

**Written Statements Submitted at the
First Department Hearing on September 26, 2011**

Statements of Non-Testifying Witnesses

The Family Center

Law Library Association of Greater New York

The Legal Aid Society

Legal Services NYC

New York County Lawyers' Association

Samaritan Village, Inc.

The Family Center

**Written Comments of Adam J. Halper
Director of the Department of Legal Services
The Family Center**

**Submitted to the
Task Force to Expand Access to Civil Legal Services**

**Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. Ann Pfau, Chief Administrative Judge
Hon. Luis A. Gonzalez, Presiding Justice, First Department
Vincent E. Doyle, III, President, New York State Bar Association**

**September 19, 2011
Appellate Division, First Department Courthouse
New York, New York**

Introduction:

Your intake day is always the hardest day of the week and today is yours. You're an attorney. You work at a legal services agency in the city. Today, you receive a call from a man speaking to you on behalf of his sister who is sick and needs help. The sister is dying from colon cancer and she is in hospice care. She was diagnosed a year ago and although the initial prognosis was neutral, her health deteriorated quickly. After she began treatment, she had to quit her job as a teacher's assistant. She worked for a local high school, one that you know because it's not far from your apartment. She had medical insurance for a time after she left her job, and then after spending every last dollar she had, she became eligible for Medicaid. She has two children, ages twelve and eight. She is unmarried and the children's father is not around very much. He has his own problems. The brother puts his sister on the phone.

She tells you she wants her brother to be the guardian of her children when she dies. She can't say for certain when but she fears, her voice catching in her throat, that "her time," is coming. She needs a lawyer to help her write a will. Her brother needs help getting guardianship of her children. The brother will need help with housing. She wants to keep the children in her apartment, have the brother move in and assume the lease. The only problem is that she fell into arrears when she left her job. Not long ago, the landlord commenced eviction proceedings for nonpayment. The brother works but it doesn't pay much and he can't support two children on his own, or make up the arrears.

Your first meeting with them is at the hospital. After many phone conversations, and knowing that you may only have one opportunity to meet with the sister, you've prepared papers for her to sign. When you arrive, everyone is in the room: the brother; his sister – thin and drawn – her bones peeking out of her skin; the children, brave and articulate in a manner which surprises you given the approaching loss. On his face, the brother wears an expression of unspeakable horror.

Within it are shades of grief, loss, anger and fear about the future. You sit down and talk with the sister for a long time and ask the children to wait outside of the room. When she signs her name to the guardianship papers, you hold her arm to keep her hand steady. Afterwards, you step outside and the children go back into the sister's room. You speak with the brother for a long time about what comes next – with housing, with the children, with public benefits, with settling his sister's estate and....

What comes next is a great deal. It is Family Court. It is Surrogate's Court. It is Housing Court. It is HRA and likely OTDA (Office of Temporary and Disability Assistance). For the brother and children newly under his care what comes next is a miasma of engagements with courts, mental health and safety net systems. All of it will take time and somewhere within this long twilight hour, they have to find a moment to reconstitute themselves as a family. You have work ahead, they have so much more.

The Issues:

Thank you to Chief Justice Lippman and to the Task Force to Expand Civil Legal Services in New York for receiving this written testimony. I am the Director of Legal Services at The Family Center, a non-profit serving individuals and families affected by illness, grief and loss. The Family Center is a multidisciplinary agency which serves clients in all five boroughs of New York City. I write today, specifically, to address the Taskforce on the following issues:

1. To encourage funding and programming for multidisciplinary civil legal services, especially those that use early interventions to help otherwise unrepresented litigants to stay out of court; and
2. To voice support for unrepresented litigants to have a right to counsel in civil matters connected to the "essentials of life," when court proceedings are unavoidable; and
3. To recommend funding and program development to assist litigants in maintaining compliance with judgments and stipulations verdicts in order to avoid civil court "recidivism."

The Family Center's Mission:

The population the Taskforce seeks to assist and The Family Center's clients are one in the same. Since 1994, The Family Center has worked with individuals and families affected by illness, grief and loss. Our organization is dedicated to assisting some of New York City's most vulnerable and disenfranchised communities with quality legal, social and medical case management services. In our model of service, lawyers work hand-in-hand with social workers, case managers, medical personnel, and others not only to address the legal issue, but also to address the many psycho-social and economic issues that come with a diagnosis of serious illness.

This model of service means that our work with clients generally does not begin in the courts. Often, the place where our cases commence is in hospitals, hospices, local CBO's and in client's

homes. Our referrals come from oncology and virology departments, home care agencies, welfare job centers and any institution you would expect to find people struggling with serious illness. We have formal and informal agreements with medical providers across the city and they refer clients to us for a host of legal issues including eviction prevention, access to public benefits and entitlements, family and matrimonial law matters and lifetime planning (advance directive) work.¹ We speak with clients in their living rooms and kitchens; we help them execute wills at their hospital beds, we are their advocates in courts across New York City.

Through any lens this work, intimate by definition, is legal work focused on providing clients and their families with the “essentials of life.” Our view of these elements is no different than that of the Taskforce. In the last year alone, TFC’s Legal Services Department worked with 700 clients representing 1,050 individual household members. The Department closed 110 housing (eviction prevention) cases, 332 lifetime planning matters, 169 public benefits, SSI/SSD and debt collection cases and 147 family law and matrimonial cases.² In the last year, our dollar benefits achieved for clients (tracking awards, benefits and judgments) added up to \$1,688,000. This figure does not include monetary values for our eviction prevention and child custody work. Much of our legal work over the past few years includes keeping children with family when they would otherwise have nowhere else to go and likely end up in the foster care system. According to a report by New York City’s Public Advocate Bill De Blasio, it costs \$36,000, annually, to have a child in the foster care system.³ We estimate that our services have saved New Yorkers \$1,440,000. Similarly, the annual cost of one person in homeless shelter is \$19,710 (\$54.00 per night).⁴ We estimate that our services saved New Yorkers \$886,950. The Family Center as a whole serves over 2,100 people annually.

Since 2008, we have seen a steady change in the volume and type of cases we handle on a routine basis. For 2011, we project that we will serve over 1,000 clients with comprehensive legal services designed to insure housing, financial, family and lifetime planning stability. Hundreds more will receive advice and counsel and education through clinics, lay programs and empowerment workshops. In the last year, our Outreach Team conducted trainings, clinics and educational presentations for 4,277 people. The emphasis in our work, which at one time included only lifetime planning matters for HIV-affected women, now falls heavily into the areas of eviction prevention, entitlement and contested family law work.

This development has hardly come as a surprise. Our clients live at the intersection of illness, poverty, substance abuse, domestic violence and incarceration. Indeed, TFC’s clients represent New York City’s most profoundly vulnerable families. More than 95% of our agency clients live below the poverty line; 94% are either Latino, African- or Caribbean-American, and reside in the city’s most disadvantaged neighborhoods, including the South Bronx, Central Brooklyn,

¹ The Family Center (TFC) has memoranda of understanding and referral agreements with approximately 62 medical, legal and social service providers across this city. TFC collaborates closely with hospitals and local CBO’s especially with units within those institutions that focus on living with chronic illness and end-of-life care.

² It is notable that TFC’s Department of Legal Services currently consists of three full-time staff attorneys, part-time Law Fellows, legal interns, a paralegal and a Director of Legal Services. The full-time legal staff is five.

³ See, Public Advocate, Bill De Blasio, Press Release, June 8, 2010, <http://pubadvocate.nyc.gov/news/2010-06-08/public-advocate-de-blasio-council-member-palma-hold-rally-protect-nyc-children-abuse>

⁴ The Lewin Group, The Cost of Serving Homeless Individuals in Nine Cities, November 19, 2004, available at <http://www.rwjf.org/files/newsroom/cshLewinPdf.pdf>

Northern Manhattan, and the Lower East Side. Often, they are overwhelmed by financial strain, health concerns, age and infirmity, psychosocial problems, frequent criminal justice or domestic violence involvement, and educational barriers for children in their households. Our clients come to us with considerable challenges, legal and otherwise. TFC's Department of Legal Services exists to help clients face those challenges by delivering legal counsel, integrated with social and medical case management services to stabilize and support these needy families.

The Need:

Further, the same communities we serve are also some of those hardest hit by the economic recession. A brief look at the wages of the broader New York City and State community tells us all we need to know about the demand for civil legal services for those who cannot afford them. Our clients, living with illness and at the margins of economic and health stability prior to the recession are more vulnerable now than at any time in recent memory.

They belong to the larger New York community of individuals and families living at the edge of their resources. The Family Center's clients, chronically ill and lacking in numerous supports, find themselves at the intersection of many of New York's worst economic measures and such measures could hardly be found wanting. In New York State, approximately, 33.1% of the population lives below 200% of the federal poverty guideline (a family of four living below \$44,000 of income).⁵ New York State's unemployment rate for August, 2011, was 8.0%, with 756,400 New Yorkers unemployed.⁶ Notably, the unemployment rate in parts of New York City are much higher, with 12.3% unemployment in the Bronx and 9.7% in Brooklyn.⁷ As of June 2011, the number of households in New York State receiving cash assistance (both Family and Safety Net Assistance, not including SSI) was 300,494, representing approximately 570,249 individual recipients. Of these, 188,891 households and 350,609 were in New York City.⁸ Often, for The Family Center's clients, being ill, also means having no employment or income security. Commonly, after a diagnosis of severe illness, work along with income vanishes.

This insecurity exists across other life essentials. As of June 2011, 1,622,860 households in New York State received Food Stamp Benefits, representing 3,035,825 individual New Yorkers. The majority of these Food Stamp recipients live in New York City, with 1,006,578 households and 1,830,907 individuals receiving Food Stamps.⁹ When individuals and families become poor, Medicaid can be a safety net, but many simply remain uninsured. Approximately, 3,853,061

⁵ U.S. Census Bureau, Annual Social and Economic (ASEC) Supplement, Poverty Status by State: 2009, *available at* http://www.census.gov/hhes/www/cpstables/032010/pov/new46_185200_09.htm

⁶ New York State Department of Labor, Press Release, *available at* <http://www.labor.ny.gov/stats/pressreleases/pruistat.shtm>

⁷ *Id.*, *available at* <http://www.labor.ny.gov/stats/pressreleases/pruistat.shtm>.

⁸ New York State Office of Temporary and Disability Assistance, Temporary and Disability Statistics June 2011, *available at* <http://otda.ny.gov/resources/caseload/2011/2011-06-stats.pdf>

⁹ New York State Office of Temporary and Disability Assistance, Temporary and Disability Statistics June 2011, *available at* <http://otda.ny.gov/resources/caseload/2011/2011-06-stats.pdf>

New Yorkers have health insurance through Medicaid¹⁰ and 2,778,900 have no medical insurance whatsoever.¹¹

Poverty, which may appear to be a disease unto itself, has many symptoms. Certainly one of those is that New York's poor and sick tend to be frequent visitors to state civil court. According to this Taskforce's own research, nearly half of low-income New Yorker's reported having one or more civil legal problems in the past year.¹² As the number of poor has risen, so too has the numbers of filings in civil courts. For example, in 2009, there were 742,365 filings in New York Family Courts and 909,064 filings in the Civil Court of the City of New York.¹³ In 2009, only six percent of Family Court petitioners in New York State were represented by an attorney at every appearance and 76% were unrepresented at all appearances. In New York City, 83% of Family Court petitioners were unrepresented at all appearance.¹⁴ Worse, 99% of tenants in New York City Housing Court were unrepresented.¹⁵ The issue of lack of representation is hardly confined to state civil court. Those who cannot afford counsel, of course, struggle in all manner of civil proceedings, including the maintenance of very modest public benefits income. Thus, in 2009, there were 245,782 requests for hearings ("fair hearings") relating to benefits administered through the Office of Temporary and Disability Assistance.¹⁶ Poverty's burden on the court system cannot be overestimated.

What strikes many of us at The Family Center, where we deliver legal services to a population of clients that obtain eligibility by virtue of dire illness, is that medical issues are often overshadowed by legal and economic problems. Many of our clients report statements such as "It wasn't the cancer that kept me up at night, it was insurance, rent and how I was going to pay for my next meal that made me sleepless." The condition of poverty, once you are in it, is difficult to cure. It is a condition compounded by a dearth of support systems for those who need it and the civil court system is a place where New York's poorest and most vulnerable needs support very badly.

The Answer:

1. Help Clients to Resolve Matters Prior to Litigation and Court Proceedings.

Like all non-profit, legal services providers, our experience at The Family Center, regardless of the type of matter involved, is that clients contact us at a very late stage of conflict. Often, what

¹⁰ New York State Department of Health, Average Monthly Medicaid Beneficiaries for Categories of Service by Category and Eligibility – January 2010 through March 2010, *available at* <http://www.health.state.ny.us/nysdoh/medstat/quarterly/aid/2010/q1/beneficiaries.htm>

¹¹ Kaiser Family Foundation, State Health Facts – New York, *available at* <http://www.statehealthfacts.org/profileglance.jsp?rgn=34>

¹² The Taskforce to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York, November, 2010, Appendix 17.

¹³ New York State Unified Court System, Annual Report 2009, *available at* <http://www.courts.state.ny.us/reports/annual/pdfs/UCSAnnualReport2009.pdf>.

¹⁴ New York State Unified Court System, Representation of Parties in Supreme Civil, Family and Local Civil Court Cases, *available at* <http://www.nycourts.gov/ip/ny2j/pdfs/Judge%20Fisher%27s%20Testimony.pdf>

¹⁵ *Id.*

¹⁶ New York State Office of Temporary and Disability Assistance, Annual Report 2009, *available at* <http://otda.ny.gov/news/annual-report/OTDA-AnnualReport2009.pdf>.

brought the client to court was something that if it had been addressed sooner, court would not have been necessary.

- For example, routinely, we see clients that may be several thousand dollars in rental arrears. They may or may not be in Housing Court, already. They have a third party payer, but because of an administrative problem such as a missed recertification appointment, checks stopped getting to the landlord. The client was never told why or when the checks stopped.
- Clients come to us with medical insurance denial issues that have been going on for some time. They come to us after they started receiving debt collection letters, in some cases for years, although they are and have been Medicaid eligible for an equal period of time.
- They seek to enforce or modify a child support order for which the Respondent has been in arrears for years if not longer. The Respondent's income may have changed dramatically or may be unknown, along with their whereabouts.
- An ill client and her family, living on public benefits and food stamps comes to us after having been through periodic rounds of sanction, hearing and recoupment with Human Resources Administration. She has never had an attorney and has failed to advance her grievances properly at OTDA.¹⁷

The result of accessing an attorney late is exactly what one might expect. All court proceedings are more difficult, urgent and create greater stress for everyone involved but most assuredly on the client and their families. In instances too often to remember or count, clients find themselves in court as a result of administrative error which can be either theirs or that of an institution such as HRA. Correcting those administrative errors will help clear the bench's calendar in all courts. Notably, for our clients, the volume of cases and the length of time it takes to resolve them is a very specific concern. An adjournment for a client with cancer means something very different than it does to other litigants.

New York Courts have made great strides in offering unrepresented litigants self-help resources and "unbundled" services. However, we encourage the Taskforce to consider applying significant resources towards the study and implementation of programs that assist low-income New Yorkers in resolving disputes and administrative issues earlier. Very often the matter in court is not so much a legal dispute or even necessarily a factual one. For example, everyone involved understands the course of events that may have lead to a nonpayment or a holdover proceeding. The only matter to be decided in court is who has the responsibility of addressing it – the petitioner or respondent. What the Court becomes in such instances is not a place in which justice is administered, but rather a forum to assign tasks and accountability.¹⁸ This issue, of why many unrepresented litigants end up in court in the first place is not new.¹⁹

¹⁷ These examples are only a few closed matters that have crossed the desks of TFC Attorneys in the last year. They are representative of a large number of cases – especially in the areas of public benefits and housing – and we believe representative of a large number of cases city-wide.

