from 18 million to 20 million in fact
8 shows that in these difficult economic times when people
9 perhaps have less work than they had before, that a good
10 number of them, happily the silver lining is, will turn to
11 pro~bono work instead, to keep themselves busy, to keep
12 their skills up to speed. Particularly the younger lawyers
13 who are having trouble will look to assist in the pro~bono
14 efforts or look to join legal services or other
15 organizations where they could get those skills as well.

16 So I think that, you know, the willingness to
17 make financial contributions obviously is very much
18 hampered, and understandably so, but I think we have seen
19 that the willingness of people to pitch in on the
20 pro~bono side has not been diminished, and, if anything,
21 at least in some segments of the legal community has
22 increased I think as a result of the economy.

23 HON. LIPPMAN: One more question, really two parts
24 that relate to different proposals that we've had here or
25 I've heard recently being out speaking on this issue. One
26 is: Today Speaker Quinn suggested that we put a charge for

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2 pro hac vice in New York, as a number of states do. And
3 that's one thing I'm interested to hear your comments as
4 president of the bar. And the other one was -- sort of
5 goes to this idea of lawyers have more difficulty finding
6 work today, and that is that new lawyers, particularly a
7 lot of them who can't find jobs today, that we ought to
8 incentivize their doing pro~bono work. And there's I guess
9 a lot of thoughts of how one might do that, given that, if
10 they're not able to find, you know, full-time employment
11 now, gee, maybe we should do things that gear them in this
12 direction, either till the economy improves or till they
13 find a job. I'd be curious as to your reaction to those
14 two things.

15 MR. DUNNE: On the latter point, yes, we do a lot
16 of work in the city bar these days geared to new lawyers,
17 especially new lawyers who are struggling looking for work
18 and, you know, trying to figure out how best to network to
19 look for opportunities, that kind of thing. And part of
20 that is encouraging them to participate often for the first
21 time in the pro bono efforts that we do, whether it's legal
22 counseling on a Monday night, a one-on-one session, or
23 joining in some of the other organized pro~bono activities
24 that we provide. And the pitch obviously is that, "You
25 know, we will help you through this process, get some of
26 the early skills development --"

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2 HON. LIPPMAN: Right.

3 MR. DUNNE: "-- that you would otherwise hope to
4 be getting in a paid position."

5 I think the difficulty there, though, is, you
6 know, obviously it's not a tradeoff for actually earning
7 a living. And then the variant on that, which I think is
8 more difficult is -- and it's not experienced so much at
9 the city bar but with the legal services providers
10 directly--and this happened for the first time a couple
11 of years ago, others can speak better to this than I
12 can--but when there were layoffs or postponements by some
13 of the larger firms and people were encouraged to -- in
14 many cases gravitated to taking positions in legal
15 services organizations instead, but for a temporary
16 period, I think there that's a more difficult sort of,
17 you know, prospect as in terms of longterm solution for
18 anything, because obviously it's great for an
19 organization like that to get an influx of some handful
20 of people to help. On the other hand, the supervision
21 requirements for that are difficult --

22 HON. LIPPMAN: Sure.

23 MR. DUNNE: -- and can be especially taxing when
24 otherwise the support -- legal support is going down and
25 the number of supervisors may be going down. And it also
26 can be difficult, too, if the people who are doing this for

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2 nine months or a year are fully expecting to then turn
3 around and go back to the big firms or wherever they were
4 heading in the first place. It's not really a longterm
5 solution and I query whether it actually aids in the
6 longterm health of an organization like that in having sort
7 of temporary help.

8 So, yes, providing -- encouraging people to do
9 pro bono I think is a good idea and has lasting results,
10 but in some cases the way it's being implemented I don't
11 think is a longterm solution to anything.

