

APPENDICES

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

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2013

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NOTE: Appendices can be viewed on the Task Force’s website:
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APPENDIX 1:

**Acknowledgment of Law Firms That Provided *Pro Bono*
Assistance to the Task Force**

Acknowledgment of Law Firms That Provided *Pro Bono* Assistance to the Task Force

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Jonathan L. Shapiro (Associate)

Skadden, Arps, Slate, Meagher & Flom LLP

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Ron Tabak (Special Counsel)
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Ashley Lherisson (Legal Assistant)
Nicholas Mireles (Legal Assistant)
Nora Mohamed (Legal Assistant)
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Jessica Pan (Associate)
Jacob P. Tucker (Project Assistant)
Arziki M. Adamu (Project Assistant)

Simpson Thacher & Bartlett LLP

Mark G. Cunha (Partner, Task Force Member)

Harlene Katzman (Pro Bono Counsel)

Hilary Chadwick (Pro Bono Coordinator)

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Grant S. Manning (Associate)

Preston Miller (Associate)

Michael Donnelly (Chief Information Officer)

APPENDIX 2:

**Request for Proposals from the Oversight Board
for 2013-2014**

Judiciary Civil Legal Services in New York
FISCAL YEAR 2013-2014
Request for Proposals

APPLICATION FORMS AND INSTRUCTIONS

Contents

- I. Background Information and Instructions
- II. Application Cover Sheet
- III. Application Summary Table
- IV. Narrative Proposal
 - Organizational Responses
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- VI. Attachments Checklist
 - A. Audited Financial Statement from the Most Recently Ended Fiscal Year
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 - C. Mission Statement
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 - E. Board of Directors Roster
 - F. Minutes of the Last Four Meetings of the Board of Directors
 - G. Resumes and job descriptions of senior management and project staff.
 - H. Photocopy of correspondence issued by the Internal Revenue Service that indicates the applicant's status as a tax-exempt organization
 - I. Client Financial Eligibility Guidelines
 - J. Client Grievance Procedures
 - K. Case Acceptance Policy and Procedures
 - L. Insurance Certificates (see Exhibit 1)
 - M. Affirmative Action/EEO Policy
 - N. Documentation of Current NY Charities Registration
 - O. Documentation of Taxpayer Identification Number (TIN)
 - P. Vendor Responsibility: Acknowledgment Form and VR Questionnaire if applicable and submitting on paper

Exhibits/Appendices:

- Exhibit 1: Insurance Requirements
- Exhibit 2: Vendor Responsibility Requirements/Instructions
- Exhibit 3: Maximum Available Funding by County
- Exhibit 4: Evaluation Tool

I. Background Information and Instructions

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

In its initial 2010 Report the Task Force proposed a multi-year plan to allocate funding within the Judiciary’s budget for civil legal services for New Yorkers in all areas of the State living at or below 200 percent of the federal poverty level (\$46,100 in annual income for a family of four in 2012).¹ At the Chief Judge’s direction, the Task Force has prioritized civil legal problems involving the “essentials of life”— housing, family matters, access to health care and education, and subsistence income. During State fiscal year 2012-13, the Judiciary awarded \$25 million for this critical initiative to civil legal service providers throughout the state. As a result of those grants, more low-income New Yorkers have received civil legal assistance. Although there have been some gains, the Task Force finds that there is still a substantial gap to be bridged in access to justice in core civil legal matters involving the “essentials of life.” In keeping with its multi-year plan, the Task Force recommended that the current allocation for civil legal services in the Judiciary budget be increased. With the support of the Governor and the Legislature, the 2013-14 State fiscal year budget allocated an additional \$15 million for this critical initiative.

The parameters for the funding and the mechanism for distributing funds were adopted by the Chief Judge in response to the Task Force’s recommendations. The Chief Judge has established an Oversight Board, consisting of the Chief Administrative Judge of the Courts, the Chair of the Chief Judge’s Task Force to Expand Access to Civil Legal Services, and the Chair of the IOLA Board, to oversee the process for the allocation of this funding.

Funds will be allocated to each county based on the proportion of the population living at or below 200% of the poverty line. Each of the contracts awarded in 2012-13 will be renewed at the same funding level with additional specificity as to the amounts allocated for the provision of services in each county. The additional \$15,000,000 will be awarded pursuant to this competitive procurement. The purpose of competitively bidding the additional \$15,000,000 is to continue to promote a broad array of quality civil legal services that directly address each of the “essentials of life” and improve access to such services in each county while bringing the previous year’s Judicial Department allocations in line

¹ <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>

with the county funding paradigm. An additional goal is to further encourage cooperative agreements that promote collaboration among legal service providers, bar associations and law schools.

It is the intent of this Request for Proposals (RFP) to award contracts for Judiciary Civil Legal Services in the counties for which funding is available as listed in Exhibit 3. The Unified Court System (UCS) is soliciting sealed proposals for the purpose of establishing one or more contracts to provide the services herein.

A. Applicant Eligibility

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

In addition, an applicant must have an audit mechanism that provides accountability for “Judiciary CLS Funds.”

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

Applicants seeking funding for joint projects between two or more funding-eligible organizations should have only one of the organizations submit an application for the project. The participating organizations should decide which organization will submit the application. The application should be submitted in the name of the organization, not in the name of the proposed project, unless the project is a separate legal entity. The application should contain one budget which allocates the expenditures among the participating organizations. Joint project applications are considered separately and have no effect on any application for a different project that is submitted individually by any of the participants in a proposed joint project.