¹⁸ In the words of Judge Fisher, Deputy Chief Administrative Judge of the New York City Courts, "Our judges are flooded with cases such as landlord tenant cases which would not have ripened into litigation if government

Many of the mechanisms that would address the issue are already in place and should be expanded upon. Dedicating equal resources towards keeping clients and families out of court through ADR, client education, preventive/holistic services, collaborations with non-legal entities – especially those that assist with financial management – will assist in the proper administration of justice if only, by diverting cases that should never have been before the bench in the first place. The result of services designed to have clients and their families avoid court, will be to lower not just the number of active cases, but also to lower costly interventions from social, medical, child welfare and law enforcement services.²⁰

The Taskforce should consider that for such remedies to be effective, it would be wise to house them outside of the Courthouse. By the time the unrepresented reach court, it is most likely because they have been summoned or are filing an action themselves. Of course, expanding civil legal services will require a greater number of trained lawyers, but it should not necessarily mean that those lawyers will only be available when a court conflict is inevitable. Our civil courts should not always be the arbiter of first resort for community conflict or understanding of the law.

Lawyers with a background in various types of civil law may be and are used effectively in different ways. For example, at The Family Center, we've learned that going to the clients and their families, often to their second homes (local CBO's, schools, hospitals and religious institutions) is a far more effective way to educate and meet clients one-on-one about a legal issue. Staff in my office have conducted clinics (where actual legal work is performed), trainings (on topics ranging from housing, public benefits to end-of-life issues) and lay classes all over the city. In these settings, clients learn not just from the attorney, but also from each other. A new type of legal community develops, even if only for a moment, that has as its goal the understanding of one legal issue better and how they might handle it if the time comes.

In providing clients with advice and counsel, either in person or over the phone, we have found that clients and their families can benefit enormously simply from having a better understanding of their rights and obligations under the law. This is not something that can be done through web pages (although all technology that can be applied to this issue should be explored). It requires

benefits, unemployment insurance, wage and immigration issues were resolved by lawyers. For example, numerous cases in the New York City Housing Part would disappear if individuals had adequate access to lawyers to resolve financial issues that fuel non-payment housing cases. The court system, owners and tenants all benefit when underlying legal issues are resolved by attorneys without the need to file a housing case. The court system would see far less cases in other substantive areas if lawyers were available pre-litigation to assist individuals." Closing Statement before the Taskforce, October 7, 2010, available at, <http://www.nycourts.gov/ip/ny2j/pdfs/Judge%20Fisher's%20Testimony.pdf>

¹⁹ For instance, in September of 2007, the Urban Justice Center released a report noting as follows, "61% of Food Stamp recipients are cut off within the first 20 months, largely due to compliance/bureaucratic issues." Having clients speak with knowledgeable attorneys could prevent hundreds if not thousands of unrepresented litigants from having to go to administrative court to argue, before an ALJ, what is little more than a bureaucratic issue. Jackie Kessel, Berlin Rosen, Report Finds NYC Food Stamps Program Deters Participation. [Urban Justice Center Report \(from 2007\): http://www.urbanjustice.org/pdf/publications/PR_20070906.pdf](http://www.urbanjustice.org/pdf/publications/PR_20070906.pdf).

²⁰ For example, a routine family law matter requires the presence of a judge, court clerk, court officer, lawyer for the child, an ACS investigation (COI), background check, etc. Having access to an attorney prior to filing a petition or modification may increase the number of family law matters resolved without judicial intervention.

human interaction along with legal expertise in more than just a particular practice area, but also in how to effectively work with a client in a time-limited way such that not only do they have their questions answered but also have the opportunity to unburden themselves a bit of their concerns, fears and truly, their suffering. Although it is not appropriate to have non-lawyers administering legal counsel, I suspect there is a place here for the use of lay advocates. Advice and counsel services can be used to assist those looking for a better understanding of how to navigate the system and ask targeted questions about specific problems. I encourage the Taskforce to consider how to expand such services and how best these interactions can take place outside of an index or docket number.

2. Providing the unrepresented with civil legal services in matters connected to the “essentials of life.”

For our clients, if court proceedings cannot be avoided and their lives are to be examined within the four corners of a petition, it can be a daunting experience even for those who have been to court in the past and regardless of the outcome. Walking into civil courts such as Family Court or Housing Court can feel, at times, like being dropped into a foreign country. There is a rhythm and language to all courts, both formal and informal, which serves to distance litigants from what’s happening in their case. Attorneys and court personnel on all sides appear to know each other. There is a common language spotted with acronyms and familiar phrases none of which are known to the client. For the unrepresented litigant, conversations regarding their cases happen quickly as do court appearances. For those without a lawyer, the administration of justice and its outcome is an event which happens to them.

Alleviating some of the intensity of civil court proceedings is no small thing and the Office of Court Administration, the Taskforce, the Civil Courts and all stakeholders are to be commended for tremendous efforts in this regard through the development of websites, videos, volunteer lawyer programs and other mechanisms designed to help unrepresented litigants to navigate the system. That said; the Court must remain a neutral actor when proceedings commence and this cannot be avoided. The best mechanism to assist litigants in crossing the chasm between a process that is happening to them and a process that is happening with them is by affording them an attorney: trained, empathetic and one who is committed to being with them until the matter is resolved – for better or worse.

Anyone who has been to court knows that it is a demanding atmosphere, rooted in the adversarial process in which unrepresented litigants often feel that everyone in the room knows more than they do. It is hardly surprising that the bench reports difficult behavior in unrepresented litigants all of which seems to be a cry of desperation.²¹ In situations in which people may be deprived of housing, badly needed income and benefits, their safety, their children or grandchildren (sisters and brothers), those before the court must have confidence in the system and know that they received appropriate, knowledgeable and thoughtful counsel. When litigants do not have counsel or worse, when they do not have counsel and the other side does, it is impossible to expect the unrepresented to have that confidence in the judicial process.

²¹ See, e.g., Written Statement to the Taskforce to Expand Civil Legal Services, Judge Ruben A. Martino, presiding Judge of the Harlem Justice Center, September 28, 2010.

Each of us possesses different levels of ability in the use of our voices as an advocate for ourselves or others. Providing legal representation to those facing barriers in obtaining the essentials of life will ensure that all who need it have that voice. In the absence of this opportunity, the courts and the many hard-working people who work within them -- lawyers and non-lawyers alike -- are all just a part of a system which, to those who are unrepresented, seemingly serves to deprive them of the essentials of life.

Providing unrepresented litigants access to an attorney in court is an intervention which easily survives cost benefit analysis. In this regard, I can refer only to the Taskforce's own understanding of this issue.²² From the perspective of an agency working with indigent clients who are ill, the numbers are often the same. Ill clients and their families who meet with us early and for whom we address more than one legal need (ie: housing, public benefits, lifetime planning) are less likely to come back to us in the future, are less likely to need the court system again and are less likely to have negative engagement with the criminal justice system, child welfare system or end up in the shelter system. The cost of action, such as an expanded right to counsel, reduces more costly interventions later.

3. Assisting litigants in maintaining compliance with judgments, verdicts and resolutions will avoid a revolving door of civil court proceedings.

In order to expand civil legal services appropriately and in order to realize the cost benefit of providing an attorney in civil matters connected to the essentials life, we strongly urge the Taskforce to consider implementing post-judgment/stipulation services. Counsel should be retained not just to assist a client with a court matter, but to make sure that the client is able to abide by the court's judgment. Too often, civil court proceedings which end in a final judgment or stipulation simply reappear in court months or even weeks later when one or all of the parties were not able to abide by the terms of the order or agreement. The client was unable or did not understand how to apply for a "one shot deal," at the rental assistance unit in court, was unhappy with the child visitation arrangement, or after bringing and winning a fair hearing, there was no compliance and because they failed to raise an issue at the hearing, another round of notices of intent started arriving from HRA.

There is questionable value in assigning an attorney to those who need it when no one is there for them, once formal court proceedings have passed. In expanding on *Gideon v. Wainwright*, the Taskforce should borrow from those agencies, which began as criminal defenders, who discovered long ago that they could best serve their clients by also providing multidisciplinary services and civil representation.²³ In doing so, they discovered that by raising the wages of their clients, their families and the communities in which they practice, they reduced the likelihood of people going to jail.²⁴

²² The Taskforce to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York, November, 2010, pages 20 - 33.

²³ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

²⁴ See, e.g. Appellate Division, First Department, Written Comments of McGregor Smyth and Kate Rubin, The Bronx Defenders, September 24, 2010, submitted to the Taskforce to Expand Civil Legal Services in New York.

We, in the civil arena, should make all efforts towards reducing the reopening of civil matters connected to those areas into which we want to expand the right to counsel. This is where multidisciplinary services and what was once referred to in legal services circles as the “wrap-around,” comes into play. It is good practice and often necessary to make sure that a client has access to an attorney after the court has closed its doors. This can be accomplished in many ways such as financial management services, attorney/client check-ins on a routine basis for a set period of time, or by giving the responsibility of post-judgment monitoring to newly assigned attorneys (an example borrowed from current ADR practices).

At The Family Center, we try to stay with a client and their family for as long we can and as long as they need us. This is made much easier by having a network within the office of mental health, medical and case management professionals who can meet with clients and their families to address the significant “non-legal” fall-out of court proceedings. For example, children in custody proceedings do not stop grieving for a lost parent after their new caregiver receives letters. Often, that is when behavioral problems begin. Educational and juvenile justice issues are always nearby in such matters.

Having an attorney available and using multidisciplinary systems to help with the real consequences of civil court supports the driving philosophy of *Gideon*, that those who need it have the “guiding hand of counsel at every step in the proceedings against him.”²⁵ Criminal proceedings, with all of their ramifications, may end in verdict – innocence or guilt. For those engaged in proceedings regarding the essentials of life, the court matter may be just the beginning of the work ahead. Guidance should be available, if not indefinitely, than in some structured form.

Without a full wrap-around approach many matters will end up right back in court. One of the hallmarks of a civil *Gideon* doctrine should be the absence or at least a decline of civil court recidivism. If people have access to an attorney after proceedings end, the number of those reentering the court system will drop.

Conclusion:

Finally, members of the Taskforce, amid the strong testimony you will receive on this issue; amid the dizzying statistics regarding both the unmet need for civil legal services, poverty and how providing the unrepresented with counsel in civil matters will be cost effective, there is one more reason to undertake this ambitious initiative.

Simply, this is the cost of living in a free society in which disputes are addressed by process, guided by reason and which require trained minds and strong voices. This endeavor is the cost of living in a populous state, made up of rich and poor, who live side by side and work together to make the community a fair and just one. This is the cost of a free society in which courts, the third pillar of our government, stand to protect all who come before them. They should be free to do so without the burden of having to unravel cases that are no more than administrative issues or hear from unrepresented litigants who have difficulty expressing their rights and stories. This is the cost. The benefit cannot be calculated in dollars and billable hours. It is more

²⁵ *Gideon v. Wainwright*, 372 U.S. 335 at 345 (quoting *Powell v. Alabama*, 287 U.S. 45, 68-69 (1932)).

accurately calculated in lives saved, homes protected, livelihoods preserved and opportunities maintained. It is measured in good conscience kept.

Thank you for this opportunity to submit written comments on the issue of expanded legal services. The Family Center wishes Judge Lippman and the Taskforce good luck.

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**Law Library Association of
Greater New York**

Written comments for the Chief Judge's Hearings on Civil Legal Services

Submitted to the Task Force to Expand Access to Civil Legal Services

From the Law Library Association of Greater New York

September 26, 2011

New Yorkers deserve access to civil legal services regardless of their financial situation. The state's diverse libraries and librarians play an essential role in providing legal information, research and access to materials in the face of their own diminished staff and resources. In order to better serve the legal research needs of all New Yorkers, the Law Library Association of Greater New York (LLAGNY) supports expanding civil legal resources, including support for publicly available law library collections and staff.

On behalf of our Association, I, as Vice President, sincerely thank Chief Judge Lippman and the Task Force to Expand Access to Civil Legal Services for their efforts to find solutions to this growing need and for this opportunity to submit our comments.

Many of our law librarians and information specialists, especially those in the New York State Unified Court System's law libraries, work directly with the public. These professionals are at the front line of court service to patrons representing themselves and attorneys representing others. The self-represented generally have few authoritative legal resources on which to rely. Solo-attorneys or those employed in legal aid centers or legal clinics often lack sufficient funds for resources. Court librarians provide vital services, including research help, tools and instruction tailored to the individual needs of patrons. Equally important, court librarians assist court personnel, the judiciary and its administration, extending to them the same reference, research, tools and instruction.

Our academic librarians support the educational needs of those who will soon enter the legal field. These librarians provide legal research instruction, guidance and resources to students who often participate in legal clinics serving civil legal needs.

Academic libraries continue to provide support for alumni, some of whom, now retired and without substantial legal research tools of their own, may volunteer their legal services to the economically disadvantaged.

Approximately seventy percent of LLAGNY members work in private law firms whose associates are encouraged to serve the public through pro bono legal work. Growing litigation areas such as consumer credit, mortgage foreclosure, landlord and tenant issues, and problems caused by the current high unemployment rate and distressed business environment contribute to the need for public legal services. Private law library staffs and resources support the pro bono, assigned or appointed counsel, and other low or no fee work performed by firm lawyers.

In addition to our members' paid work, committees within and activities sponsored by the Law Library Association of Greater New York speak directly of the Association's volunteer efforts to meet the legal information needs of the public. Examples are:

- * Outreach Programs Committee - Bridge the Gap annual program paving the transition from law student to practicing associate
- * Pro Bono Committee - offering no cost legal research and reference service to those without law library resources
- * Education Committee - providing free or nominal cost continuing professional education for our members
- * Government Relations Committee – identifying opportunities for LLAGNY to track government activities and be alert to changes in laws affecting libraries

LLAGNY and its members are also actively:

- * Increasing educational opportunities (such as the recently evolving Practising Law Institute joint partnership in creating the Research Briefings programs)
- * Creating self-help procedural programs or continuing legal research instruction for the public (e.g., CALI - Center for Computer-Assisted Legal Instruction)
- * Exploiting the existing professional network of the state's libraries in a coordinated effort to provide legal help information, interlibrary loans, and referrals
- * Ensuring that the online government legal information used by the public is authentic, trustworthy and preserved

Reductions in library staff and funding continue to impose consequences on those most in need of our support. Bear in mind that:

- 1) Government requires citizens to privately litigate in order to enforce public rights.
- 2) In order to hold government accountable, citizens must be able to find records of government actions. Libraries provide these materials and librarians provide instruction.
- 3) Expanding legal services while cutting library subscriptions denies volunteer lawyers support via library resources.

4) Courts need to develop a public policy of archiving their precedents through the State Reporter. The reliance upon private publishers is no longer an effective solution since increases in price and changes in format impede the public's ability to access these documents.

The Law Library Association of Greater New York has participated in the metropolitan New York City area's legal community for over 70 years. Since 1949, LLAGNY has been a chapter of the American Association of Law Libraries. We have a membership of over 650, made up of law librarians, lawyers, legal publishers, legal research instructors, and other information specialists. We may be employed in New York City or New York State government agency and court libraries, in private law firms, in corporations, in academic institutions, or in legal publishing entities. We are united in our objective "to develop and increase the usefulness and efficiency of law libraries." In doing so, we play an active role, providing effective assistance, efficient resources and network support, either directly or indirectly, to those in need of civil legal services. LLAGNY welcomes an opportunity to help find solutions to better meet the civil legal service needs for New Yorkers.