12 Back on the pro hac vice charge, I've not
13 studied that or heard the details of the proposal. My
14 only comment there I think -- and this is probably with
15 respect to what most bar associations is, we are always
16 concerned whether we are imposing impediments to pro hac
17 or other sort of, you know, admissions on either
18 particular cases or for particular times or jurisdictions
19 that are not imposed in a reciprocal way in the other
20 states --

21 HON. LIPPMAN: Yes.

22 MR. DUNNE: -- because their natural reaction is
23 to say, "Well if, you're going to charge, you know, people
24 from our state \$250 to participate in the case, we're going
25 to make it 250 also." And that to me just discourages the
26 free flow of legal democracy.

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2 HON. LIPPMAN: Another thing I thought was
3 interesting, I wasn't quite aware what she said, 40 some
4 odd states have a fee for --

5 MR. DUNNE: Well, if they're charging our people,
6 then I'm in favor of charging them.

7 HON. LIPPMAN: Thank you.

8 Okay, any other questions?

9 MR. JAMES: I saw in your testimony that the rate
10 of participation pro bono activities in Florida increased
11 after the mandatory reporting. Do you have similar studies
12 for the other states as to what occurred?

13 MR. DUNNE: We have not. But, as I say, we'd be
14 happy to put some people on that. I think it would be easy
15 enough to do some research and find out. My sense is the
16 answer is yes, that there has been.

17 HON. LIPPMAN: That's an interesting point. I
18 think that that's true. What's the actual -- beyond
19 getting information, which is very helpful, does it have a
20 kind of --

21 MR. DUNNE: Right. I mean, obviously the theory
22 behind it is, even though it's not mandatory, it's -- to
23 some extent you are what you measure, and if you ask
24 people, remind people every two years about this
25 obligation, or at least this aspirational goal, that people
26 will feel more obligated, perhaps, to pursue it and realize

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1 C.DUNNE

2 that it's just part of the culture of being a lawyer.

3 HON. LIPPMAN: Exactly. But the other side of it,
4 the other rationale that is given for mandatory reporting
5 is while we think we have some sense of, you know, what the
6 Bar does in terms of pro~bono, it's a little bit of a
7 guesstimate. You know? And it would be helpful -- it's
8 hard to address the problem, what the funding brings, which
9 we're trying to analyze -- in fact, Speaker Quinn was
10 suggesting let's do some more really detailed by locality,
11 what's happening in terms of, you know, the funding and
12 what it does for us. By the same token, it would be
13 helpful to have a better sense of what the more
14 precisely -- not precise, but at least within a certain
15 framework of what the Bar brings to the table in its
16 wonderful pro bono efforts to give us a sense of how to
17 attack it all.

18 MR. DUNNE: Right.

19 HON. LIPPMAN: You know, so there's two sides.
20 One is the one that President James said, "Well, gee, will
21 it energize --" you know, biennial report -- if you say
22 "Gee, I'm more aware"?

23 And, second, we have a better idea what you do
24 and don't do. And the problem with voluntary, which was
25 also considered here in New York, is that sometimes you
26 get a skewed view of it, because a lot of people don't

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1 C.DUNNE

2 answer, and then when they do answer maybe it's the ones
3 that do a lot of it, not enough to get really an
4 accurate --

5 MR. DUNNE: Yeah, the data gathering would be very
6 useful and could be, I think, perhaps used as one of the
7 biggest advertisements as to why it's needed.

8 HON. LIPPMAN: Yes.

9 MR. DUNNE: To gauge how much is being provided
10 and offset that against the amount of federal or other
11 funding we're getting, we would like to have an accurate
12 picture of what actually is happening in the field. And
13 right now, of course, much of the data comes from the large
14 firms that do their own reporting for their own purposes,
15 et cetera.

16 HON. LIPPMAN: Exactly.

17 MR. DUNNE: Of course, you know, the percentage of
18 people working at these large firms that are doing
19 reporting is a small fraction of those in New York. And
20 those in smaller firms, the solo practitioners, just don't
21 have the opportunity to report; we don't know exactly what
22 that amount of services comes out to.