B. Funding

Available funding for the Judiciary Civil Legal Services program is allocated by county based on the proportion of the population living at or below 200% of the poverty line. The amount allocated by county under this procurement was determined by allocating the total 2013-14 fiscal year appropriation of \$40,000,000 by the proportion of the population living at or below 200% of the poverty line and adjusting by the amount previously awarded to each county in the 2012-13 fiscal year competitive procurement. See Exhibit 3, Maximum Available Funding by County.

Applicants may submit a single proposal to serve a single county or multiple counties. Proposals must articulate the specific counties to be served and the “essentials of life” service types to be provided in each county in the Application Summary Table.

C. Award Selection Criteria and Method of Award

Proposals will be reviewed and rated by the Oversight Board to Distribute Judiciary Civil Legal Services Funds in New York to ensure that the “essentials of life” – housing, family matters, access to health care and education, and subsistence income – are provided for throughout the state. Funding will be awarded to each responsible applicant that receives a score in excess of the minimum score by county in each county for which funding is available. Responsibility is determined in accordance with the criteria articulated in paragraph I(G) hereof.

Proposals will be evaluated on the following criteria:

Organizational Capacity: Point Value	15
Overall Program Plan	50
Reasonableness of Cost (Overall Budget): Point Value	15
County-Specific Program Plan: Point Value	15*
County-Specific Reasonableness of Cost: Point Value	5*
TOTAL POSSIBLE POINTS	100

(See Exhibit 4, Evaluation Tool for a detailed breakdown of the factors comprising each criterion)

A minimum score of 85 is required for a contract to be awarded.

*A separate score will be calculated for each county for which services are proposed.

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

The funding amount awarded to each qualified applicant will be based on the following criteria:

- The nature and scope of the services to be provided
 - A preference will be given for applications that propose direct legal services and;
 - A preference will be given for applications that address essentials of life needs not currently met within the catchment area.
- The estimated number of clients to be served
- Expertise in providing services to a specific sub-population or sub-populations within the catchment area (i.e. ability to provide services in languages other than English, or in a culturally appropriate manner to specific sub-groups)
- Accessibility of the proposed services to citizens in the catchment area as demonstrated by:
 - Maintenance of physical offices in the catchment area

- Linkage agreements with other departments of the applicant’s organization or other organizations in the community that provide social services to the target population and that might result in greater client access to civil legal services.
- Capacity to provide accessible services to a specific sub-catchment area (i.e. a particular municipality or neighborhood within a given county)

UCS reserves the right to award multiple contracts for the same county to ensure a broad array of services to address the legal needs of clients in each of the four high priority “essentials of life” areas is available and accessible. When more than one qualified proposal is received for the same county, UCS shall award a proportion of the total amount allocated for the particular county to each qualified applicant.

If no awards are made for a particular county, UCS reserves the right to reallocate the funds allocated to that catchment area to proportionally increase the amounts available to other awarded contracts providing services within the same Judicial Department.

D. Grant Contract

Grant recipients will enter into a contract with UCS or, in the case of qualified applicants already under contract with UCS to provide Civil Legal Services, be subject to amendment of their current contract. New contracts will be for the 2013-2014 state fiscal year (April 1, 2013-March 31, 2014), with an estimated commencement date retroactive to April 1, 2013. New contracts will also have three (3) optional one-year renewal terms, the exercise of which will depend on grants in subsequent years.

E. Reporting Requirements

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

F. Insurance Requirements

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

G. Vendor Responsibility

UCS is required to conduct a review of every organization with which it enters into a contract in order to provide reasonable assurances that the organization is responsible. Vendor responsibility is determined by a review of each prospective contractor's legal authority to do business in New York State, business integrity, financial and organizational resources, and performance history. Organizations applying for funding which, if awarded, would result in a new or amended contract with a total amount of \$100,000 or more are required to submit a Vendor Responsibility Questionnaire. See Exhibit 2 for detailed instructions on completion of the Vendor Responsibility Questionnaire.

H. Questions

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

Amelia Hershberger: ahershbe@nycourts.gov

Please indicate in "Subject" field: Judiciary CLS RFP 2013-14 Question(s)

The deadline to submit questions is Wednesday, May 29, 2013, before 1:00 pm. A Questions & Answers (Q&A) sheet will be posted on the UCS website a few days after the deadline for submission of questions.

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

Application Submission Procedures/Deadline

Step One: Complete the Grant Application

Please follow the formatting instructions and page limits. Applications must be single-spaced with one inch page margins (not including attachments, financial forms and data tables) using a 12 point font. In order to facilitate photocopying, please do not permanently bind applications.

An Application includes the Application Cover Sheet, Application Summary Table, Narrative Proposal, Budget and Attachments.

Step Two: Assemble the Following Attachments:

- A. Audited Financial Statement from the Most Recently Ended Fiscal Year
- B. Most Recent Annual Report. If the applicant does not publish an annual report, please explain.
- C. Mission Statement
- D. Organizational chart

- E. Board of Directors Roster. For each board member include name, address, length of current term, total years of service on the board, and number of meetings attended in state fiscal year 2012-2013.
- F. Minutes of the Last Four Meetings of the Board of Directors
- G. Resumes and job descriptions of senior management and project staff.
- H. Photocopy of correspondence issued by the Internal Revenue Service that indicates the applicant's status as a tax-exempt organization
- I. Client Financial Eligibility Guidelines
- J. Client Grievance Procedures
- K. Case Acceptance Policy and Procedures
- L. Insurance Certificates (see Exhibit 1)
- M. Affirmative Action/EEO Policy
- N. Documentation of Current NY Charities Registration
- O. Documentation of Taxpayer Identification Number (TIN)
- P. Vendor Responsibility: Acknowledgment Form and VR Questionnaire if applicable and submitting on paper

Step Three: Deliver the Application with all Required Attachments

Applications should arrive at the address below by no later than Wednesday, June 5, 2013, before 2:00 pm.