Sincerely,

William R. Mills
Vice President/President Elect
Law Library Association of Greater New York

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Testimony of The Legal Aid Society

on

THE IMPACT OF THE UNMET CIVIL LEGAL SERVICES NEEDS THROUGHOUT THE STATE

Submitted to:

Hon. Jonathan Lippman, Chief Judge of the State of New York
Hon. Luis A. Gonzalez, Presiding Justice of the First Department
Hon. Ann Pfau, Chief Administrative Judge
Vincent E. Doyle, III, President of the State Bar Association

FIRST DEPARTMENT HEARING

September 26, 2010

The Legal Aid Society welcomes this opportunity to testify at this special hearing on the critical need for civil legal services in New York State. We greatly appreciate the consideration of this urgent problem by the Chief Judge, the Presiding Justice, the Chief Administrative Judge, and the State Bar President. With the crucial support of the Assembly and the Senate, the Judiciary's leadership in addressing this problem has been extraordinary – first by allocating funding to rescue the New York State IOLA Fund in the Judiciary's budget to partially offset a dramatic drop in IOLA funding due to the historic reduction in interest rates, and now by implementing this initiative to respond to the unmet need for civil legal assistance across the State.

We submit this testimony to provide information about the continuing urgent need for civil legal assistance for families and individuals in New York who need legal help to maintain the essentials of life – shelter from the elements, family safety and integrity, access to health care, food, clothing, and subsistence income – in the midst of the most extreme economic conditions since the Great Depression of the 1930s.

As you know, with a staff of more than 1,600, including some 900 lawyers and 600 social workers, paralegals, investigators, and support and administrative staff, The Legal Aid Society provides comprehensive civil, criminal, and juvenile rights legal assistance to low-income families and individuals in literally every community in the five boroughs of New York City. During the past year, The Legal Aid Society provided these legal services in more than 300,000 cases and legal matters for New Yorkers in desperate need of legal help. Many of our clients are referred to The Legal Aid Society by the constituent services staffs of State elected officials or by community-based organizations serving every district of the City. Indeed, since its founding in 1876, The Legal Aid Society has been a vital part of the social fabric of the City.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low-income New Yorkers and the need for the civil legal help for these struggling families and individuals is increasing exponentially. Without ongoing substantial support for the provision of civil legal assistance in New York State, the Society and other civil legal services programs across the State and in New York City will have to turn away more families and individuals who need legal aid to get unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness.

Every day, civil legal services programs like the Society provide for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situations our clients are facing – loss of jobs, foreclosure, eviction, hunger – are the grim hallmarks of this current fiscal crisis.

As the Chief Judge's civil legal services task force found in its comprehensive 2010 report, the legal help provided by civil legal services programs also saves State and local governments millions of dollars each year and brings millions of dollars of federal benefits for clients into the New York economy – and is thereby a proven, tested and wise investment.

Nevertheless, even at current funding levels, the Chief Judge's task force has found that at best 20 percent of the legal needs of low-income New Yorkers are being met.

The situation is even more extreme at The Legal Aid Society because low-income families and individuals seek our assistance as the safety net when all other safety nets have failed. During the last year, we worked on some 43,000 civil legal matters in literally every zip code in the City. However, we are able to help only one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. The situation has become particularly dire since the economic downturn began. Homelessness, for example, is at record levels in New York City, and unemployment, hunger, and foreclosures are on the rise.

In these severe economic times, civil legal assistance is needed now more than ever. As we reported previously, since the economic downturn began in 2008, we have seen unprecedented increases in requests for help in core areas of need:

- a 29% increase in requests for help with unemployment benefits and employment problems;
- a 40% increase in requests for health law assistance and help obtaining Medicaid, Medicare, and other health care coverage;
- a 12% increase in requests for help to obtain food stamps, federal disability benefits, and public assistance;
- a 16% increase in requests for domestic violence and family law help;
- a 15% increase in requests for help from current or former low wage workers with earned income tax credit or other low income taxpayer problems;
- a 21% increase in requests for eviction prevention representation; and
- a stunning 800% increase in requests for foreclosure defense assistance.

Even more troubling, over the past few months, we have seen further increases in requests for our civil legal aid above these high levels of increased legal need: an additional 54% increase for low-wage employment and unemployment matters; an additional 18% increase for housing problems; an additional 12% increase for domestic violence and family matters; an additional 23% increase for subsistence income support problems; and an additional 11% increase for access to health care matters.

Moreover, behind these troubling statistics is the great suffering of low-income families and individuals who desperately need our civil legal help. Consider, for example, the cases of these clients who we were able to help and who are testifying at the Chief Judge's civil legal services hearings this year:

- Alavita Williams, a retired corrections officer who needed our civil legal aid to avert the loss of her home in a mortgage scam;

- Eneyda Maldonado, whose life turned around when our civil legal assistance enabled her to escape with her child from domestic violence, obtain custody of her child, and gain access to employment and health care; and
- Virginia Norman-Acevedo, a blind grandmother with an adopted blind child who needed our legal help to keep the child out of foster care when his guardian died, to retain housing for herself and the child, and to prevent the eviction of her adult daughter and her grandchildren.

Another Legal Aid client, William Dean, submitted written testimony that described a heartbreaking situation which was resolved only by our provision of civil legal assistance to prevent his eviction. Mr. Dean is the custodial parent of two daughters and a veteran who suffers from post-traumatic stress disorder who had been in fear of losing his family's home. A copy of his written statement is included with this testimony.

Against this backdrop, Chief Judge Jonathan Lippman's initiative to conduct these hearings in each of the four Departments and appoint a task force to make recommendations to meet the unmet need for civil legal assistance is exactly the breakthrough that is needed in these extreme economic times. Indeed, the increasing number of unrepresented parties is adversely impacting court operations and represented parties in addition to literally thwarting access to justice for tens of thousands of New Yorkers.

The Society applauds and supports the Chief Judge's initiative to bridge this gap in access to justice for the most vulnerable New Yorkers who are in desperate need of our civil legal aid – survivors of domestic violence, senior citizens, children and adults who have disabilities or chronic illness, immigrants fleeing oppression, unemployed and low-wage workers, persons living with HIV infection, and children and adults faced with evictions, foreclosures and homelessness.

Thank you for your consideration of these matters that are so critical for families and individuals in New York City and throughout the State who need civil legal help to obtain the basic necessities of life.

Introduction by Julia McNally

My name is Julia McNally. I am a Staff Attorney at The Legal Aid Society in the Housing Unit in our Bronx Neighborhood Office. The Legal Aid Society was able to assist William Dean with several issues, including negotiating a settlement of his eviction proceeding and securing a subsidy to pay his ongoing rent in full.

Testimony of William Dean

My name is William Dean. I am a veteran and the custodial parent for my two children. Since my service ended, I have received regular counseling for depression and post-traumatic stress disorder.

My recovery has made it difficult for me to work, and my only source of income right now is public assistance. In 2010, my landlord brought an eviction proceeding against me because I could not afford to pay the rent.

I was terrified of being evicted, and overwhelmed with the prospect of coming up with thousands of dollars in back rent. I was working on securing custody of my daughters, and I knew that being evicted could jeopardize my family. I didn't have any money to pay an attorney, and the threat of eviction caused intense anxiety. Defending a case by myself, that could result in my family's eviction, was so stressful that I often considered just leaving my home and moving to a shelter.

When The Legal Aid Society's attorneys began to represent me, they immediately negotiated a settlement with my landlord to give me time to pay the arrears. The settlement was structured so that if I didn't pay on time, the landlord would have to bring me back to Court instead of simply serving me with a notice of eviction. I no longer had to live in fear of the day the Marshal would knock on my door. Also, The Legal Aid Society convinced the landlord to repair all of the conditions in my apartment, including a broken toilet and a bathtub that leaked water into the apartment below.

The Legal Aid Society then ensured that I would be able to pay all of my arrears and all of my ongoing rent by filing a successful application for me to participate in the Family Eviction Prevention Supplement program.

When The Legal Aid Society ended my Housing Court eviction case and arranged for the payment of all the arrears to the landlord, it was as if a huge burden was lifted from me. I am in school and striving to become skilled and healthy enough to support my family. By ensuring that I have a secure, decent home, The Legal Aid Society has given me the opportunity to focus on building a stable family.

Legal Services NYC



Testimony of Legal Services NYC

The Chief Judge's Hearings on Civil Legal Services

**First Department
September 26, 2011
New York, New York**

Testimony of Raun J. Rasmussen, Executive Director

Legal Services NYC

The Chief Judge's Hearings on Civil Legal Services

First Department
September 26, 2011
New York, New York

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”¹

My name is Raun J. Rasmussen and I am the Executive Director of **Legal Services NYC (LS-NYC)**, the nation's largest organization devoted exclusively to providing free civil legal services to low income and underserved individuals and communities.

With neighborhood-based offices and outreach sites located throughout the City's five boroughs, LS-NYC has a singular overriding mission: to provide expert legal assistance that improves the lives and communities of low income New Yorkers. Our services include a strategic combination of specialized law units, legal helplines, impact litigation, and *pro bono* private attorney efforts.

The provision of legal assistance to low income New Yorkers not only solves the heart wrenching problems faced by our clients, but also saves the state money and brings desperately needed dollars into low income communities—not an easy feat in this time of economic downturn.² The child support payments, unemployment insurance benefits, and federal social security disability benefits we secure for our clients save the state millions of dollars by shifting costs away from State public assistance. For example, from January 2009 to March 2010, LS-NYC secured more than \$13 million in retroactive benefits and \$20 million in ongoing client benefits,³ which flows into local communities to buy food, pay rent, and help keep families from falling apart under the weight of unemployment and underemployment.

Before I address the key points raised in the hearing invitation, I would like to thank Chief Judge Jonathan Lippman for his leadership in (a) including funding in the FY2011-2012 budget of the Office of Court Administration (OCA) to make up for the shortfall in the New York State Interest on Lawyers' Accounts Fund; (b) including \$12.5 million in funding for civil legal services in the FY2011-2012 OCA budget to create a permanent, stable source of funding for the

¹ Universal Declaration on Human Rights (Article 25(1), 1948).

² November 2010 Report to the Chief Judge of the State of New York of The Task Force to Expand Access to Civil Legal Services in New York (hereafter, the '2010 Task Force Report'), <http://www.courts.state.ny.us/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>.

³ See LS-NYC's 2009-10 IOLA Summary Report, attached hereto as Attachment A.

provision of civil legal services to low income New Yorkers; and (c) convening these hearings on the future of civil legal services funding. These hearings bring welcome and sorely needed attention to the inadequate level of State funding for these vital services.

In this testimony, I discuss:

- a. The current state and scope of the unmet need for civil legal services by low income New Yorkers confronting legal problems involving the “essentials of life;”
- b. the impact on communities and the courts of reduced or eliminated legal services;
- c. the costs and benefits to communities and the courts when legal services are provided in matters involving the “essentials of life;” and
- d. various examples of how to reduce the growing unmet need through, *inter alia*, preventive and early intervention services by providers, simplification of court and administrative processes, self-help programs, community legal education, provider collaborations, and expanding the availability of *pro bono* legal services.

THE CURRENT STATE AND SCOPE OF THE UNMET NEED FOR CIVIL LEGAL SERVICES BY LOW INCOME NEW YORKERS CONFRONTING LEGAL PROBLEMS INVOLVING THE "ESSENTIALS OF LIFE," INCLUDING HOUSING, FAMILY STABILITY AND PERSONAL SAFETY IN DOMESTIC RELATIONS, ACCESS TO HEALTH CARE AND EDUCATION, OR SUBSISTENCE INCOME AND BENEFITS

For 45 years LS-NYC’s network of programs has provided free legal representation to people who have nowhere else to turn in areas including: Consumer Law, Disability Rights, Domestic Violence, Education Law, Elder Law, Employment Law, Family Law, Foreclosure Prevention, Government Benefits & Entitlements, HIV/AIDS, Housing, Immigration, Parent Representation, Preservation of Low-Income Housing, Tax Law, and Unemployment Insurance Benefits. Between January 2009 and March 2010, we closed approximately 23,500 cases, benefiting 58,250 clients and their family members, and we conducted dozens of community legal education programs, benefiting another 40,000 low income New Yorkers.⁴

Despite our best efforts to leverage our work with *pro bono* assistance and collaborations with colleague providers and community partners, the number of people we can serve compared to the need remains small. In 2009, we participated in the Legal Services Corporation’s *Justice Gap Survey*.⁵ According to the survey results, in 2008 (the beginning of the recession) we were able to serve fully only 12% of the people who came to us for help; the remainder were either turned away (51%), not served fully (13%), or received only brief services and advice (24%).

These numbers mirror the broader crisis in the need for the provision of civil legal services. Nationally, the poverty rate climbed to 15.1% in 2010, the highest level since 1993.⁶ In New York State, the poverty rate climbed to 16% in 2010, up from 14.5% in 2007.⁷

⁴ Id.

⁵ Documenting the Justice Gap in American – The Current Unmet Civil Legal Needs of Low-Income Americans, An Updated Report of the Legal Services Corporation, September 2009, http://www.lsc.gov/pdfs/documenting_the_justice_gap_in_america_2009.pdf.

⁶ Income, Poverty, and Health Insurance in the United States: 2010, <http://www.census.gov/prod/2011pubs/p60-239.pdf>.

According to the federal poverty guidelines more than 1.5 million New York City residents, almost one in five, live in poverty. Mayor Michael Bloomberg, as part of his anti-poverty initiative launched in 2007, called for the development of a new measure of poverty in New York City that factored in things such as rising housing costs, government benefits, and regional cost-of-living differences. Including these factors, 22% of New York City residents—more than 1.8 million people—are poor. When looking at those earning up to 200 percent of the official poverty line, 3 million people in New York City—nearly 2 out of 5—qualify as either poor or near poor.

By some estimates, the need for civil legal services has increased by 30% since the economic downturn began in 2009. With massive layoffs over the last several years—many of them service and entry-level positions held by low income individuals—unprecedented numbers of people have lost their jobs and homes. Examples of the growing need in New York State include:

- New York City had an unemployment rate of almost 9% in August, compared with 5.7% in October 2008, and some areas of New York City are much higher—the Bronx, for example, has the State’s highest unemployment rate, at 12.3%;
- New York City experienced a decrease in affordable housing through the loss of 17,000 rent-stabilized apartments between 2005-2008;
- Nearly 300,000 eviction proceedings were commenced in New York City’s Housing Courts in 2010, resulting in nearly 25,000 evictions or legal possessions;
- Incidents of domestic violence skyrocketed to 249,440 in 2010, and there was a 40% increase in teen dating violence over the past decade; and
- New York State is experiencing historic rates of foreclosures; Queens County, for example, had a 217% increase in filings from 2005-2009.

The crisis in the justice system is compounded by the fact that there are few attorneys to address the legal needs of New York’s poor. As a result of a lack of resources and the growing need for legal help, 95% of litigants in eviction, consumer credit, and child support cases in New York State are unrepresented. In foreclosure cases, 44% of homeowners are unrepresented.⁸

At a time when demand continues to climb as the economy continues to falter, federal funding for civil legal services from the Legal Services Corporation (LSC)—the largest funder of civil legal services in the United States—continues to decline. In 2011 LS-NYC lost more than \$700,000 in funding from the LSC. In 2012, we are likely to lose at least another \$800,000 in LSC funding. And in 2013 and 2014, we anticipate losing another 20% of our LSC funding—more than \$3 million—based on recent census results. This loss of federal funds could require us to lay off as many as 45 advocates, depriving thousands of New Yorkers of legal help.