23 HON. LIPPMAN: Exactly.

24 Anyway, thank you so much for your testimony.
25 Appreciate it, as always.

26 MR. DUNNE: Thank you.

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1 C.DUNNE

2 HON. LIPPMAN: For being here. City bar have been
3 great supporters of ours and we greatly appreciate it.
4 Thank you.

5 (Witness excused.)

6 HON. LIPPMAN: Okay, next we're going to have our
7 client panel, which includes Angela D'Arezzo, client of the
8 Legal Aid Society, accompanied by Caarol Sangangelo;
9 Richard J. Usera, who is a client of Legal Services
10 New York City, accompanied by Jennifer Levy; and
11 Fredesvinda Vasquez, a client of Make the Road New York,
12 accompanied by Lorelei Salas.

13 So come on up. And if we don't have enough
14 chairs, we can bring some more over.

15 (Continued on the following page.)

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1 D'Arezzo

2 JUSTICE LIPPMAN: So, Angela D'Arezzo, we've
3 asked you to start. We're so glad you're here today.
4 Tell us your story.

5 MISS D'AREZZO: Okay, good morning. My name
6 is Angela D'Arezzo.

7 JUSTICE LIPPMAN: Good morning.

8 MISS D'AREZZO: I'm currently applying to the
9 Legal Aid Society, and I'm here today to tell you how
10 the work of the Legal Aid has helped me to maintain
11 access to the Medicaid fund, the personal care
12 systems. Without that help, I would have had no
13 choice, but to go into a nursing home.

14 I'm 52 years old, and I have muscular
15 dystrophy limited type since age fifteen. Muscle
16 dystrophy is a devastating disease that weakens your
17 whole body. That means I have a lot of limitations,
18 and I don't have range of motion like everybody else.
19 Right now I have severe impairment of my trunk and my
20 -- and my four extremities. The only way I can
21 stand is if somebody lifts me to extended position,
22 holds me, and stays with me to take a couple of
23 steps. I mean, I could take a couple of steps, but
24 I could not walk, so I have limited strength in my
25 arms and hands, and I'm not able to grasp and hold
26 things with weight. For example, I can, you know,

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1 D'Arezzo

2 hold this piece of paper like this, but I cannot hold
3 a cup of tea, or anything that is weighted like a
4 fork for a long time, so I really need a lot of help
5 with all activities of daily living and with personal
6 health, very personal needs.

7 I also suffer from fibromyalgia, which causes
8 severe pain if I stay on one side too long, and
9 that's especially a problem at nighttime because I
10 cannot stay in one position for a very long time, so
11 because I cannot turn myself, I need someone to come,
12 and turn me, and position me, and it could be every
13 hour, could be every two hours. It's unpredictable,
14 the timing.

15 With the assistance of Medicaid personal care
16 assistant, I've been able to live on my own. It's
17 been 19 years that I live on my own, and I live at
18 Redwood Gardens, which are apartments for the
19 disabled and the elderly. My brother also lives
20 there. He also has muscular dystrophy. Even though
21 I keep a positive outlook in life, I need help and
22 continuous -- I need continuous care provided in
23 two 12 hour shifts, seven days a week, well, you
24 know, in order to function and keep living on my own,
25 yeah, and the Legal Aid Society has made it possible
26 for me to maintain my services.

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1 D'Arezzo

2 I had been receiving services since 1999,
3 but in February, 2012 I received a notice from HRA
4 that they want to reduce my hours from a split shift,
5 which are two 12-hour shifts a day to 24 hours a day,
6 which means instead of having two people taking care
7 of me, one in the day, one in the evening, I would
8 have one person work 24 hours on me day and night,
9 which is very difficult because the person would have
10 to sleep at nighttime.