Deliver ONE signed, hard copy original and THREE additional copies (four complete sets) of the Application to:

Amelia Hershberger
New York State Office of Court Administration
Division of Professional and Court Services
98 Niver Street
Cohoes, New York 12047

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

“Deliver immediately to Amelia Hershberger”
“Sealed Application - Do not open”
“JUDICIARY CIVIL LEGAL SERVICES #002 – Due June 5, 2013 before 2pm”

Applications will not be accepted electronically or by fax.

II. Application Cover Sheet

Legal Name of Applicant Organization	
Executive Director/CEO	
Proposal Contact Person, Title, Phone Number and Email Address	
Total Budget of Organization	
Total FTE Staff Employed in Organization	
Number of FTE Staff Funded Under This Proposal	
Summary of Proposal (indicate principal program activities in 2 or 3 sentences)	
Total Funding Requested	
Address	
Phone	
Fax	
Email	
Website Address	
Federal Tax Identification No. (TIN)	
New York State Charities Registration Number (If exempt, please explain.)	
Executive Director or Chief Executive Officer Signature	
Board Chair Signature	

IV. Narrative Proposal

PAGE LIMIT: Ten single-spaced pages for Organizational Capacity and Program Description responses. Two single-spaced pages for each set of responses to County Specific Questions.

Organizational Capacity. The answers to the questions in this section should describe current programs and activities and demonstrate the existing capacity of the organization to provide civil legal services and to effectively and efficiently manage government-funded programming.

1. Briefly describe all of the organization's current principal activities.
2. Describe the organization's prior experience providing civil legal services to low-income persons.
3. Summarize in 100 words or less the organization's most significant achievements in providing civil legal services during the period April 1, 2012 – March 31, 2013 including number of clients who benefitted, dollar benefits obtained for clients, etc.
4. Discuss significant developments that affected the organization's capacity to deliver civil legal services.
5. Describe how the additional funding requested in this RFP will enhance the overall mission and services that the organization currently provides.
6. How are case assignments made?
7. What are the agency's supervisory policies and procedures?
8. Describe the agency's mechanisms for assuring quality of service for:
 - client intake
 - case assignment
 - case management and supervision
 - training of staff and volunteers
9. Describe the policies and procedures in place to ensure client confidentiality.
10. Describe the organization's use of technology to enhance access and quality of civil legal services.
11. Describe the organization's plans to quickly respond to the civil legal service needs of victims of natural disasters (e.g. Super storm Sandy and Hurricane Irene).

Program Description. The answers to the questions in this section should describe the new, enhanced or expanded programming to be provided if awarded funding under this RFP.

1. Provide a description of the problems to be addressed by the proposed services, including which essentials of life priorities will be addressed.
2. Indicate the service delivery method(s) the program will employ by placing a check in the appropriate box(es) below:
 - Direct legal services provided by staff attorneys
 - Direct legal services provided through referral to pro bono attorneys
 - Direct services provided by non-attorney staff (i.e. paralegals), supervised by attorneys
 - Direct legal services provided by law students or recent law school graduates supervised by attorneys
 - Training or education to support pro se representation
 - Provision of legal information
 - Referral to other civil legal service providers
 - Referral to other social services
 - Mediation / alternative dispute resolution
 - Other [explain in question 4 below]
3. Indicate the level of service the program will provide by placing a check in the appropriate box(es) below
 - Comprehensive representation
 - Representation in Appeals of Other Complex Matters
 - Representation in Court and/or Administrative Proceedings
 - Limited advice and counsel
 - Assistance in Completing Forms or Applications
 - Brief Advice and/or Information
 - Efforts to divert cases from court
 - Legal Education
 - Other [explain in question 4 below]

4. Provide additional information regarding the service delivery method(s) and level of service.
5. How will potential clients become aware of the availability of the proposed services?
Indicate how the proposed outreach methods address special needs, for example, language barriers, physical disabilities, etc.
6. Describe the intake process for potential clients seeking to access the organization's services. Include information on points of access (web, phone, in person). Describe each step in the process and indicate the staff or other professionals involved in each step (e.g., receptionists, paralegals, lawyers, etc.)
7. Does the applicant use the following definition of a case for the purpose of statistical reporting?: "A case is defined as the provision of legal assistance to an eligible client with a legal problem, or set of closely-related legal problems accepted for assistance" If no, describe the applicant's definition of a case.
8. Based on the definition articulated in question 7 above, what is the estimated number of cases to be handled by the program during the 2013-14 fiscal year?
9. Does the program plan involve collaboration with other legal services providers, bar organizations and/or law schools? If so, identify the organizations involved in the project and explain how the collaboration enhances the quality of and access to legal services. Attach letters of support from the partner organization(s).
10. Identify other partnerships and collaborations with social services agencies, medical providers, schools, community-based organizations or other entities that will participate as partners in the proposed program. Attach letters of support from the partner organization(s).

County-Specific Questions. The applicant must answer these questions once for each county for which funding is applied.

1. Describe the specific geographic catchment area to be served (i.e. county-wide vs. a particular municipality or neighborhood within a given county)
2. Will the organization maintain a physical office in the catchment area?
3. Discuss the organization's capacity to provide accessible services to citizens in the catchment area.
4. If the services to be provided in this county differ from the overall programmatic description articulated in the Program Description section above, describe the significant differences.
5. Estimate the number of cases to be handled in the county during fiscal year 2013-14.
6. Describe any particular expertise the organization has in providing services to a specific sub-population or sub-populations within the catchment area (i.e. ability to provide services in languages other than English, or in a culturally appropriate manner to specific sub-groups)
7. Describe any arrangements with other legal service providers in the catchment area designed to avoid duplication of efforts.