⁷ Jarrett Murphy, ‘Recovery’ Year Saw Incomes Fall, Poverty Rise, <http://www.citylimits.org/blog/158/-recovery-year-saw-incomes-fall-poverty-rise>.

⁸ 2010 Task Force Report, <http://www.courts.state.ny.us/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>.

As a result of the disparity between the need for civil legal services and the resources to provide them, the low income people and communities that we serve are suffering more now than at any time since the Great Depression.

THE ECONOMIC AND SOCIAL CONSEQUENCES OF REDUCED OR ELIMINATED CIVIL LEGAL SERVICES IN COMMUNITIES AND FOR THE COURTS

Impact on Communities

When low income New Yorkers become unemployed and cannot get or have exhausted their unemployment benefits, they cannot pay rent or buy food or other necessities. They need legal help to prevent eviction, get food stamps, and apply for other public benefits. Economic pressures exacerbate family tensions and domestic violence increases. Children who experience hunger or tension at home have trouble learning.

Static incomes, rising rents, the loss of subsidized and regulated housing, and the foreclosure crisis have resulted in the highest number of homeless families and individuals in the City's history.

Further, because of lack of resources to provide assistance to people with legal needs, New York State loses millions of dollars every year in uncollected government benefits and other benefits to which people are entitled. The lack of income further leads to a lack of purchasing power, which hurts the local stores and businesses that hold low-income communities together and help keep them safe.

Providing counsel when needed saves people from immediate trauma and long-term hardship; it also saves public funds and returns dollars to low income communities.

Impact on Courts

Courts and administrative tribunals in New York are grappling with a tsunami of increased filings and proceedings. Unemployment Insurance hearings have dramatically increased due to the prolonged economic recession. Housing and eviction cases have increased. Cases involving charges like assault by family members – the type of domestic violence cases that civil legal services family law practitioners handle – have increased. Foreclosure cases have ballooned with the economic crisis. And because consumer debt continues to escalate in this difficult economic period, Civil Court cases, where most credit card debt actions occur, exploded to more than 577,000 in 2009, up from 200,000 a decade ago.

Last year, more than 2.3 million New Yorkers tried to navigate the State's complex civil justice system without a lawyer, requiring court personnel to spend thousands of hours helping the unrepresented.

Those who work in the court system summarize the situation best:

“I am seeing the ripple effects that destroy the family structure.” Hon. Pam Jackman-Brown (Family Court, Queens County).⁹

“People who have lost their jobs, or have taken a lesser-paying job, are not able to make their mortgage payments. People in default of their credit cards may have gotten a job but they can’t accumulate enough money to pay back what they owe plus interest.” Hon. Philip G. Minardo (Supervising Judge, Richmond County).¹⁰

As noted above, most low income litigants cannot get representation in the court and administrative proceedings that adversely affect their lives. As a result, they are not able to assert defenses or to obtain fair settlements of their cases. The inequity created because of lack of access to the courts breeds, at best, a lack of faith in the justice system because it often does not appear to work for those who are forced to rely on it to deliver fairness in matters of basic survival.

THE COSTS AND BENEFITS, TO THE COURTS AND TO COMMUNITIES, FROM THE PROVISION OF CIVIL LEGAL SERVICES IN MATTERS INVOLVING THE “ESSENTIALS OF LIFE”

In this time of economic crisis, LS-NYC and the other legal services providers in New York State prevent immediate human problems—evictions, domestic violence, loss of homes—bring money into low income communities and save the State millions of dollars per year in costs that the State would otherwise incur. For example, certain types of benefits—e.g., Earned Income Tax Credits, child support payments, federal disability payments—are not funded by the State. When a client receives such benefits, he or she will need fewer or no State benefits. As detailed in the 2010 Task Force report, LS-NYC and other legal services providers in New York State win \$321 million in federal benefits on an annual basis, generating \$475 million in economic activity in low income communities.¹¹

Cost savings to the State from the work legal services providers do is equally dramatic. In the area of Family Law, the average saving from protecting a family from Domestic Violence is \$3,400, resulting in statewide savings of \$6 million in 2009. In the Housing Law area, legal services providers saved New York State taxpayers nearly \$100 million in 2009 by saving homes from foreclosure and preventing wrongful evictions.¹²

The courts are helped when civil legal services are provided because cases can be more efficiently and more fairly adjudicated. Judges need to spend less time allocating stipulations of settlement and less time ensuring that unrepresented litigants are fairly treated.

⁹ William Glaberson, “The Recession Begins Flooding Into Courts Nationwide,” The New York Times, December 28, 2009, A3, Col. 2.

¹⁰ Jeff Harrell, “Empty Pockets, full dockets: Foreclosure filings, family cases soar as economic woes come to roost in Island courts,” The Staten Island Advance, January 24, 2010, A1, Cols. 4-5.

¹¹ 2010 Task Force Report, <http://www.courts.state.ny.us/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>.

¹² Id.

THE POTENTIAL FOR REDUCTION IN THE UNMET NEED THROUGH, *INTER ALIA*, PREVENTIVE AND EARLY INTERVENTION SERVICES BY PROVIDERS, SIMPLIFICATION OF COURT AND ADMINISTRATIVE PROCESSES, SELF-HELP PROGRAMS, COMMUNITY LEGAL EDUCATION, PROVIDER COLLABORATIONS, AND EXPANDING THE AVAILABILITY OF *PRO BONO* LEGAL SERVICES

By forging partnerships with community-based organizations and collaborations with colleague organizations, legal services providers are often able to address potential legal problems before they have ripened to litigation. For example, LS-NYC provides extensive training and workshops for both community-based advocates and the overall poverty law community, to describe how problems can be spotted and solved in a way that prevents litigation. And we create innovative projects—such as recent initiatives to provide mediation services to clients in contested divorce and custody matters, and to provide representation to homeowners in mandatory settlement conferences¹³—that are designed to keep people out of court or to help them settle cases without litigation. In all, our services benefit clients as well as the court system by diverting almost 5,000 cases from the courts each year.

Through collaborative advocacy, legal services providers also can achieve systemic changes that can benefit thousands. For example, although the New York City Council recently passed a law that prohibits housing discrimination based on the source of the tenant's income, landlords blatantly violate the law. LS-NYC attorneys, in partnership with *pro bono* attorneys, litigate these cases in State Supreme Court, which not only places scores of families in apartments with their Section 8 rent subsidies intact, but also develops the law to help others avoid this problem.

Finally, as funding sources continue to decline and more working families fall into poverty, legal services providers are increasing their *pro bono* partnerships to further expand their ability to serve low-income New Yorkers. At LS-NYC, for example, we have increased our *pro bono* participation by 131% since 2006. An area ripe for an increase in *pro bono* participation is financial justice, to ensure that low-income families have the ability to build good credit—a critical step to exit poverty. At LS-NYC, we have expanded our citywide Bankruptcy Advocacy Project to meet the overwhelming need of unrepresented bankruptcy litigants. And our offices are key partners in CLARO (Civil Legal Assistance Resource Office) court programs, which

¹³ LS-NYC has developed a Family & Divorce Mediation Project, which is being piloted by our Queens office in 2011. The Project provides mediation services to clients in contested divorce and custody matters, which do not involve domestic violence, and attempts to help families resolve their disputes without going to court. Family-law practitioners will mediate between the parties to resolve disputes concerning divorce grounds, custody and visitation arrangements, child support, spousal support, and equitable distribution. Also, LS-NYC collaborates with OCA to implement and improve the mandatory foreclosure settlement process. Our attorneys work in the Supreme Courts in Brooklyn, Bronx, Queens and Staten Island to represent homeowners and help the Supreme Court judges and administration ensure that loan servicers appear and engage in meaningful negotiations so that litigation can be ended. We have recently worked with OCA to open a new foreclosure part in the Bronx which we will staff, and also work closely with the Legal Aid Society and others to implement the OCA foreclosure pilot project in Queens Supreme Court.

provide advice and *pro bono* assistance to *pro se* low-income debtors at New York City Civil Courts.

* * * *

“Our lives are connected by a thousand invisible threads, and along these sympathetic fibers, our actions run as causes and return to us as results.”¹⁴

We are very grateful to the New York State Office of Court Administration and Chief Judge Jonathan Lippman for the historic leadership exhibited by creating the Task Force to Expand Access to Civil Legal Services in New York and in convening these hearings on the future of funding for the provision of civil legal services in New York State.

We recognize that this will be another difficult fiscal year for the State because of the overall downturn in the economy. Poor people, however, have been denied meaningful access to the legal system in matters of fundamental survival for far too long. The funding allocated to civil legal services in the Judiciary budget last year represented a major shift in the commitment of New York State to an area of overwhelming human need that has long been neglected. As a matter of fundamental fairness and sound social policy, we ask the Judiciary to continue this momentum and increase funding for civil legal services in its next budget.

This is a unique opportunity for New York State to share our vision of how to ensure a basic tenet of the promise of America—justice for all—that the nation can take notice of, and follow.

Attached hereto as Attachments B, C and D, respectively, is the testimony of Albert Areizaga, Natalie Jones, and Yves Gebhardt, three LS-NYC clients. These client stories demonstrate the enormous value of providing timely, high-quality legal assistance to poor people. Creating a permanent funding source for legal assistance in New York is a meaningful step towards making access to justice for all New Yorkers a reality.

Thank you.

Raun J. Rasmussen
Executive Director
Legal Services NYC

¹⁴ Herman Melville, a great New Yorker whose own family was forced to declare bankruptcy during another time of financial distress in our State.

ATTACHMENT A

LS-NYC' s 2009-10 IOLA SUMMARY REPORT

Legal Services NYC

Snapshot of Accomplishments, 2009-2010

During the fifteen-month January 2009-March 2010 reporting period, Legal Services NYC (LS-NYC) programs provided direct legal assistance benefiting 58,250 low income New Yorkers in 23,467 individual closed cases. We also provided community legal education, pro se assistance, and "know your rights" materials in print that benefited over 40,189 persons. We obtained \$13,573,123 in retroactive benefits and \$1,740,168 in ongoing monthly benefits (\$20,882,010 annualized) for our clients and saved taxpayers more than \$85,776,968 in averted shelter, public assistance and foster care costs. During the reporting period, LS-NYC maintained its historic priorities of housing, benefits and family law while expanding services in foreclosure prevention, employment, unemployment, bankruptcy, consumer credit, immigration, and education.

During the reporting period our work for clients grew and evolved in exciting ways. Our Brooklyn Family Defense Project, initiated two years ago, served over 1,000 clients in abuse and neglect proceedings in Family Court in 2009. Our Language Access Project continued to implement pro-active legal outreach and advocacy efforts on behalf of our limited English proficient client base. We expanded our work with low-wage workers, providing intake at job training sites and handling Earned Income Tax Credit, unemployment insurance benefits and

Continued on page 6



This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	New York City Metropolitan Area
Total Funding:	\$58,094,195
Total IOLA Grant(s):	\$5,625,000
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	357.11
<i>Lawyers:</i>	188.44
<i>Paralegals:</i>	75.91
<i>Other Staff:</i>	92.76

Types of Services Provided

- Direct Civil Legal Representation
- Brief Services ●
- Extended Services ●
- Hotlines and Other Phone-Based Services ●
- Community Legal Education ●
- Pro Se Assistance ●
- Support for Other Service Providers ●
- Major Cases or Other Advocacy Projects ●

The IOLA Grant(s)

Legal Services NYC Program Grant \$5,625,000	<i>See page 3</i>
Bedford-Stuyvesant Community	
Legal Services \$260,807	<i>See page 9</i>
Legal Services NYC-Bronx \$1,104,594	<i>See page 10</i>
Legal Services NYC-Brooklyn Branch \$269,582	<i>See page 11</i>
Brooklyn Legal Services Corp. A \$532,083	<i>See page 12</i>
Legal Support Unit \$359,726	<i>See page 13</i>
Manhattan Legal Services \$833,430	<i>See page 14</i>
Queens Legal Services \$897,345	<i>See page 15</i>
South Brooklyn Legal Services \$658,530	<i>See page 16</i>
Staten Island Legal Services \$122,587	<i>See page 17</i>
Administration/Fiscal Unit \$586,316	<i>See page 18</i>

Outcomes...

58,248 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 5,269 People prevented eviction from private housing
- 2,353 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 1,215 People obtained, preserved or increased food stamps eligibility/right
- 1,106 People obtained, preserved or increased SSI benefits/rights
- 10,734 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 32,517 People benefited from legal advice and counsel
- 2,536 People benefited from non-litigation advocacy services
- 2,518 People benefited by referral to other sources of help

Dollar Benefits Achieved

for Clients - Total	\$44,540,101
• Social Security, SSI Benefits:	\$22,674,315
• Unemployment Compensation:	\$5,002,677
• Family Law - Child Support:	\$348,528
• Family Law - Alimony:	\$530,257
• Affirmative Judgements:	\$621,038
• Other Benefits:	\$15,363,287

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Examples...

Outcomes for Clients

Ms. H, a former payroll coordinator at a home health attendant agency, came to the Henry Street Settlement "Single Stop" program site for legal help. She had been terminated for failure to comply with a directive and was denied unemployment insurance by the Department of Labor (DOL).

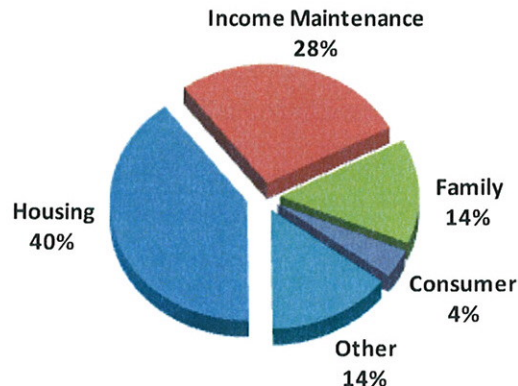
A Manhattan Legal Services attorney found that Ms. H had asked her immediate supervisor whether or not a home health attendant was entitled to receive overtime pay for extra hours worked. The supervisor instructed her not to pay for the extra hours. Ms. H disagreed with this decision and called the regional payroll manager to inquire further. The general manager indicated that the employee must be paid for the work. When Ms. H reported this to her supervisor, she was told it was wrong and was terminated the next day for failing to follow an order.

MLS appeared at the hearing on her behalf. The employer appeared with a witness, the head of human resources, who testified for the employer. The MLS attorney, through vigorous cross-examination, established that Ms. H had a duty to inquire about proper payment of home health attendants as required by her job title and that there was nothing in the employer rules or regulations that prevented an employee from calling a regional manager to ask for clarification on a payroll matter.

Examples continued on page 5

Breakdown By Legal Problem Area

Total	58,248 People
Housing	23,305 People
Income Maintenance	15,999 People
Family	8,276 People
Consumer	2,251 People
Other	8,417 People



Other Services

Hotlines and Other Telephone Based Legal Services

Legal Services NYC programs throughout the City staff hotlines for advice and brief service in housing, family law, bankruptcy and general consumer law, public benefits, SSI, elder law, pension, education, and financial justice.

Legal Services Other Than Direct Legal Representation

All Legal Services NYC programs commit substantial resources to efforts on behalf of low income clients that do not fit the traditional case model. Training, community education programs, pro se clinics and numerous collaborative efforts involving others in the justice community, are all part of the Legal Services NYC tradition.