11 JUSTICE LIPPMAN: Sure.

12 MISS D'AREZZO: Could not really come and help
13 me as often, and I need the help, so that's when I
14 called Legal Aid Society and I was very, very happy
15 that they called me right back and they started
16 helping me. Miss Santangelo right here came to my
17 home to take a video to bring it to Court. She
18 represented me in Court to show them why, you know, I
19 needed the help.

20 According to them, they said that the
21 previous record showed that I didn't need as much
22 help, I needed partial assistance with transferring,
23 ambulating, not total assistance. They were wrong,
24 but we had to prove them that they were wrong, so
25 that's when the Legal Aid came and helped me, took a
26 video, went to the hearing for me, and they showed

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2 that I did need continuous help.

3 JUSTICE LIPPMAN: You never went to the Legal
4 Aid Society?

5 MISS D'AREZZO: No. Actually, a friend of
6 mine told me, yeah. At that point --

7 JUSTICE LIPPMAN: What would you have done if
8 you didn't go to the Legal Aid Society?

9 MISS D'AREZZO: I was all devastated. I
10 couldn't even think.

11 Okay, so I was -- until now the services have
12 been obtained through the fee for Medicaid Program
13 that contract directly with home care vendors.

14 The Legal Aid Society also helped me in pro
15 bono partnership with the Bank of New York Mellon and
16 assessed my eligibility for a full supplemental needs
17 trust, which is a mechanism that the disabled
18 individuals like me can use to maintain Medicaid
19 eligibility. This past July, the Legal Aid and Bank
20 of New York assisted me in joining a trust maintained
21 by the Center of Disability Rights. As a result of
22 Legal Aid's representation, the risk of having my
23 home care services suddenly discontinued for failing
24 to meet a spend down has been reduced, so I'm really
25 happy about that. I feel like I'm settled right
26 now, and I can live without being in fear.

1 Usera

2 JUSTICE LIPPMAN: Well, thank you for telling
3 us this story. That dramatically demonstrates why
4 Legal Services are so important. You're a human
5 being with problems that need to be interfaced with a
6 lawyer to help you deal with them.

7 Thank you for coming.

8 MISS D'AREZZO: I am really grateful.

9 JUSTICE LIPPMAN: Thank you. I could see what
10 it made in your life. Thank you.

11 MISS D'AREZZO: You're welcome.

12 JUSTICE LIPPMAN: The next is Richard Usera,
13 who is a client of Legal Services-NYC.

14 MR. USERA: Yes, sir.

15 Good morning, your Honor. My name is Richard
16 Usera.

17 I'm a resident of the Bronx. Been there for
18 three years. Served in the US Navy in '81 to '85,
19 plus I am a veteran.

20 Last four years, I worked in the retail
21 industry, Lord & Taylor, women's shoes. I worked for
22 straight commission, nine and-a-half percent.
23 Generally speaking, I have \$35,000 income two years
24 ago, and a rent payment of \$800 based on that from
25 NYCHA. In January it went to \$26,000. That was
26 reduced from the sales force. It's no problem, but

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Usera

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2 in February I went to NYCHA saying I can't maintain
3 that rent payment. Next they told me we can't change
4 your mix, your portion of your rent mix until this
5 month, so for a year -- I mean, actually, March I
6 received Court papers. I received Court papers. I
7 went to Bronx Housing Court. I went to HRA to get a
8 one shot deal, and just continued getting eviction
9 notices, so finally I guess in July 23rd I went to
10 Court again saying -- still awaiting my HRA one shot
11 deal. They have not made a decision yet, and
12 August 1st came back. Two marshals knocked on my
13 door. I was asleep, and they actually came in the
14 apartment, said you have ten minutes to leave, so I
15 was in the street like that day, okay, calling the VA
16 -- excuse me, saying hey, I've been evicted and I
17 don't know what to do, so the VA really called Legal
18 Services in The Bronx. I never even heard of them,
19 so I'm glad. Her name alone, Katie Walker, Katie
20 Mitchell called them. I say I spent a night at my
21 friend's house in the East Village. Then I had to go
22 to 30th Street and First Avenue, a homeless shelter,
23 so anyway, the next day, went to Court immediately.
24 I met with the representative of Legal Services, and
25 I obtained a subpoena from the Judge, and she helped
26 me find how to serve it on the landlord's