VII. Attachments Checklist

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

<input type="checkbox"/>	A. Audited Financial Statement from the Most Recently Ended Fiscal Year
<input type="checkbox"/>	B. Most Recent Annual Report. If the applicant does not publish an annual report, please explain
<input type="checkbox"/>	C. Mission Statement
<input type="checkbox"/>	D. Organizational Chart
<input type="checkbox"/>	E. Board of Directors Roster (use form supplied on the next page)
<input type="checkbox"/>	F. Minutes of the Last Four Meetings of the Board of Directors
<input type="checkbox"/>	G. Resumes and job descriptions of senior management and project staff.
<input type="checkbox"/>	H. Photocopy of correspondence issued by the Internal Revenue Service that indicates the applicant's status as a tax-exempt organization.
<input type="checkbox"/>	I. Client Financial Eligibility Guidelines
<input type="checkbox"/>	J. Client Grievance Procedures
<input type="checkbox"/>	K. Case Acceptance Policy and Procedures
<input type="checkbox"/>	L. Insurance Certificates: (1) Workers' Compensation; (2) Disability Benefits; (3) Commercial General Liability; and (4) Professional Liability
<input type="checkbox"/>	M. Affirmative Action/EEO Policy
<input type="checkbox"/>	N. Documentation of Current NY Charities Registration
<input type="checkbox"/>	O. Documentation of Taxpayer Identification Number (TIN)
<input type="checkbox"/>	P. Vendor Responsibility: Acknowledgment Form and VR Questionnaire if applicable and submitting on paper

Exhibit 1

INSURANCE REQUIREMENTS

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

1. Workers' compensation and disability benefits insurance coverage as required under NYS law. Proof of workers' compensation insurance and disability benefits insurance must be provided with the grant application. If applicant is legally exempt from such coverage, proof of exemption must be provided. The only forms acceptable as evidence of these insurance requirements are:

Proof of Workers' Compensation Coverage

- Form C-105.2 - Certificate of Workers' Compensation Insurance issued by private insurance carriers; or
- Form U-26.3 issued by the State Insurance Fund; or
- Form SI-12 - Certificate of Workers' Compensation Self-Insurance; or
- Form GSI-105.2 - Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

- Form DB-120.1 - Certificate of Disability Benefits Insurance, or
- Form DB-155 - Certificate of Disability Benefits Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Please note that an ACORD Certificate of Insurance is NOT acceptable proof of New York State workers' compensation or disability benefits insurance coverage. Applicants should obtain the appropriate Workers' Compensation Board forms from their insurance carrier or licensed agent, or follow the procedures set forth by the Workers' Compensation Board for obtaining an exemption from coverage. Required forms and procedures may be obtained on the Workers' Compensation Board website at www.wcb.ny.gov/ and click on 'Employers/Businesses' and/or 'Forms'. Any questions regarding workers' compensation coverage requirements should be directed to:

Workers' Compensation Board
Bureau of Compliance
(518) 462-882
(866) 298-7830

Applicants awarded funding (whether through a new or amended contract) will be required to provide updated certificates of workers' compensation and disability benefits coverage that name the Unified Court System as the certificate holder if the applicable form has a space for a certificate holder to be listed. The carrier must enter:

NYS Unified Court System
Office of Court Administration
Division of Professional and Court Services
98 Niver Street
Cohoes, New York 12047

The insurance carrier will notify the certificate holder if a policy is canceled.

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

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

Commercial general liability insurance coverage must be obtained from commercial insurance carriers licensed to do business in the State of New York. Proof of applicant's commercial general liability insurance coverage must be submitted with the grant application. Applicants awarded funding will be required to submit an updated certificate naming UCS as an additional insured or loss payee as appropriate and providing for at least thirty (30) days advance written notice to UCS of cancellation or non-renewal. The updated certificate must be submitted prior to finalization of the contract.

Products completed operations insurance coverage is not required if applicant provides written documentation prior to finalization of an awarded contract that the organization's commercial general insurance policy does not include coverage for products-completed operations. Automobile liability insurance is not required if applicant does not use vehicles in its operations.

3. Professional liability insurance in the amount of \$1,000,000 for all of applicant's professional employees that will perform with grant funding. Proof of applicant's professional liability insurance coverage must be submitted with the grant application. Organizations awarded funding will be required to contractually agree to obtain tail coverage for a minimum of two years in the event that the organization's professional liability coverage policy is terminated and either: (i) there is no replacement policy; or (ii) the replacement policy does not cover claims made against the organization based on events that occurred prior to the effective date of the new policy.

Exhibit 2

VENDOR RESPONSIBILITY REQUIREMENTS

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

UCS recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep system maintained by the Office of the State Comptroller.

If you are already enrolled, go directly to the VendRep System online at: <https://portal.osc.state.ny.us>. To enroll, see the VendRep System Instructions available at: http://www.osc.state.ny.us/vendrep/vendor_index.htm. Vendors must provide their NYS Vendor Identification Number when enrolling.