Legal Services NYC works closely with our community partners and constituent services staff of elected officials. Those linkages foster many different kinds of opportunities to provide services. Through our Legal Support Unit (LSU) and our neighborhood offices, we provide training to lay and other legal advocates and to the clients they serve. We hold pro se clinics, make referrals, prepare amici briefs, write manuals, and provide

updated materials for LawHelp. We collaborate on cases and provide expert assistance to other advocates and back-up case consultation as well as comments to government agencies on the impact of proposed policies and regulations on the lives of our clients. Finally, we participate in community fairs where we distribute community education materials.

Support for Other Service Providers

The Legal Support Unit (LSU) provides support services to all of Legal Services' staff as well as to public interest advocates throughout the City and State. The LSU provides a comprehensive continuing legal education (CLE) program in a number of substantive areas for legal services providers, advocates and private attorneys. The LSU convenes monthly task force meetings in poverty law open to legal services providers, the pro bono bar, advocates from social services organizations and elected officials' offices. The LSU maintains listservs in which practitioners share information and discuss case strategies as well as probono.net web sites in several areas of poverty law. We distribute legal resource materials, co-counsel in affirmative

IOLA Project Grants

Civil Legal Services in New York City

IOLA Funding Amount: \$5,625,000

The Interest on Lawyer Account Fund (IOLA) provides significant general support for our city-wide legal services program and provides a pro-rated share of our overall delivery of civil legal services in New York City. Our programs offer a full range of legal services, including representation in courts and administrative proceedings, advice, referral, community education, outreach and extensive collaboration with other members of the New York City justice community, the private bar and community organizations.

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total: **736,963 People**

Community Legal Education: 687,079 People*

Pro Se Assistance: 40,426 People

Legal Hotline Services: 9,458 People

**This figure includes 646,224 "hits" on legal education materials posted on Web sites, including 453,744 page hits on the LawHelp web site, a collaborative project involving a number of legal services groups and to which Legal Services NYC provides dedicated staff.*

Other Services, continued

litigation, prepare amici briefs, and provide telephone and electronic mail consultations to neighborhood-based legal services programs to enable advocates from legal services programs, social service organizations and the private bar to provide high quality assistance to their clients.

The LSU also provides critical leadership, program development, and overall coordination of city-wide special projects such as the Language Access Project, the Leadership Institute, and LawHelp/NY, for which Legal Services serves as a founding and integral Consortium member.

Major Cases or Other Advocacy Projects FNMA v. OCG (Ocelot Realty)

In July of 2009, Legal Services NYC-Bronx was approached by organizers working with tenants in a portfolio of nineteen buildings that were in foreclosure. The buildings had been purchased by a company called Ocelot that had drastically over-leveraged them thinking it could drive the low-income, rent-stabilized tenants out and replace them with higher paying tenants. The buildings rapidly fell into disrepair and when Ocelot's debt-service reserve ran out it essentially abandoned the buildings so they fell into greater distress. The loans on the buildings were held by Fannie Mae. On behalf of the tenants, LS-NYC-Bronx moved in the foreclosure proceedings for an order compelling Fannie Mae to pay to bring the buildings up to code during the pendency of the foreclosure.

Although LS-NYC-Bronx never received a

decision from the court, the pressure the Bronx program exerted, together with the organizers, tenants, and elected officials, led Fannie Mae to sell the loans to a City-Approved affordable housing developer. The outcome in this case affects tenants living in 522 apartments in the 19 buildings in the Ocelot portfolio. There are anywhere from 60,000 to 100,000 units of over-leveraged housing in New York City and we are cautiously optimistic that the outcome in this case will influence lender and landlord behavior in many of these other buildings.

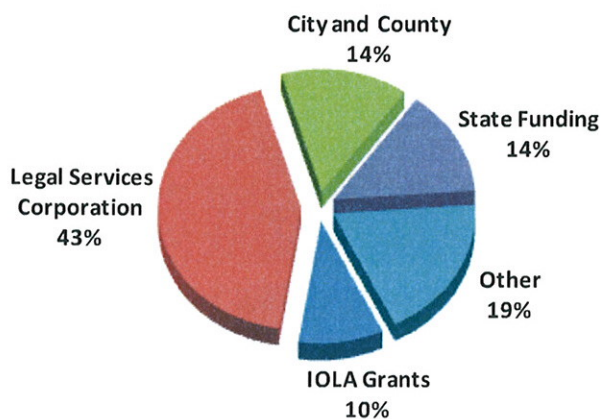
Pro Bono Private Attorney Involvement

During the 2009-2010 reporting period, we continued to strengthen our ties with the private bar and find new projects that offer opportunities for private attorneys to provide important pro bono services. Examples of innovative and successful ongoing pro bono projects include the following:

- **Deferred Associates:** Legal Services NYC has placed a total of ten deferred associates at our programs.
- **Bankruptcy Project:** The New York City Bankruptcy Assistance Project brings pro bono attorneys and debtors together through a system of workshops where potential filers first hear an informational presentation about the advantages and disadvantages of bankruptcy. They then meet with attorneys for assessment, advice, and possible assistance with preparing and filing a Chapter 7 bankruptcy petition. Those who choose to file a bankruptcy petition through the Project will represent themselves in court. In addition to the pro se filings, pro bono attorneys also help with contested matters. Over 600 attorneys have

Sources of Funding

Total	\$ 58,094,195
IOLA Grants	\$ 5,625,000
Legal Services Corporation	\$ 24,913,925
City and County	\$ 8,436,805
State Funding	\$ 8,138,977
Other	\$ 10,979,489



Other Services, continued

- participated, preparing over 440 bankruptcy petitions and providing assistance to nearly 3,800 debtors. On average, over \$42,000 per debtor has been discharged, making it possible for low-wage earners to work and pay their bills.
- Low Income Taxpayer Clinic: In a collaboration between Legal Services NYC-Bronx's Low Income Taxpayer Clinic, Columbia Law School and the law firm of Milbank, Tweed, Hadley & McCloy LLP, the Clinic's overflow cases are being referred to the law firm for tax representation. Having cases generated by the Clinic referred to the firm allows Legal Services NYC-Bronx to continue to provide new and potential clients with the opportunity to fully access free and high quality legal services, provide students with the opportunity to work with real clients, and expose both the students and private attorneys to pro bono work.
 - Anti-Eviction Project: Since 2002, Manhattan Legal Services has partnered with Simpson Thacher & Bartlett LLP in an anti-eviction program. Each spring, experienced staff attorneys from the office train new associates on Housing Court practice and landlord-tenant law; the associates receive CLE credit for the training. Housing cases are then referred to the firm and the associates are mentored by senior housing attorneys on their cases. The Anti-Eviction Program has been extremely useful in securing legal representation for clients whose cases Manhattan Legal Services could not take.
 - "Local Law 10" Project: In a unique project instituted in early 2008, South Brooklyn Legal Services has partnered with Dewey & LeBoeuf LLP to represent tenants in Local Law 10

Pro Bono Statistics

For the 15-month period, volunteer lawyers participating in our program achieved the following results:

- Number of cases completed: 1,076
- Hours contributed: 24,878
- Dollar value of services*: \$3.73 million

**estimated at \$150 per hour*

cases. Local Law 10 was enacted in 2008 to prohibit landlords from refusing to rent, sell, or lease housing to someone because of their "lawful source of income" which includes public assistance benefits, social security, disability benefits and Section 8 rental subsidy. While landlords can refuse to accept tenants for other economic reasons, such as a poor credit rating, they cannot refuse to rent because of the tenant's use of Section 8 vouchers, nor can they refuse to accept a Section 8 voucher from an existing tenant.

- Externships: We have established externship programs with four law firms, each externship typically lasting from four to six months.
- Clinic Staffing: We also have continuing relationships with local firms that staff clinics.

Outcomes for Clients *continued from page 2*

The employer witness also admitted during cross-examination that all employees must be paid for all time worked. The Court overturned the Department of Labor's decision and Ms. H received \$33,970 in unemployment insurance benefits.

Ms. P and her husband participated in an arranged marriage in 2004 outside of the United States. The couple moved to the US in 2005 and Ms. P became a stay-at-home mother. Her husband began verbally abusing her, calling her vulgar names and telling her that she was "nothing" and "worthless." The husband's mother later moved into the home and joined in the verbal

abuse. The abuse escalated when the husband attacked her, hit her, pushed her into walls, dragged and kicked her, and threatened to kill her and take away their child. The mother-in-law told Ms. P she had no rights and her husband could divorce her and take their child as easily here as in their native country. After another death threat, Ms. P called the police and the husband was arrested. She filed petitions for an order of protection and for custody of the child in the Family Court. Queens Legal Services Corporation represented Ms. P and obtained an order of protection for two years and sole legal custody of the child.

Snapshot of Accomplishments *continued from page 1*

employment law matters. We also significantly expanded our city-wide foreclosure prevention work and hired a director of immigrant services to coordinate our services to immigrants city-wide. Pro bono projects continued to flourish: in the past year, nearly 500 pro bono attorneys, paralegals, and others were enrolled in our pro bono program, contributing services valued at \$7,110,743. We continued to use technology to support our programs and increase access to justice for low income New Yorkers. Finally, and most importantly, during 2009 and 2010 our offices have won important victories for clients-fighting predatory lending practices; stemming gentrification and displacement; and advancing the rights of low income consumers.

Selected highlights of Legal Services NYC's achievements during the 2009-2010 reporting period include the following:

- **Continued Our Leadership in Foreclosure Prevention:** Legal Services NYC has the largest foreclosure prevention program in the nation. As the program partner to the Center for New York City Neighborhoods (CNYCN), an organization that funds and coordinates foreclosure prevention advocacy city-wide, LS-NYC has provided litigation and management support to CNYCN Network Partners city-wide and has worked with CNYCN staff and other program partners on systemic advocacy issues. Policy advocacy achievements in the past year include improving the implementation of mandatory foreclosure settlement conferences in New York City courts. We have also worked on drafting state law enhancing protections for tenants following foreclosure (later enacted into law along with enhanced protections for homeowners facing foreclosure). Likewise, we have worked with CNYCN and CNYCN Network Partners to address the many issues arising around the federal loan modification programs and difficulties in implementing the program by advocating with servicers to address servicing abuses and improve the implementation of the federal loan modification programs. Finally, we have worked with CNYCN, ProBono.net and other CNYCN Network Partners to finalize the
- **development of the prototype foreclosure website that will make available training materials and other practice-specific resources for New York foreclosure advocates and volunteer attorneys.**
- **Conducted Affirmative Systemic Litigation that has Benefited Thousands of Tenants:** During the reporting period, Legal Services NYC has engaged in affirmative litigation and policy advocacy benefiting scores of low income tenants in both public and private housing. For example, LS-NYC advocates in Queens, Manhattan and the Bronx have challenged the practices of predatory equity landlords that are buying up thousands of rent-regulated apartments across New York City expecting to generate quick profits by increasing rents after existing tenants leave their units. Tenant advocates report that such landlords have used tactics like not cashing rent checks and initiating frivolous actions to force tenants out. LS-NYC programs have successfully challenged such practices using the Consumer Protection Act and Tenant Protection Act, resulting in a landmark settlement in a case against a major real estate investment firm seeking to gentrify East Harlem. In addition, we provided testimony before the City Council on the impact of predatory equity companies on rent-regulated tenants. Likewise, LS-NYC-Bronx advocates intervened in a foreclosure proceeding on behalf of tenants in violation-ridden buildings to prevent the sale of these buildings to predatory purchasers and to obtain repairs.
- **Expanded Access to Legal Information through LawHelp/NY:** As the lead and founding member of LawHelp.org/NY, an online legal-information website, Legal Services NYC plays a critical role in the development of new content for the LawHelp/NY website. In 2009 LawHelp/NY launched two new topics, Consequences for Criminal Charges and Veterans and Military. In addition, in 2009, LawHelp/NY undertook several initiatives to increase its multilingual capabilities and awareness of the language rights of LEP communities in New York State. For example,

Snapshot of Accomplishments *continued from page 6*

LawHelp/NY added more than 240 language access rights resources, translated the intake information of 112 New York City free legal services programs into Spanish, increased its multilingual library of Know Your Rights resources, and launched LiveHelp, a real-time, online chat service, in English and Spanish, that helps guide visitors to relevant legal information and free legal services.

- **Enhanced Our Immigration Practice:** During the reporting period, our new Director of Immigrant Services has worked with LS-NYC immigration advocates across the City to review and develop priorities, expand resources, and coordinate our immigration work. Likewise, we have expanded our presence in the immigration advocacy community by joining several immigration tasks forces, including the New York Immigration Coalition, the City's Violence Against Women's Task Force, and the Katzmann Immigration Working group (a coalition of legal advocate organizations organized by Judge Katzmann of the U.S. Court of Appeals for the Second Circuit to provide immigrants with adequate representation in immigration court). We have also significantly expanded our outreach into the immigrant community by disseminating a variety of pamphlets and informational brochures. As a result of these efforts, we have significantly expanded legal assistance to immigrants seeking U.S. citizenship, lawful permanent residency, employment authorization, and safety from domestic violence and other crimes.
- **Promoted Excellence Through Staff Training:** During the reporting period, LS-NYC concluded the first phase of our Leadership Institute training program for LS-NYC's legal and social work supervisors. That program covered important topics such as improving communication skills; supervising high-volume practice so that clients get excellent results and broad impact is achieved; planning and implementing systemic litigation and advocacy projects; giving effective feedback; and managing a practice area.
- **Increased Language Access for Low Income**

New Yorkers: LS-NYC's Language Access Program, a national model for programs across the country, has commenced litigation and advocacy initiatives on behalf of clients with Limited English Proficiency (LEP) who are being denied access to benefits or services because of language barriers. The Language Access Project conducted a landmark study and report, "Translation Woes: Language Barriers at New York City's Human Resources Administration" that revealed the agency's systematic failure to provide legally mandated access services to limited English proficient individuals. In response to the attention focused on this issue as a result of the Translation Woes report, Mayor Bloomberg, in July 2008, signed an executive order requiring New York City agencies to provide translation or interpretation services in the six foreign languages most commonly spoken in the City. In 2009, the Language Access Project and a team of lawyers from other LS-NYC programs and the MinKwon Center for Community Action filed a lawsuit challenging HRA's system-wide failure to comply with its obligations to serve limited English proficient applicants for and recipients of public assistance and other benefits.

- **Advocated for Low Wage Workers:** In 2009 and 2010, LS-NYC continued to expand its employment practice area to address the legal needs of low-wage workers. With new funding from the Robin Hood Foundation, we have dramatically increased our representation of needy clients at unemployment insurance (UI) hearings. UI cases handled in the past 15 months have put hundreds of thousands of dollars in the pockets of our clients. In addition, we have taken the lead, with the National Employment Law Project, in raising funds from two foundations to support and expand the work of the Unemployment Insurance Coalition, a coalition of advocacy groups from around the City. In 2009, LS-NYC continued to be in administrative advocacy efforts to reform the New York State Unemployment Insurance system. These included the following: 1) identifying and

Continued on page 8

Snapshot of Accomplishments *continued from page 7*

changing confusing unemployment application questions by meeting with Department of Labor (DOL) staff and recommending modifications to their questions; 2) obtaining benefits for clients who are paid in cash through advocacy with the DOL which subsequently wrote and released a questionnaire specifically for cash earners in order to expedite their UI application process; and 3) increasing access to legal information and referrals for pro se claimants by staffing an information table for claimants at the DOL UI hearing waiting room, where we help them understand the hearing process and make referrals for representation for particularly complex applications. We plan to expand our information table to a second hearing location later in 2010.