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Vasquez

representative. The next day, I met Elizabeth Marrus who just took everything by the horn. She walked in the HRA office, said what's the decision on his case regarding his one shot deal? She got the paperwork, went to the Judge with me, and they had a stay, so nothing could be released from my apartment. They couldn't re-rent it. Went back to the shelter for the weekend, and Monday I met Alex Schwartz, and Alex Schwartz is a heck of guy, I got to tell you. He had a little folder full of all the paperwork, everything is correct, and there Elizabeth Marrus is working my NYCHA to reduce my rent. It's still pending.

I don't know what lawyers do, but magic happens. That day they had a decision from HRA to grant me the payment. The checks were cut. He somehow got the checks from the HRA office in The Bronx, dealt with the lawyer, exchanged the checks with the landlord's rep. Friday morning I got a call saying Richy, you can go back to your apartment now, so I thank this program, this funding that you have available for this to occur for me to get represented because me on my own would never be able to do this in that amount of time. At least, I probably would still have my hand out, and still be in the shelter, so thanks everybody.

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1 Vasquez

2 This is my testimony.

3 JUSTICE LIPPMAN: Thank you so much. I think
4 it graphically demonstrates what we're talking about,
5 why you have needs, and needs to be met. To have a
6 problem like you had, you got to have someone to turn
7 to, and thank you for coming, coming in and telling
8 us your story. It's greatly appreciated.

9 MR. USERA: Thank you.

10 JUSTICE LIPPMAN: Okay, Miss Vasquez.

11 (Whereupon, Fredesvinda Vasquez testified
12 through the Official Court Spanish Interpreter.)

13 MISS VASQUEZ: Good afternoon.

14 My name is Fredesvinda Vasquez. I thank you
15 for allowing my testimony, and for the thanks for
16 Make the Road By Walking because they have worked
17 hard for me. Without them, I would not be here
18 today giving my testimony. They have helped me a
19 lot in having to go to the office of NYCHA.

20 I am 55 years old and I have a disability.
21 I went there because they had told me my case was
22 closed and I had nowhere to turn. After I went
23 there, they told me the case was closed and I said
24 why? I have done nothing wrong as far as the
25 landlord's concerned for you to close this case.
26 The worker for NYCHA told me to leave, your case is

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Vasquez

closed. I had explained to him I'm a disabled person. I have nowhere to go. I'm living with my grandchildren, my grandchild, and I have my daughter taking care of me. They closed the case, they kicked me out, and then I got a letter. I went back there asking why have you closed my case?

For a year I was living outside of that apartment, without an apartment, living with families from here to there. With what Social Security gives me, it is not enough to pay a rent for an apartment. I've had to walk, you know, looking for apartments, but the apartments are very expensive, and I went back there even in March. Then I went to the organization. I went to seek legal representation, and they then helped me to revise the papers. They have helped me alot. They said they were going to fight with me, and we're going to reopen this case. They are fighting with me. They are asking me to go back to the Court to speak up because they are willing to help me now, these lawyers. They have made tremendous effort. They have told me that I have to seek, you know, go back to the Court because otherwise I will be in the street.

After an extensive investigation, Make the Road By Walking helped me repair and presented a

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Vasquez

petition in Court against NYCHA and the Supreme Court. There was an investigation done and every effort was worthwhile. The attorney of NYCHA then agreed to make a settlement with us to settle the case in order for me to get a new voucher out of my name for me and my family.

We are now back to living in a dignity household with accessibility. I am very grateful for the hours and struggle that the attorneys put in that case, and without the help of Make the Road By Walking I would never have been able to have access to such legal representation. They helped me fight for my rights against NYCHA, and to make them accountable for their errors.