Alternatively, vendors may choose to complete and submit a paper questionnaire. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate form from the VendRep website: http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

To request assignment of a Vendor Identification Number or for VendRep System assistance, contact the Office of the State Comptroller’s Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

VENDOR RESPONSIBILITY ACKNOWLEDGMENT

Please complete either option 1 or option 2 below:

OPTION 1: ___ Vendor Responsibility Questionnaire filed online via the VendRep System

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

ORGANIZATION NAME: _____

NAME/TITLE: _____

SIGNATURE: _____

OPTION 2: ___ Paper Vendor Responsibility Questionnaire Form Attached

Exhibit 3: Maximum Available Funds by County

County	Maximum Available Funds
Bronx	\$1,903,858.00
New York	\$1,207,488.00
<u>1st Department Total</u>	<u>\$3,111,346.00</u>
Dutchess	\$252,521.00
Kings	\$1,955,689.00
Nassau	\$553,605.00
Orange	\$402,649.00
Putnam	\$62,155.00
Queens	\$1,956,959.00
Richmond	\$198,820.00
Rockland	\$179,364.00
Suffolk	\$887,347.00
Westchester	\$584,916.00
<u>2nd Department Total</u>	<u>\$7,034,025.00</u>
Albany	\$57,844.00
Broome	\$317,017.00
Chemung	\$100,390.00
Chenango	\$84,034.00
Clinton	\$72,645.00
Columbia	\$35,657.00
Cortland	\$70,578.00
Delaware	\$75,034.00
Essex	\$36,245.00
Franklin	\$50,357.00
Fulton	\$62,632.00
Greene	\$36,198.00
Hamilton	\$3,874.00
Madison	\$121,812.00
Montgomery	\$41,947.00
Otsego	\$97,692.00
Rensselaer	\$62,103.00
Saratoga	\$60,454.00
Schenectady	\$37,625.00
Schoharie	\$21,715.00
Schuyler	\$18,833.00
St. Lawrence	\$115,755.00

Sullivan	\$0.00*
Tioga	\$49,049.00
Tompkins	\$102,957.00
Ulster	\$0.00*
Warren	\$51,627.00
Washington	\$56,946.00
<u>3rd Department Total</u>	<u>\$1,841,020.00</u>
Allegany	\$37,845.00
Cattaraugus	\$64,333.00
Cayuga	\$95,721.00
Chautauqua	\$106,429.00
Erie	\$643,487.00
Genesee	\$11,465.00
Herkimer	\$92,640.00
Jefferson	\$161,633.00
Lewis	\$47,591.00
Livingston	\$26,239.00
Monroe	\$267,318.00
Niagara	\$157,723.00
Oneida	\$249,284.00
Onondaga	\$546,557.00
Ontario	\$79,792.00
Orleans	\$0.00*
Oswego	\$168,478.00
Seneca	\$36,021.00
Steuben	\$119,914.00
Wayne	\$42,276.00
Wyoming	\$31,774.00
Yates	\$27,089.00
<u>4th Department Total</u>	<u>\$3,013,609.00</u>
<u>Grand Total</u>	<u>\$15,000,000.00</u>

*The amount allocated by county under this procurement was determined by allocating the total 2013-14 fiscal year appropriation of \$40,000,000 by the proportion of the population living at or below 200% of the poverty line and adjusting by the amount previously awarded to each county in the 2012-13 fiscal year competitive procurement. In some counties the full amount of the allocation was awarded in the 2012-13 procurement process. In those instances no additional funding is available at this time.

**EXHIBIT 4
EVALUATION TOOL
SUMMARY RATING SHEET**

APPLICANT: _____

COUNTIES TO BE SERVED: _____

- | | |
|---|-----------------|
| A. ORGANIZATIONAL CAPACITY (15 POINTS) | A. _____ |
| B. OVERALL PROGRAM PLAN (50 POINTS) | B. _____ |
| C. REASONABLENESS OF COST (OVERALL BUDGET) (15 POINTS) | C. _____ |
| D. COUNTY SPECIFIC PROGRAM PLAN (15 POINTS) | D. _____ |
| E. COUNTY SPECIFIC REASONABLENESS OF COST (5 POINTS) | E. _____ |

A minimum score of 85 is required for a contract to be awarded.

TOTAL _____

EVALUATOR (Print) _____

(Signature) _____

DATE ___/___/___

DETAIL RATING SHEETS
ORGANIZATION WIDE QUESTIONS: COMPLETE ONCE PER APPLICATION

APPLICANT: _____

REVIEWER: _____

A. ORGANIZATIONAL CAPACITY (15 POINTS TOTAL)

A1. Evaluate the extent to which the applicant demonstrates that the organization is organized with a mission that includes civil legal services to low income clients and has experience providing civil legal services to low income clients. (5 points)

[Reviewer: Consider the following source(s) of information: Mission Statement, Organization Capacity Questions 1, 2 and 5]

A2. Evaluate the extent to which the applicant demonstrates that the organization has instituted mechanisms likely to result in high quality provision of civil legal services, taking into account significant developments which may have impacted on the ability to institute such mechanisms. (5 points).

[Reviewer: Consider the following source(s) of information: Organization Capacity Questions 3, 4, 6, 7, 8 and 9]

A3. Evaluate the extent to which the applicant demonstrates effective use of technology to enhance access to and quality of civil legal services. (2 points)

[Reviewer: Consider the following source(s) of information: Organization Capacity Question 10]

A4. Evaluate the ability of the organization to respond to victims of natural disasters (3 Points)

[Reviewer: Consider the following source(s) of information: Organizational Capacity Question 11]

SUBTOTAL FOR PART "A" (A1 + A2 + A3 + A4) _____
--

B. OVERALL PROGRAM PLAN (50 POINTS TOTAL)

B1. Evaluate the extent to which the application proposes to address essentials of life issues as defined in the Background section (10 points)

[Reviewer: Consider the following source(s) of information: Program Description Question 1]

B2. Evaluate the extent to which the applicant proposes provision of direct legal services. (10 points)

[Reviewer: Consider the following source(s) of information: Program Description Questions 2, 3 and 4]

B3. Evaluate the accessibility of the proposed program (8 points)

[Reviewer: Consider the following source(s) of information: Program Description Questions 5 and 6]

B4. Evaluate the proposed caseload in context of catchment area and funding requested. (14 points)