- Completed a Study on Government Benefits Work: In August 2009, LS-NYC completed a city-wide study of our government benefits work that was based on meetings with our advocates, reviewing our case data and researching effective practices throughout the country. As a result of the report, LS-NYC government benefits advocates have targeted the following government benefits issues as important areas to address through litigation as well as legislative and administrative advocacy: 1) Eliminating, reducing, or minimizing the impact of work-related sanctions, particularly for employed recipients; 2) Reducing barriers to accessing benefits; 3) Promoting better access to case records, education, training and work supports; and 4) enforcing the Americans with Disabilities Act in the public assistance context. To achieve results in these areas, LS-NYC has participated in several city-wide collaborations focused on specific government benefits issues, most notably, the Economic Justice and Social Welfare Network's (EJSWN) Policy and Advocacy Committee's (PAC) Working Group on Sanctions "Access to Assistance" campaign, which is focused on increasing access to benefits by reducing barriers in the application process. By invitation of State Senator Squadron, LS-NYC

advocates are providing input regarding legislative advocacy initiatives around sanction reform.

- Expanded Our City-wide Consumer Law Work: Consumer debt issues are a large and growing problem for low income people. As a result of the demand from LS-NYC clients and our own advocates, a number of LS-NYC programs, including Manhattan Legal Services (MLS), LS-NYC-Bronx, and South Brooklyn Legal Services (SBLS), have significantly expanded their consumer law practices. In 2009:
 - MLS created a Consumer Law Unit, which focused, in part, on legislative and administrative advocacy, testifying at City Council hearings on legislation to regulate process servers and before the New York City Department of Consumer Affairs on regulating debt collectors. In addition, MLS has started litigation in federal court challenging debt collection practices that are illegal under the Fair Debt Collection Practice Act.
 - SBLS played a significant role in the passage of New York's Exempt Income Protection Act, which protects the bank accounts of low income New Yorkers from being frozen by creditors, even if the accounts contain money that is supposed to be exempt from collection activities, such as SSI, pensions, unemployment insurance, and child support. Under the new law, the first \$2,500 in an account will be protected if the account has received electronically deposited exempt payments and \$1,740 even if it has not.
- Achieved Significant Dollar Benefits for Disabled Clients: Legal Services NYC's Disability Advocacy Project helps low income disabled children and adults get Social Security disability benefits and move off of welfare, saving the City and State millions of dollars. From January 2009 to March 2010, LS-NYC advocates obtained \$6,031,824 in retroactive benefits and \$462,291 in monthly benefits for disabled New Yorkers, winning 85-90 percent of cases we accepted.

Bedford Stuyvesant Community Legal Services Corporation

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Borough of Brooklyn
Total Funding:	\$1,822,223
Total IOLA Grant(s):	\$260,807
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	12.40
<i>Lawyers:</i>	6.00
<i>Paralegals:</i>	2.40
<i>Other Staff:</i>	4.00

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	570 People
Community Legal Education:	570 People

Outcomes...

2,416 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 117 People prevented eviction from private housing
- 109 People obtained, preserved or increased SSI benefits/rights
- 36 People prevented eviction from public housing
- 36 People solved a tax problem
- 184 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 1,497 People benefited from legal advice and counsel
- 77 People benefited from non-litigation advocacy services
- 360 People benefited by referral to other sources of help

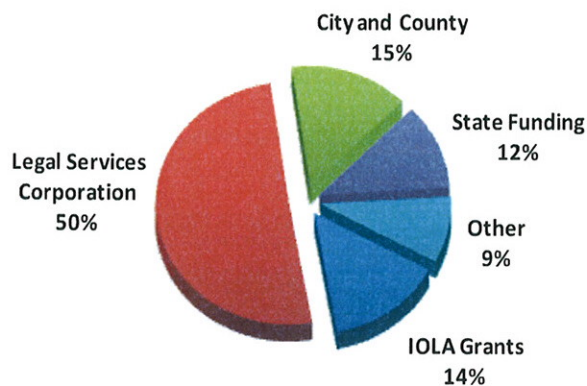
Dollar Benefits Achieved

for Clients - Total	\$1,525,344
• Social Security, SSI Benefits:	\$1,476,224
• Unemployment Compensation:	\$16,992
• Other Benefits:	\$32,128

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$1,822,223
IOLA Grants	\$ 260,807
Legal Services Corporation	\$ 921,484
City and County	\$ 269,067
State Funding	\$ 211,408
Other	\$ 159,458



Legal Services NYC-Bronx

This Provider At a Glance

Population Served:	Low Income and Elderly Residents of the Bronx
Area Served:	The Bronx
Total Funding:	\$8,133,282
Total IOLA Grant(s):	\$1,104,594
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	62.20
<i>Lawyers:</i>	30.20
<i>Paralegals:</i>	19.00
<i>Other Staff:</i>	13.00

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	4,880 People
Community Legal Education:	1,111 People
Pro Se Assistance:	2,829 People
Legal Hotline Services:	940 People

Outcomes...

10,881 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 2,047 People prevented eviction from private housing
- 1,245 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 312 People prevented eviction from public housing
- 312 People solved a tax problem
- 1,870 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 4,155 People benefited from legal advice and counsel
- 577 People benefited from non-litigation advocacy services
- 363 People benefited by referral to other sources of help

Dollar Benefits Achieved

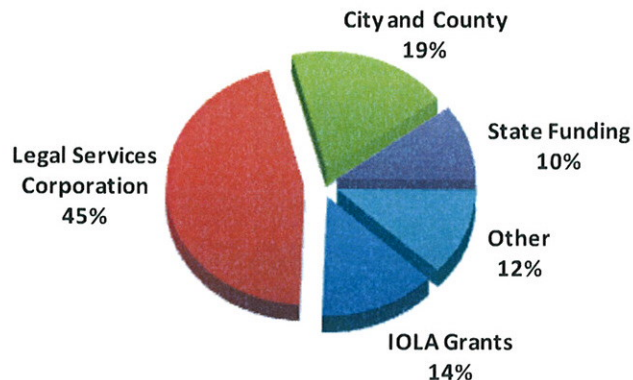
for Clients - Total **\$9,469,896**

• Social Security, SSI Benefits:	\$3,949,517
• Unemployment Compensation:	\$2,016,387
• Affirmative Judgements:	\$6,895
• Other Benefits:	\$3,497,097

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$8,133,282
IOLA Grants	\$1,104,594
Legal Services Corporation	\$3,688,992
City and County	\$1,528,751
State Funding	\$851,756
Other	\$959,189



Legal Services NYC-Brooklyn Branch

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Kings County
Total Funding:	\$2,495,874
Total IOLA Grant(s):	\$269,582
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	11.37
<i>Lawyers:</i>	7.37
<i>Paralegals:</i>	1.00
<i>Other Staff:</i>	3.00

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	10,057 People
Community Legal Education:	10,057 People

Outcomes...

3,124 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 615 People prevented eviction from private housing
- 367 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 94 People obtained, preserved or increased SSI benefits/rights
- 48 People obtained, preserved or increased unemployment insurance benefits/rights
- 265 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 1,528 People benefited from legal advice and counsel
- 96 People benefited from non-litigation advocacy services
- 111 People benefited by referral to other sources of help

Dollar Benefits Achieved

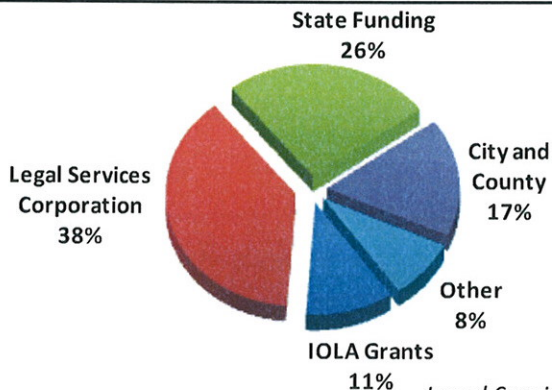
for Clients - Total **\$12,158,727**

• Social Security, SSI Benefits:	\$1,741,320
• Unemployment Compensation:	\$164,850
• Family Law - Child Support:	\$12,600
• Other Benefits:	\$10,239,957

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$2,495,874
IOLA Grants	\$ 269,582
Legal Services Corpora	\$ 952,487
State Funding	\$ 638,375
City and County	\$ 425,630
Other	\$ 209,799



Brooklyn Legal Services Corporation A

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Kings County
Total Funding:	\$5,377,846
Total IOLA Grant(s):	\$532,083
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	25.59
<i>Lawyers:</i>	13.93
<i>Paralegals:</i>	4.80
<i>Other Staff:</i>	6.86

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	8,820 People
Community Legal Education:	8,070 People
Pro Se Assistance:	500 People
Legal Hotline Services:	250 People

Outcomes...

6,880 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 697 People prevented eviction from private housing
- 504 People avoided or delayed foreclosure or other loss of home
- 162 People delayed eviction providing time to seek alternative housing
- 110 People obtained, preserved or increased SSI benefits/rights
- 663 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 4,210 People benefited from legal advice and counsel
- 382 People benefited from non-litigation advocacy services
- 152 People benefited by referral to other sources of help

Dollar Benefits Achieved

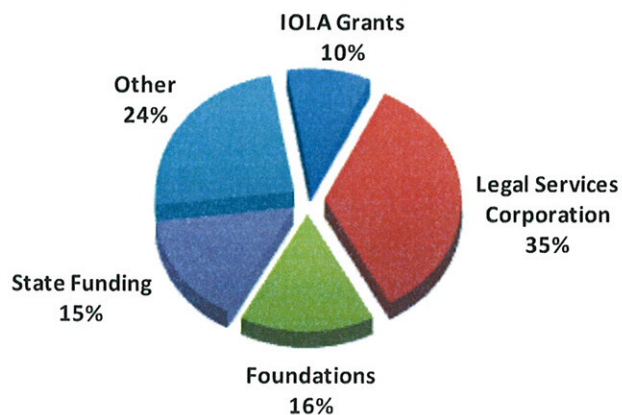
for Clients - Total **\$2,554,179**

- Social Security, SSI Benefits: \$1,935,739
- Unemployment Compensation: \$512,763
- Other Benefits: \$105,677

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$5,377,846
IOLA Grants	\$ 532,083
Legal Services Corporation	\$ 1,879,953
Foundations	\$ 844,423
State Funding	\$ 825,373
Other	\$ 1,296,014



Legal Support Unit

Legal Support Unit summary contains data for the Bankruptcy Assistance Unit and the Brooklyn Family Defense Project.

This Provider At a Glance

Population Served: General Low Income Population
Area Served: New York City Metropolitan Area
Total Funding: \$7,155,002
Total IOLA Grant(s): \$359,726
Program Size - Full Time Equivalents
Total Staff: 47.07
Lawyers: 31.20
Paralegals: 9.70
Other Staff: 6.17

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total: **550,157 People**
 Community Legal Education: 546,577 People*
 Pro Se Assistance: 1,390 People
 Legal Hotline Services: 2,190 People

*This figure includes 453,744 page "hits" on legal education materials posted on the LawHelp web site, a collaborative project involving a number of legal services groups and to which Legal Services NYC provides dedicated staff.

The Legal Support Unit provided 99 Continuing Legal Education training events reaching more than 3,410 people in the period January 2009 to March 31, 2010. Legal Services NYC's Legal Support Unit is the only comprehensive legal support services office available to poverty lawyers and other advocates for low-income families and individuals in New York City. In addition to CLE trainings in poverty law, the LSU conducts task forces in a range of critical substantive areas, disseminates materials to practitioners, and provides expert advice and case consultation to scores of social services organizations and other non-profit groups, greatly leveraging resources and augmenting the ability of legal services programs to address legal needs. The LSU also operates special projects and initiatives such as the Bankruptcy Assistance Project, the Language Access Project, and the Leadership Institute. Of these projects, only the Bankruptcy Assistance Project provides direct legal assistance reflected in the outcomes listed here. Finally, the outcomes listed here include those for the Brooklyn Family Defense Project, a program operated directly by Legal Services NYC.

Outcomes...

1,378 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

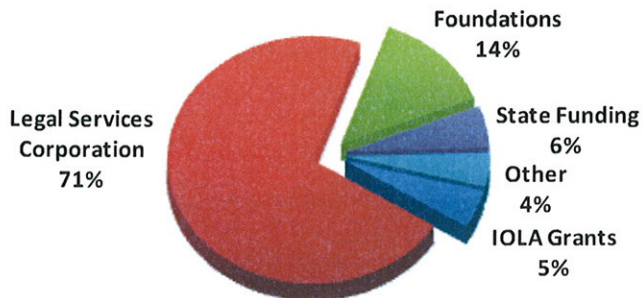
- 594 People avoided protective order/removal of children
- 244 People obtained federal bankruptcy protection
- 1 Person obtained waiver or reduction of utility arrearage (including phone)
- 48 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 490 People benefited from legal advice and counsel
- 1 Person benefited by referral to other sources of help

Sources of Funding

Total	\$7,155,002
IOLA Grants	\$ 359,726
Legal Services Corporation	\$5,108,109
Foundations	\$ 978,183
State Funding	\$ 395,194
Other	\$ 313,790



Manhattan Legal Services

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Manhattan
Total Funding:	\$7,103,951
Total IOLA Grant(s):	\$833,430
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	44.47
<i>Lawyers:</i>	26.87
<i>Paralegals:</i>	8.00
<i>Other Staff:</i>	9.60

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	8,151 People
Community Legal Education:	6,238 People
Pro Se Assistance:	223 People
Legal Hotline Services:	1,690 People

Outcomes...

8,844 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 494 People prevented eviction from private housing
- 404 People obtained, preserved or increased food stamps eligibility/right
- 296 People prevented eviction from public housing
- 280 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 935 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 5,937 People benefited from legal advice and counsel
- 430 People benefited from non-litigation advocacy services
- 68 People benefited by referral to other sources of help

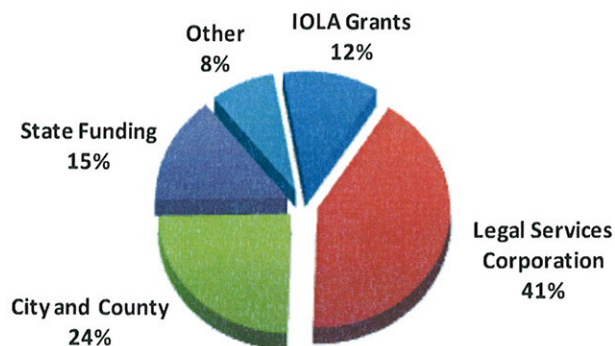
Dollar Benefits Achieved for Clients - Total

	\$5,996,926
• Social Security, SSI Benefits:	\$4,863,725
• Unemployment Compensation:	\$333,583
• Family Law - Child Support:	\$80,576
• Affirmative Judgements:	\$81,315
• Other Benefits:	\$637,727

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$ 7,103,951
IOLA Grants	\$ 833,430
Legal Services Corporation	\$ 2,944,676
City and County	\$ 1,726,934
State Funding	\$ 1,038,733
Other	\$ 560,178



Queens Legal Services Corporation

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Queens County
Total Funding:	\$7,178,714
Total IOLA Grant(s):	\$897,345
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	45.54
<i>Lawyers:</i>	22.83
<i>Paralegals:</i>	12.71
<i>Other Staff:</i>	10.00

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	8,434 People
Community Legal Education:	6,871 People
Pro Se Assistance:	400 People
Legal Hotline Services:	1,163 People

Outcomes...