I had much fortune, much fortune for having this legal access, which was free, and these attorneys went the extra mile to make the effort to protect me for my rights, but there thousands of tenants out there who have such desperate needs, this need for legal representation, otherwise they would be losing their homes. We need the Government of the State of New York to find a solution just and appropriate for this lack of service that exists for this civil legal service that our State needs, and thank you very much for allowing me to make my

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1 Vasquez

2 testimony and listening.

3 JUSTICE LIPPMAN: Thank you. Really it's a
4 very powerful, and you can bring her up to Albany, so
5 I want to thank our last panel. You've been
6 terrific.

7 That this concludes our hearing today, and I
8 think we've seen so much. We've seen the Cardinal
9 Dolan who came this morning, and I think it explained
10 that the spiritual needs of those who are dealing
11 with the most needy in our society are matched by
12 these legal needs, that it's not enough to be able to
13 help people mend their souls if you don't have a
14 helping hand to turn to the services that are needed,
15 and I think the Cardinal put in perspective going
16 back to, obviously, biblical times, and then we had
17 the current Government Leader, Speaker Quinn, explain
18 the practical way of what she thought was necessary
19 to continue to get more public funding and to support
20 Legal Services; Judge Fisher, who seasoned at the
21 ground level around the State giving us an idea of
22 what, how much we've been able to do so far, and what
23 success we've had, and what still needs to be
24 accomplished; our Dr. Becker with a cost benefit
25 analysis, and what is so much a part of what we're
26 trying to get across to the political folks as to

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Vasquez

what all this means in terms of dollars, and Professor Hatfield, which I think, again, looks at this from a very different perspective that I think we need to at least grapple with here in New York, that what is the mix of services that we need to provide legal help, and then the organized Bar, Carey Dunn, which from their perspective indicates the programs that they have, and what they've been doing, and what they think needs to happen, and then, of course, our last panel, which to me says it all, and no the other speakers are really necessary when we hear your stories, and what Legal Services have been able to do for you in your lives, and to allow you live with respect and dignity, and to be able to deal with the serious legal problems that you've had effecting the necessities of life, so I thank you all for being at this hearing.

Rest assured that it's been very helpful in terms of this ongoing effort that we have to provide public funding for those dealing with really life transforming crises effecting the necessities of life, and what are the reasons, why this is necessary, aside from the very happiest, basic human needs that this last panel has provided to us, but gives us a really bird's eye view of the different

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tacks that we have to take, the different strategies to achieve the kind of prioritization in this State for civil legal service needs that we think match all the other essentials of life; the housing, and hospitals, physical safety, schools and everything else in our society. Human beings need legal systems to help them live their basic lives, and the Bar has stepped up to the plate to be very helpful to us not only in terms of supporting these efforts for funding, but also in terms of pro bono work, and volunteer work that Seymour James, the President of the State Bar on this panel, and so many other lawyers around this State have done so much on a volunteer basis that is very much a part of this puzzle, so we continue this effort.

There are two more hearings, one in Syracuse tomorrow, and one in Mineola on Thursday, and when we finish those hearings, Helaine Barnett and the task force will put it all together, and it will be the basis for our questions to the legislature this year, and rest assured that we will seek, continue to seek additional monies beyond what we have thus far.

I'm very pleased with our partners for really coming through with the greatest public funding than anywhere else in the country, but it's not near

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2 enough given the need. That's why we continue these
3 efforts to institutionalize the support group, civil
4 Legal Services in our State, so thank you all for
5 being here. It's been a pleasure, and you don't have
6 to all come up to Syracuse tomorrow, but some of us
7 do.

8 Anyway, thank you. I appreciate it.

9 (Whereupon, proceedings adjourned.)

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13 Certified to be a true and accurate transcription of the
14 minutes taken in the above-captioned matter.

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16 _____
17 Robert Portas

18 Gloria Ann Brandon,
19 Senior Court Reporters.

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