[Reviewer: Consider the following source(s) of information: Program Description Questions 7 and 8]

B5. Evaluate the collaborative nature of the proposed program (8 points)

[Reviewer: Consider the following source(s) of information: Program Description Questions 9 and 10]

SUBTOTAL FOR PART "B" (B1 + B2 + B3 + B4 + B5): _____
--

C. REASONABLENESS OF COST: OVERALL BUDGET (15 POINTS TOTAL)

C1. Evaluate the extent to which the proposed program will effectively utilize state dollars for the delivery of quality services. (5 points)

[Reviewer: Consider the following source(s) of information: Appendix C]

C2. Evaluate the extent to which the salaries and fringe benefits for the proposed program are appropriate for the positions listed in the proposal. (4 points)

[Reviewer: Consider the following source(s) of information: Appendix C]

C3. Evaluate the extent to which the percentage of UCS funds that support administrative costs (including salaries and fringe benefits of non-program staff, real estate expenses that are not utilized for the direct delivery of services, and related costs) is comparable to the percentage found in the budgets of similarly sized agencies. (4 points)

[Reviewer: Consider the following source(s) of information: Appendix C]

C4. Evaluate the extent to which the non-personnel service costs included in the budget are reasonable for the operation of the proposed program. (2 points)

[Reviewer: Consider the following source(s) of information: Appendix C]

SUBTOTAL FOR PART "C" (C1 + C2 + C3 + C4) _____
--

DETAIL RATING SHEETS
COUNTY QUESTIONS: COMPLETE ONCE PER COUNTY PER APPLICATION

APPLICANT: _____

REVIEWER: _____

COUNTY: _____

D. COUNTY SPECIFIC PROGRAM PLAN (15 POINTS)

D1. Evaluate the extent to which the proposed program provides accessible, quality services within the county served (10 points)

[Reviewer: Consider the following source(s) of information: County Specific Questions 1, 2, 3, 4, 6]

D2. Evaluate the proposed caseload in context of catchment area and funding requested. (3 points)

[Reviewer: Consider the following source(s) of information: County Specific Question 5]

D3. Evaluate the extent to which the proposed program avoids redundant services (2 points)

[Reviewer: Consider the following source(s) of information: County Specific Question 7]

SUBTOTAL FOR PART "D" (D1 + D2 + D3) _____

E. COUNTY SPECIFIC REASONABLENESS OF COST (5 POINTS)

E1. Evaluate the extent to which the proposed program will effectively utilize state dollars for the delivery of quality services in the county. (5 points)

[Reviewer: Consider the following source(s) of information: Application Summary Table]

SUBTOTAL FOR PART "E" (E1) _____

APPENDIX 3:

Notification of the Issuance of the Request for Proposals

YOUR OFFICIAL SOURCE FOR NEW YORK STATE CONTRACTING OPPORTUNITIES



User: ahershbe@courts.state.ny.us

[back](#)

Category: Grants & Notices of Funds Availability

Issue Date: 5/9/2013

Contract Number: TBD

Judiciary Civil Legal Services

Description:

The New York State Unified Court System's Office of Court Administration is seeking sealed applications for funding to provide civil legal services in New York State.

Due Date: 6/5/2013 2:00 PM

Contract Term: April 1, 2013-March 31, 2014 with 3 optional renewals.

Location: Throughout New York State.

Contact: Amelia Hershberger OCA Division of Professional and Court Services
Unified Court System, NYS
98 Niver Street
Cohoes, NY 12047
Phone: 518-238-4357
AHERSHBE@courts.state.ny.us

Submit To: Amelia Hershberger OCA Division of Professional and Court Services
Unified Court System, NYS
98 Niver Street
Cohoes, NY 12047
Phone: 518-238-4357
AHERSHBE@courts.state.ny.us

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- > [Post Agency Reports \(Qtrly/Semi-Annual\)](#)
- > [Post Bid Results](#)
- > [NYS Finance Law Reports Schedule](#)
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APPENDIX 4:

**Grants Awarded by the Oversight Board for
Judiciary Civil Legal Services Funds in New York
for 2013-2014**

2013-14 Judiciary Civil Legal Services Awards

Provider Name	New Awards per 2013-14 RFP	Renewals or Amendments of Existing Contracts (if any)	Total Awards 2013-14
Advocates for Children of New York	\$3,000.00	\$42,500.00	\$45,500.00
Albany County Bar Association/ Pro Bono Program	\$0.00	\$77,000.00	\$77,000.00
Asian American League Def & Ed Fund	\$0.00	\$50,120.00	\$50,120.00
Association of the Bar of the City of New York Fund Inc	\$16,250.00	\$288,000.00	\$304,250.00
Bronx Defenders	\$220,907.00	\$174,800.00	\$395,707.00
Brooklyn Bar Association	\$49,400.00	\$119,306.00	\$168,706.00
Brooklyn Defender Services	\$297,489.00	\$0.00	\$297,489.00
Brooklyn Legal Services Corporation A	\$130,476.00	\$0.00	\$130,476.00
CAMBA	\$152,000.00	\$692,000.00	\$844,000.00
Capital District Women's Bar Association Legal Project	\$74,656.00	\$156,400.00	\$231,056.00
Catholic Migration Services	\$0.00	\$40,600.00	\$40,600.00
Center for Family Representation	\$155,000.00	\$114,000.00	\$269,000.00
Central American Legal Assistance	\$3,800.00	\$64,820.00	\$68,620.00
Children's Rights Society	\$75,050.00	\$0.00	\$75,050.00
Day One	\$6,205.00	\$24,000.00	\$30,205.00
Empire Justice Center	\$202,304.00	\$604,757.00	\$807,061.00
Erie County Bar Association Volunteer Lawyers Project	\$80,425.00	\$191,862.00	\$272,287.00
Family Center Inc	\$15,082.00	\$0.00	\$15,082.00
Frank H. Hiscock Legal Aid Society	\$395,477.00	\$260,212.00	\$655,689.00
Goddard Riverside Community Center	\$25,000.00	\$53,200.00	\$78,200.00
Hofstra University	\$49,421.00	\$0.00	\$49,421.00
Housing Conservation Coordinators	\$31,250.00	\$53,200.00	\$84,450.00
inMotion	\$82,200.00	\$122,653.00	\$204,853.00
Jewish Association of Services for the Aged	\$94,950.00	\$0.00	\$94,950.00
Journey's End Refugee Services	\$36,405.00	\$0.00	\$36,405.00
Latino Justice PRLDEF	\$0.00	\$36,210.00	\$36,210.00
Legal Aid Bureau of Buffalo	\$154,486.00	\$242,000.00	\$396,486.00
Legal Aid Society of Mid-NY	\$0.00	\$145,000.00	\$145,000.00
Legal Aid Society of Northeastern New York	\$620,610.00	\$1,442,100.00	\$2,062,710.00
Legal Aid Society of Rochester	\$168,073.50	\$458,000.00	\$626,073.50
Legal Aid Society of Rockland County	\$89,682.00	\$119,000.00	\$208,682.00
Legal Assistance of Western New York	\$795,010.00	\$1,312,350.00	\$2,107,360.00
Legal Information for Families Today	\$0.00	\$107,500.00	\$107,500.00
Legal Services for the Elderly, Disabled or Disadvantaged of Western NY	\$121,850.00	\$214,200.00	\$336,050.00
Legal Services NYC	\$1,632,033.00	\$3,124,463.00	\$4,756,496.00
Legal Services of Central New York	\$1,548,135.00	\$737,829.00	\$2,285,964.00
Legal Services of the Hudson Valley	\$1,135,567.00	\$1,400,000.00	\$2,535,567.00
Lenox Hill Neighborhood House	\$50,000.00	\$79,800.00	\$129,800.00
Make the Road New York	\$140,994.00	\$141,400.00	\$282,394.00
Mental Health Association of Erie County	\$73,178.00	\$0.00	\$73,178.00
MFY Legal Services	\$446,170.00	\$1,124,200.00	\$1,570,370.00
My Sister's Place	\$41,794.00	\$58,488.00	\$100,282.00
Nassau / Suffolk Law Services Committee	\$987,830.00	\$1,015,000.00	\$2,002,830.00
NCCADV	\$0.00	\$150,000.00	\$150,000.00
Neighborhood Defender Service Inc	\$150,333.00	\$0.00	\$150,333.00
Neighborhood Legal Services	\$360,869.50	\$867,828.00	\$1,228,697.50
New York Lawyers for the Public Interest	\$10,500.00	\$81,200.00	\$91,700.00
New York Legal Assistance Group	\$577,979.00	\$1,548,000.00	\$2,125,979.00
New York Legal Assistance Group (Volunteer Lawyers for a Day)	\$81,890.00	\$162,588.00	\$244,478.00
Northern Manhattan Improvement Corp	\$275,000.00	\$646,000.00	\$921,000.00
Onondaga County Bar Association	\$97,200.00	\$28,756.00	\$125,956.00
Pace University	\$57,000.00	\$109,620.00	\$166,620.00
Partnership for Children's Rights	\$0.00	\$85,260.00	\$85,260.00
Prisoner's Legal Services	\$0.00	\$60,000.00	\$60,000.00
Queens Volunteer Lawyers Project	\$112,500.00	\$162,400.00	\$274,900.00
Richmond County Bar Volunteer Lawyers	\$0.00	\$60,000.00	\$60,000.00
Ridgewood Bushwick Senior Citizens	\$0.00	\$122,500.00	\$122,500.00
Rural Law Center of New York	\$106,168.00	\$142,800.00	\$248,968.00
Safe Horizon	\$63,000.00	\$268,800.00	\$331,800.00
Sanctuary for Families	\$308,637.00	\$401,600.00	\$710,237.00
The Door A Center For Alternatives	\$6,000.00	\$100,000.00	\$106,000.00

The Legal Aid Society	\$1,632,033.00	\$3,124,463.00	\$4,756,496.00
Touro College	\$120,960.00	\$120,960.00	\$241,920.00
Urban Justice Center	\$561,541.00	\$576,000.00	\$1,137,541.00
Vera Institute of Justice	\$102,000.00	\$511,700.00	\$613,700.00
Volunteer Legal Services-Monroe County	\$0.00	\$120,400.00	\$120,400.00
Volunteers of Legal Services	\$0.00	\$47,180.00	\$47,180.00
Western New York Law Center	\$51,000.00	\$329,800.00	\$380,800.00
Worker Justice Center of New York	\$123,230.00	\$285,175.00	\$408,405.00
Total	\$15,000,000.00	\$25,000,000.00	\$40,000,000.00

APPENDIX 5:

**Public Notice of the Chief Judge's Hearings Published
on the Unified Court System's Website**

The Chief Judge's Hearings on Civil Legal Services

The Hon. Jonathan Lippman, Chief Judge of the State of New York, will be conducting his fourth annual series of public hearings to evaluate the continuing unmet civil legal services needs in all parts of the state and to assess the level of resources necessary to meet those needs. As requested in the June 2010 Joint Legislative Resolution, the Chief Judge will report to the Legislature on the information obtained at the hearings, as well as the continuing work of the Task Force to Expand Access to Civil Legal Services in New York, and will request State funding to meet these unmet needs.