8,102 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 787 People obtained, preserved or increased food stamps eligibility/right
- 458 People prevented eviction from private housing
- 265 People obtained, preserved or increased unemployment insurance benefits/rights
- 236 People delayed eviction providing time to seek alternative housing
- 1,194 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 4,734 People benefited from legal advice and counsel
- 376 People benefited from non-litigation advocacy services
- 52 People benefited by referral to other sources of help

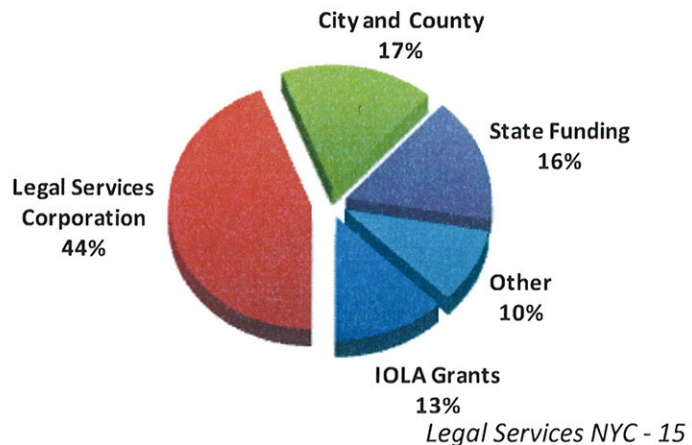
Dollar Benefits Achieved

for Clients - Total	\$5,277,196
• Social Security, SSI Benefits:	\$3,826,263
• Unemployment Compensation:	\$890,220
• Family Law - Alimony:	\$3,870
• Affirmative Judgements:	\$140
• Other Benefits:	\$556,703

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$7,178,714
IOLA Grants	\$ 897,345
Legal Services Corporation	\$ 3,170,500
City and County	\$ 1,236,795
State Funding	\$ 1,176,695
Other	\$ 697,378



South Brooklyn Legal Services

This Provider At a Glance

Population Served: General Low Income Population
Area Served: New York City Metropolitan Area
Total Funding: \$9,166,284
Total IOLA Grant(s): \$658,530
Program Size - Full Time Equivalents
Total Staff: 60.17
Lawyers: 38.04
Paralegals: 13.80
Other Staff: 8.33

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	143,851 People
Community Legal Education:	105,626 People
Pro Se Assistance:	35,000 People
Legal Hotline Services:	3,225 People

Outcomes...

13,675 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 841 People prevented eviction from private housing
- 219 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 203 People obtained, preserved or increased SSI benefits/rights
- 159 People obtained, preserved or increased unemployment insurance benefits/rights
- 2,522 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 7,850 People benefited from legal advice and counsel
- 519 People benefited from non-litigation advocacy services
- 1,362 People benefited by referral to other sources of help

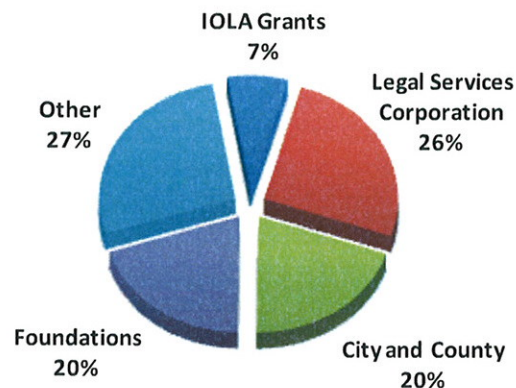
Dollar Benefits Achieved

for Clients - Total	\$6,684,486
• Social Security, SSI Benefits:	\$4,423,798
• Unemployment Compensation:	\$956,992
• Family Law - Child Support:	\$139,990
• Family Law - Alimony:	\$462,303
• Affirmative Judgements:	\$532,687
• Other Benefits:	\$168,715

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$9,166,284
IOLA Grants	\$ 658,530
Legal Services Corporation	\$ 2,366,282
City and County	\$ 1,824,948
Foundations	\$ 1,818,951
Other	\$ 2,497,573



Staten Island Legal Services

This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Staten Island
Total Funding:	\$2,284,883
Total IOLA Grant(s):	\$122,587
Program Size - Full Time Equivalents	
<i>Total Staff:</i>	16.00
<i>Lawyers:</i>	9.00
<i>Paralegals:</i>	4.00
<i>Other Staff:</i>	3.00

Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total:	2,043 People
Community Legal Education:	1,959 People
Pro Se Assistance:	84 People

Outcomes...

2,948 Individuals Benefited from Direct Civil Legal Representation

Extended Representation Outcomes

- 208 People avoided or delayed foreclosure or other loss of home
- 70 People obtained protection from domestic violence
- 56 People obtained or maintained custody of children
- 44 People obtained a divorce, legal separation or annulment
- 326 People obtained benefits from other "extended representation"

Brief Representation Benefits

- 2,116 People benefited from legal advice and counsel
- 79 People benefited from non-litigation advocacy services
- 49 People benefited by referral to other sources of help

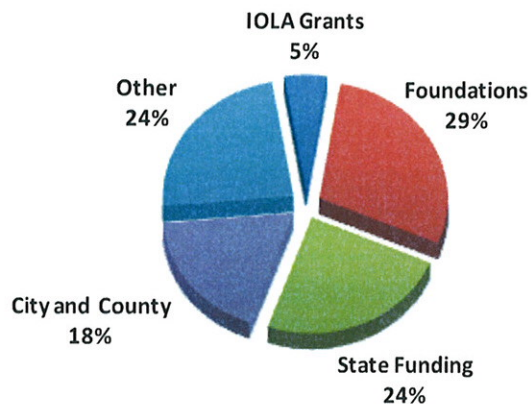
Dollar Benefits Achieved

for Clients - Total	\$873,346
• Social Security, SSI Benefits:	\$457,728
• Unemployment Compensation:	\$110,890
• Family Law - Child Support:	\$115,362
• Family Law - Alimony:	\$64,084
• Other Benefits:	\$125,282

Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).

Sources of Funding

Total	\$2,284,883
IOLA Grants	\$ 122,587
Foundations	\$ 657,001
State Funding	\$ 551,842
City and County	\$ 414,442
Other	\$ 539,011



Administrative/Fiscal Unit

This Provider At a Glance

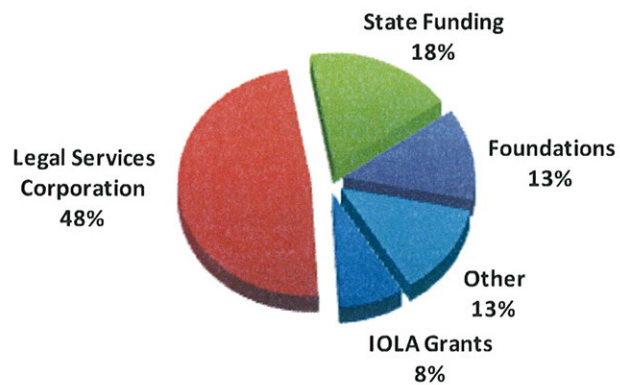
Population Served: Central Support Unit for Legal Services NYC
Area Served: New York City Metropolitan Area
Total Funding: \$7,376,137
Total IOLA Grant(s): \$586,316

Program Size - Full Time Equivalents

Total Staff: 32.30
Lawyers: 3.00
Paralegals: 0.50
Other Staff: 28.80

Sources of Funding

Total	\$7,376,137
IOLA Grants	\$ 586,316
Legal Services Corporation	\$3,543,033
State Funding	\$1,330,761
Foundations	\$ 963,275
Other	\$ 952,752



ATTACHMENT B

TESTIMONY OF ALBERT AREIZAGA

Testimony of Albert Areizaga

The Chief Judge's Hearings on Civil Legal Services

September 26, 2011

New York, New York



My name is Albert Areizaga. I was born in the Bronx and I live in Brooklyn with my wife and three of our children. I served in the U.S. Army for 27 years. I work part-time at a photography studio and also run my own photography and design business. My wife works for the New York City Department of Education.

We bought our home on 17th Street in Brooklyn in 1994, and for many years we kept up with the payments, even while we had a high-cost adjustable-rate mortgage with a minimum interest rate of 11 percent. However, due to a series of personal and financial misfortunes—including my wife's serious illness, my loss of employment, and the failure of an earlier business venture—we fell behind in our mortgage payments on our home. In July 2006, we were sued in foreclosure.

My wife and I made every effort to avoid losing our family's home to foreclosure. We applied for a loan modification in or around April 2008, but Option One—the servicer of our mortgage—turned down our application. Then we tried to negotiate a short sale later in 2008, but because of the financial crisis, the potential buyer was unable to obtain financing and the deal fell through. We even paid a lawyer thousands of dollars to help us defend ourselves, but all she did was file a series of bankruptcy petitions that were each later dismissed. We tried again and again to apply for a loan modification, but each time, after getting confusing and contradictory information about the status of our application, the servicer turned us down—each time for a different, often nonsensical, reason. Then in late February 2009, on the same day I got my last denial notice, I also received in the mail a notice from the attorney for the bank, notifying me that my property would be sold at auction on March 26, 2009.

After I got that notice, I reached out to South Brooklyn Legal Services, a program of Legal Services NYC. The attorney who I met with contacted the loan servicer and the bank attorney, seeking to have the auction put off. When they refused, the attorney advised me how to ask the court for an emergency order to show cause to ask for the sale to be put off. I did as the attorney advised, and on the day before the sale was supposed to go forward, the judge issued an order postponing the sale. Soon after that, my case was referred to court-mediated settlement conferences.

The same attorney at South Brooklyn who advised me how to ask for the auction to be postponed represented me in the settlement conferences, and she also helped us by collecting and submitting documentation and information in support of a new modification application. We were offered a trial modification under the federal modification program (HAMP) in October 2009, and after we made all of

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Joseph S. Genova, Board Chair



our trial period payments, we received a final HAMP offer in February 2010. The foreclosure action was discontinued in March 2010, and we are current on our modified mortgage.

Because of the same financial and personal setbacks that caused us to get behind on our mortgage, we also got behind on our property taxes and were sued in foreclosure on a tax lien in April 2009. Our attorney at South Brooklyn represented us in settlement conferences in this case also, but this case could not be settled—the tax lien holder said it would dismiss the case only if we paid the amount we owed, plus interest. Our attorney applied for and obtained funds (a grant and a loan) to help pay off the tax lien, in addition to our own contribution. The tax lien holder discontinued its case against us in April 2010.

For years we lived in fear of losing our family home. The stress and anxiety my wife and I felt during those years I would not wish on my worst enemy. I could hardly sleep at night, and when I did sleep, I had nightmares. I would feel real panic when dropping our kids off at school, just because of the uncertainty about the future. Now we feel secure, and we love being part of our neighborhood and part of our community. We are so grateful for the help that South Brooklyn provided. I don't know where we would be without it.

ATTACHMENT C

TESTIMONY OF NATALIE JONES

Testimony of Natalie Jones

The Chief Judge's Hearings on Civil Legal Services

September 26, 2011

New York, New York



Good morning. My name is Natalie Jones and I thank you for inviting me to speak today. I am a low income single mother and I immigrated to New York from Jamaica as a young woman. I am a survivor of domestic violence.

In 2008, one month after giving birth to my son, my ex-husband physically abused me, choked me and threw me out of our apartment. By the time I was able to return home, he had left the State with my baby. I was able to get my son back, and file a police report. I also filed for custody and for an Order of Protection from the Family Court. My husband was arrested but my ordeal had only just begun.

My husband hired lawyers and filed for custody of our son. I had no money to hire a lawyer and I didn't know what to do. On top of that, my husband had taken all of my documents. I had no identification documents, no way to prove who I was, and no way to get a job to take care of my baby. My case was being heard in the Integrated Domestic Violence Court, where I was referred to Manhattan Legal Services. I met with an attorney, Lenina Trinidad, and things began to change for me.

The Criminal case against my husband was dismissed, which gave my husband more motivation to pursue custody. I was terrified that my abuser would win custody of my baby and I would not be able to protect him. After many court dates, and my husband refusing to agree to my having custody of the baby, the Judge said we had to have a trial.

I spent many hours with my baby in my arms at my lawyer's office getting ready for Court. I had a team—a lawyer, her supervisor and a paralegal—working hard to prepare for my case. My lawyer spoke to my witnesses, went over evidence with me and explained what was going to happen in Court.

My case finally went to trial. I testified in Court to everything my husband had done to me, about the bruises I had, and how afraid I was for myself and my son. Over the course of five or six two-hour trial dates, my husband's lawyer tried to make me look like a liar. But because of the work of my legal services lawyers, the Court decided to issue a five-year order of protection for me and my son against my abuser-husband.

Even after the judge gave me the Order of Protection, my husband still wanted to get custody of the baby. Two false child neglect claims were called in against me to the Administration for Children's Services. Legal Services NYC, through its Manhattan Legal Services office, again helped me through the process of getting the investigation completed without any problems for me and my child. The

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charges were unfounded or found to be untrue. We finally settled the custody case with a detailed written order. I got custody of my baby and we were finally safe. I was able to get child support in family court. This helped me put my child in daycare so that I was able to enroll in college. I got an apartment. I was able to get my green card and work authorization replaced. Now that I am in college, I want to help women with children in situations like mine. Thanks to Manhattan Legal Services I was able to protect my son and make a better life for us. I know that if I didn't have a lawyer, things would have gone very differently for me and my baby.

Thank you again for inviting me to speak today.

ATTACHMENT D

TESTIMONY OF YVES GEBHARDT

Testimony of Yves Gebhardt

The Chief Judge's Hearings on Civil Legal Services

September 26, 2011
New York, New York



Good morning. My name is Yves Gebhardt. Thank you for giving me the opportunity to speak with you today. I am a 59-year-old man who moved to New York in 1980, and have called the City my home ever since. In 2002, I was diagnosed with stage IV cancer and HIV. I was given a 20% chance of surviving the cancer, and I had surgery, chemotherapy, and several biopsies. Although I have been in remission from cancer since 2003, I have experienced an avalanche of other medical conditions related to my HIV and its treatment.

Prior to my illnesses, I was the manager of a Manhattan restaurant where I had worked for more than 20 years. No longer able to work, I focused for several years on regaining my health, learning about the community supports available to me, and becoming an advocate for both myself and others with disabilities. Currently, I am a volunteer Community Liaison with the Manhattan HIV Care Network.

Through my own experiences and my volunteer work, I understand firsthand the crucial importance of legal services to low income people. People living with HIV are people like everyone else. They have the same trials and tribulations of life as others. Most people with HIV are low income, and so like other low income people they have legal problems related to issues like housing, access to public benefits, immigration, domestic violence, and consumer problems to mention a few.

However, having HIV adds another layer of complexity. Due to illness, severe side effects from highly active anti-retroviral medication regimens, and other challenges, people with HIV often lack the financial resources, strength and physical vitality to fight problems with the focus and determination needed to overcome barriers.

I have been a client of legal services on several occasions. I cannot overstate the importance of having a lawyer for both solving my legal problems and also maintaining my health. For people with HIV, having a low viral load and a high CD4 count is an important indicator of health. When I and others in my community experience the stress of an unresolved legal problem, our viral loads increase precipitously and our CD4 counts plummet. Access to legal services is literally of life and death importance to us.

This summer, my neighbors and I received a shocking and unwelcome visit from the Emergency Placement Unit of a City agency. They told us that because the owner of our building was going into bankruptcy, the building would be transferred. They said that we should move within two weeks because the building was at risk of being totally shut down and locked up. Moving with two weeks

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notice is awful for anyone; for myself and my neighbors, all of whom have significant disabilities, it was horrifying. The first thing that I did upon receiving this news was to contact Manhattan Legal Services (a program of Legal Services NYC). They responded immediately – as I recall, within fifteen minutes.

Together with their colleagues from South Brooklyn Legal Services (another Legal Services NYC program), the attorneys at Manhattan Legal Services brought our plight to the attention of anyone and everyone who could help save our building: the Mayor's Office, Human Resources Administration (also known as HRA), Housing Preservation & Development (or HPD), Housing & Urban Development (or HUD), the building managers, the previous contract holder, and the bankruptcy trustee. In less than two weeks, and without going to court, the problem was solved: a new contract was signed for the provision of social services, all tenants were able to stay in the building, and catastrophe was averted.

In my experience, that's what legal services does: provides timely and effective problem solving, helping low income people do things like avoid eviction, maintain health insurance, access safety net services, and move along the path toward citizenship. Ultimately, they help us maintain our health in the face of precarious financial situations. In short, they are our lifeline.

Thank you again for inviting me to speak today. I would be happy to answer any questions.

**New York County Lawyers'
Association**



TESTIMONY BY STEWART D. AARON

PRESIDENT, NEW YORK COUNTY LAWYERS' ASSOCIATION

AT

THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

SEPTEMBER 26, 2011

APPELLATE DIVISION, FIRST DEPARTMENT

The New York County Lawyers' Association (NYCLA) welcomes this second opportunity to submit written testimony to the Chief Judge's Hearings on Civil Legal Services.

NYCLA, a 9,000-member bar association organized 103 years ago, has always had as part of its fundamental mission a commitment to access to justice for New Yorkers without regard to their resources. Over the years, NYCLA has expressed this concern in several ways: operating *pro bono* programs offering legal advice and representation to low-income persons and advocating for adequate government funding for legal services for the poor in both criminal and civil matters.

Based on a standard New York City developed to calculate poverty, a version of which the Obama administration planned to adopt, the number of poor people in New York City rose by 300,000 from 2005-2008. Twenty-two percent of New Yorkers were classified as poor in 2008, compared to 20.6 percent in 2005, with older people and minorities experiencing the highest rates of poverty. Overall one in five working families failed to earn enough to escape poverty. (*New York Times*, March 2, 2010) The economic outlook in 2011 has not improved. With zero job creation reported recently by the United States Department of Labor, economists are debating whether the economy is entering a double-dip recession, further endangering the livelihood of New Yorkers.

As more people lose their jobs and remain unemployed for long periods of time or only find employment that pays less than their previous jobs, keeping up with rent, mortgages and credit card bills becomes more difficult. Financial problems often beget legal problems. For the past several years, filings in Civil Court have averaged about 250,000 per year for both housing cases and consumer debt cases, with the latter often exceeding the former in sheer numbers.

At the same time that case filings remain high, Civil Court resources are dwindling. In a Preliminary Report on the Effect of Judicial Budget Cuts on New York State Courts,

issued on August 11, 2011, NYCLA's Task Force on Judicial Budgets Cuts examined the 2011/2012 judiciary budget and found that the 74 percent reduction in overtime has significantly curtailed courthouse hours of operation, particularly in the evening, prolonging trials and necessitating longer adjournments; the reduction in non-judicial personnel positions, coupled with a hiring freeze and an early-retirement program, has created delays in processing cases and a growing backlog in entering warrants and judgments; and the closing of child care facilities, hailed with much acclaim when they opened 15 years ago, deprives litigants of a safe place to leave their children.

A major problem long predating budget cuts is the huge numbers of unrepresented litigants in Civil Court. Estimates of the number of *pro se* litigants in both housing and consumer debt cases are consistently upwards of 97 percent, while the landlords and debt-collection agencies litigating against them are virtually 100 percent represented by attorneys. To exacerbate this litigation inequality, judicial budget cuts for 2011/2012 led to the demise of the Volunteer Lawyer for the Day Program, operating in four boroughs and providing representation to consumer debtor defendants. A small replacement grant for this program from the Oversight Board for Judiciary Civil Legal Services Funds, while welcomed by NYCLA and the other providers, will lead to much reduced services to needy New Yorkers in the coming year.

IOLA grants to bar associations like NYCLA only partially underwrite *pro bono* programs serving increasing numbers of participants in need of advice as they confront serious legal issues. The number of those served in NYCLA's Manhattan CLARO (Civil Legal Advice and Resource Office), which provides advice to low-income self-represented litigants in consumer debt cases, doubled in the past year to almost 600 people. The NYCLA Legal Counseling Project, which provides advice in the areas of family, landlord/tenant, consumer bankruptcy and employment law, has experienced an increase in people seeking assistance with multiple legal problems. Long committed to *pro bono*, NYCLA underwrites these and other projects with its own operating funds.

As stated in the testimony James B. Kobak Jr., then NYCLA President, submitted to the Chief Judge's hearings in 2010: "Small ad hoc supplements and programs like NYCLA's, though important, are not a solution and do not address the dimensions of the issue. Annual skirmishes in the United States Congress, New York State Legislature and New York City Council over funding for civil legal services yield inadequate funding for legal service providers."

The only remedy is a funded right to counsel--"civil Gideon." Principle 1 of the ABA Basic Principles for a Right to Counsel in Civil Legal Proceedings describes the minimum obligation of government when establishing a system of effective representation in certain legal proceedings for persons unable to pay for an attorney: "Legal representation is provided as a matter of right at public expense to low-income persons in adversarial proceedings where basic human needs—such as shelter, sustenance, safety, health, or child custody—are at stake."

Other countries have recognized this right. In a recent forum NYCLA sponsored, leaders of the Lille (France) Bar Association described the system France has had in place for a number of years to provide volunteer lawyers to represent people in need in a variety of civil matters. The United States has much to learn from Western Europe where civil legal services are considered as important as criminal legal services in terms of public funding.

At the same time NYCLA advocates for civil Gideon and for adequate funding for the Legal Services Corporation, we are also committed to expanding our *pro bono* projects. The NYCLA Task Force on Unemployed and Transitioning Lawyers is developing a program in which, under appropriate supervision, lawyers who are unemployed or underemployed can assist unrepresented litigants in Civil Court. Such a program would not only benefit the litigants but would expand or sharpen the skill set of the volunteer attorneys.

NYCLA commends Chief Judge Lippman for his persistent focus on unmet civil legal services needs and his dedication to developing funding sources in a time of fiscal constraints. NYCLA looks forward to working in partnership with him, other bar associations and legal services providers to make civil Gideon a reality.

Samaritan Village, Inc.

**TESTIMONY BY CAROL DAVIDSON, LCSW, CASAC
SENIOR DIRECTOR OF VETERANS SERVICES, SAMARITAN VILLAGE, INC.**

**RESPECTFULLY SUBMITTED FOR THE RECORD TO
HONORABLE JUDGE JONATHAN LIPPMAN
RE: HEARING ON CIVIL LEGAL SERVICES**

My name is Carol Davidson and I am the Senior Director of Veterans Services for Samaritan Village. For the past 12 years, I have been working directly with veterans as a clinician; managing and developing veterans treatment programs as an administrator; and teaching, writing, and participating in public policy activities as an educator and advocate on behalf of veterans. It is my privilege to represent Samaritan's President, Tino Hernandez, and our veterans community, and it is my hope that I can offer a meaningful contribution to this important dialogue.

There are well in excess of one million veterans living in New York State, and there are currently about 10,000 veterans returning home from active duty to New York State every year. Veterans are a diverse group of men and women who embody the richness of American culture. They personify the spirit of patriotic service, leadership, courage, and sacrifice. Throughout the course of their lifetimes, many veterans also face significant personal challenges, including problems associated to their military service like combat trauma, Post Traumatic Stress Disorder, Traumatic Brain Injury, depression and/or other mental health problems, substance abuse and/or any of the multitude of problems associated to co-occurring disorders. These problems can manifest in life issues that cover the spectrum from employment difficulties to interpersonal relationship problems to criminal behavior, and certainly include matters of civil law such as marital and family issues, housing concerns, domestic safety and matters involving the "essentials of life" that are common to all of our citizens. I would like to express my appreciation for your interest in veterans as a special, and often underserved, population.

Samaritan Village Overview

Samaritan Village is a non-profit service provider in New York State with a history of fifty years of dedicated service to the community. The roster of programs within Samaritan's portfolio includes both residential and out-patient treatment facilities for drug and alcohol dependency, specialized facilities for military veterans, a range of health and mental health services, alternative-to-incarceration placements,

shelter for homeless individuals, and services for seniors. We operate thirteen facilities that are located throughout New York City and upstate in Ulster County, and serve more than 3,000 men and women each year. Samaritan's treatment programs, which are central to the agency's mission, are licensed and funded by the New York State Office of Alcoholism and Substance Abuse Services (OASAS).

Over twenty years ago, Samaritan identified a treatment population of veterans within their existing programs who had special clinical needs. Many of these individuals were Vietnam combat veterans with Post Traumatic Stress Disorder. They often had histories of prior treatment failures and were unable to maintain sobriety over any significant period of time. Most treatment options available during that era focused exclusively on either the substance abuse or the mental health aspects of the veterans' problems. Clinicians in mental health settings often felt that they could not conduct meaningful therapeutic work with substance abusers until they had established long term sobriety, and chemical dependency counselors often felt that attempts to address traumatic issues would likely destabilize clients in early recovery. Clients were left to negotiate the cycles of anxiety, depression, and intrusive symptoms that would emerge in sobriety, and would frequently revert to the use of drugs or alcohol in an effort to find relief from painful memories and emotions. The subsequent progression of addiction would ultimately exacerbate the mental health problems and make lasting recovery less likely over time. Substance abuse was often a misguided attempt to self regulate or medicate unmanageable mental health symptoms. Within the veterans population, the nature of traumatic memories associated to combat experiences made it even less likely that clients in mainstream treatment programs of any kind would either disclose their issues or form therapeutic bonds with practitioners or peers. Furthermore, few clinicians had any significant expertise in identifying or working with combat trauma, and the symptoms of PTSD were often misunderstood, misdiagnosed, and mismanaged.

Working with a core group of staff and clients who shared the profound camaraderie, rapport, and brotherhood of combat veterans, Samaritan created a holistic, integrated treatment model where substance abuse, mental health issues, Post Traumatic Stress Disorder (PTSD), and other life problems could be addressed simultaneously within a veterans-specific clinical culture. At Samaritan, we utilize validated instruments to assess mental health issues, employ evidence based practices to treat co-occurring disorders, and offer a variety of creative modalities for healing such as art therapy and an emphasis on promoting veterans pride. Our programs have on-site psychiatric services, and are staffed by licensed clinical social workers and credentialed alcoholism and substance abuse counselors.

Samaritan currently operates two programs for male veterans with a combined total of 98 beds, and a highly specialized Women Veterans Program that can serve 25 women. The women's facility is the only one of its

kind in New York State. The agency has filled an important niche in the continuum of care by offering comprehensive long term residential treatment for military veterans without regard to their discharge status or Veterans Administration eligibility.

Co-occurring Disorders

Among the current generation of veterans, there is evidence that as many as 35% of our Operation Iraqi Freedom and Operation Enduring Freedom veterans will experience Post Traumatic Stress Disorder (PTSD) and/or Depressive Disorder. The incidence of a co-occurring substance abuse disorder among combat veterans with PTSD is estimated to run as high as 80%. These numbers will include an unprecedented number of female veterans who are serving in OIF/OEF, and who may also exhibit problems associated to Military Sexual Trauma, which is reported by an alarming 25% of female troops.

PTSD may take months or years to manifest, and may result in a wide range of psychological, interpersonal, and life problems including vocational disruption, family problems, physical health issues, alcohol and substance abuse disorders, behaviors that precipitate criminal justice system involvement, and heightened suicide risk. A Bureau of Justice Statistics Report published in 2000 found that 81% of criminal justice involved veterans had a substance abuse problem and 25% were diagnosed with mental health problems. The same report identified 23% of veterans with criminal justice involvement had been homeless in the prior year. The National Coalition for Homeless Veterans (NCHV) reports 131,000 veterans are homeless on any given night in America, and estimates 76% of our homeless veterans have mental health problems.

Over 1 ½ million troops have already served in OIF/OEF. The prevalence of co-occurring disorders among veterans is significant, and constitutes a social problem that will have enormous impact on individuals, families, and communities within New York State and across the country. Clearly, no one entity can address all of these concerns, and there has been a very productive spirit of cooperation developing between governmental and community-based agencies to ensure that services are available so that no veteran is “left behind.” Collaborative planning efforts, including the National Policy Academy on Returning Veterans, sponsored by the federal Substance Abuse and Mental Health Services Administration (SAMHSA), have been established to formulate public policy, create linkages between agencies, and to expand and streamline services for the influx of combat veterans returning from Iraq and Afghanistan. Samaritan Village is participating in many of these coalitions. We are proud of our record in assisting scores of veterans in achieving personal recovery and reintegrating into the community as productive members of society, and we are actively providing training and consultation to other agencies that are developing veterans services. Government agencies at the federal and local levels, human service providers, and veterans organizations can

work together to innovate solutions and design services that are grounded in proactive thinking, practical planning, and prudent spending.

Civil Legal Issues & Services

While The Veterans Administration is working in close collaboration with the ever-expanding roster of Veterans Treatment Courts, the realm of civil law remains grossly underserved. Neither the V.A. nor the Veterans Courts provide representation or services to address civil matters. Veterans returning from overseas deployments are often anxious to separate from the military. They may not be aware of their entitlements and they may not seek assistance when they need it because they fear becoming entangled in a bureaucracy that they may not trust, or they fear being stigmatized in some way that may have long-lasting personal or career consequences. The same concerns that often prevent them from seeking counseling services may prevent them from protecting their rights in matters concerning marriage, child custody or visitation, housing, contracts, debts, military discharge status or veterans benefits. Buffalo Veterans Treatment Court Mentorship Coordinator, Jack O'Connor, tells a poignant story about a veteran who showed up at Judge Russell's court, asking "do I have to get arrested to get some help?" That veteran turned out to be only the first of a long parade of veterans who subsequently came to the court seeking assistance for various non-criminal matters.

As the treatment court professionals well know, the courtroom can be a very important point of entry into the network of helping systems that can ultimately assist our veterans in making a successful transition home. In my experience, the difficulties and frustrations that many of our veterans experience in attempting to deal with relatively minor issues have become part of the sequence of events that escalates their estrangement from the community and exacerbates their mental health problems. I have worked with many young veterans who, for example, are estranged from their young children because they have failed to protect their rights in support, custody and visitation disputes. One female Army vet, who was deployed to Operation Iraqi Freedom, came home to find that her children had been moved to another state and that she was barred from contacting them. Many others have lost contact with children after vulnerable relationships fell apart during or following deployments. In some cases the stereotypes and stigmas associated to "combat veteran" and the specter of "PTSD" as a dangerous disorder have been used to interfere with visitation rights. The subsequent guilt, shame, anger, rage and self-loathing that is often associated to these life problems can accelerate the progression of readjustment and/or serious mental health problems that, in turn, may lead to more dysfunction, and much more serious behavioral problems.

Projects currently operating on a small scale throughout New York State to provide pro bono services for veterans facing civil law problems have already been of immeasurable help in addressing problems, resolving issues at the simplest level, and showing our veterans that their community is truly behind them. I would encourage and support continued efforts on behalf of the legal system to expand these efforts to assist our country's military veterans.

In closing, I would like to paraphrase President Teddy Roosevelt, who said simply that “any person (sic) who is good enough to shed their blood for their country is good enough to be given a square deal afterwards...” In that spirit, our veterans deserve our gratitude, support, and the finest array of services conceivable to honor the sacrifices that they have made on our behalf. Thank you for convening this hearing as a forum for an important exchange of information and ideas.