The Chief Judge will conduct one hearing in each of the four Appellate Division Departments together with the Presiding Justice of that Judicial Department (Presiding Justice Luis A. Gonzalez of the First Department, Presiding Justice Randall T. Eng of the Second Department, Presiding Justice Karen K. Peters of the Third Department, and Presiding Justice Henry J. Scudder of the Fourth Department), Chief Administrative Judge A. Gail Prudenti, and the President of the New York State Bar Association, David M. Schraver.

THE HEARINGS WILL TAKE PLACE AS FOLLOWS:

THIRD DEPARTMENT

Tuesday, September 17, 2013, from 10 a.m. to 1 p.m.
Court of Appeals, 20 Eagle Street, Albany

FIRST DEPARTMENT

Thursday, September 19, 2013, from 10 a.m. to 1 p.m.
Appellate Division, 27 Madison Avenue, Manhattan

SECOND DEPARTMENT

Tuesday, October 1, 2013, from 10 a.m. to 1 p.m.
Supreme Court, Queens County
25-10 Court Square, Long Island City

FOURTH DEPARTMENT

Thursday, October 3, 2013, from 11 a.m. to 2 p.m.
SUNY Buffalo Law School, Letro Courtroom
John Lord O'Brian Hall, North Campus, Buffalo

The purpose of the public hearings is to receive the views of interested individuals, organizations and entities on the following issues:

- The impact of Judiciary Civil Legal Services funding of \$12.5 million for Fiscal Year (FY) 2011-2012, \$25 million for FY 2012-2013, and \$40 million for FY 2013-14.
- The current state and scope of the unmet need for civil legal services by low income New Yorkers confronting legal problems involving the "essentials of life," including housing, family stability and personal safety in domestic relations, access to health care or education, or subsistence income and benefits.
- The impact of natural disasters, like Hurricane Sandy, on the legal services needs of low income New Yorkers, the experience of legal services providers in responding to those needs, and lessons for the future.
- The economic and social consequences of the lack of sufficient civil legal services in communities and for the courts.
- The costs and benefits, to the courts and to communities, from the provision of civil legal services in matters involving the "essentials of life."
- The particular problems affecting the availability of legal services in rural communities and how to address them.
- The potential for reduction in the unmet need through:
 - Preventive and early intervention services by providers.
 - Enhanced use of technology, including identifying areas

where improvements in technology access and utilization can increase the delivery and efficacy of legal services.

- Expansion of the availability of pro bono legal services by private attorneys.
- Greater law school and law student involvement in serving communities in need through clinical, experiential and fellowship options for students.
- Programs being developed to assist law students in fulfilling the new bar admission requirement of completion of 50 hours of pro bono service.

THE CHIEF JUDGE'S HEARING PANEL WILL CONSIDER BOTH ORAL TESTIMONY (BY INVITATION ONLY) AND WRITTEN SUBMISSIONS.

Persons interested in presenting oral testimony or making a written submission are asked to follow the procedures and deadlines described below. Please note that the Hearing Panel cannot accept any comments, written or spoken, addressing details of individual litigation or comments about individual judges or attorneys.

Because of the limited time available for the hearings, oral testimony is by invitation only. If you are interested in being invited to testify at a hearing, you should send an email to CivilLegalServices@nycourts.gov no later than 14 days in advance of the hearing at which you propose to testify. **Proposed testimony should be no more than 10 minutes in length.** If requesting an invitation, please (1) identify yourself and your affiliation (and if you are requesting an invitation for someone else to testify, that individual's name and affiliation); (2) attach a prepared statement or a detailed outline of the proposed testimony and specify which of the topics described above will be addressed; (3) indicate at which of the hearings the testimony is proposed to be given. In advance of the hearing, invitations to testify will be issued and will include an approximate time for each presenter's testimony. For those not invited to present oral testimony, your proposed testimony will be deemed a written submission.

Persons unable to attend a hearing, or those interested only in making a written submission, may submit their remarks by emailing them to:

CivilLegalServices@nycourts.gov at least seven (7) days in advance of the hearing, or by mailing the submission to the **Task Force to Expand Access to Civil Legal Services in New York** at the address below. The Task Force is assisting the Chief Judge in preparing for the hearings and in reporting on its results.

Mail: The Task Force to Expand Access to Civil Legal Services
c/o Jessica Klein, Esq.
Sullivan & Cromwell
125 Broad Street, NY, NY 10004-2498

Email: CivilLegalServices@nycourts.gov

For further information please visit the Task Force's website

www.nycourts.gov/ip/access-civil-legal-services

APPENDIX 6:

Witness Lists for the Chief Judge's Four Hearings

The Chief Judge's Hearings on Civil Legal Services

FIRST DEPARTMENT HEARING

Thursday, September 19, 2013

WITNESS LIST

1- EDUCATION

Merryl H. Tisch (*Chancellor, New York State Board of Regents*)

2- HEALTH CARE

Dr. David L. Reich (*President and Chief Operating Officer, Mount Sinai Hospital*)

Wendy Z. Goldstein (*President and Chief Executive Officer, Lutheran HealthCare*)

3- CRIMINAL JUSTICE SYSTEM AND NEED FOR CIVIL LEGAL SERVICES

Cyrus R. Vance, Jr. (*District Attorney, New York County*)

4- COST SAVINGS

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

5- CONTINUING UNMET NEED AND RECOMMENDATIONS FOR SIMPLIFICATION OF COURT PROCESSES

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

6- PRO BONO SERVICE AND COLLABORATIONS

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

7- CLIENT PANEL

Jerome Young (*Client of Legal Services NYC, accompanied by Peggy Earisman*)

Maria Perez (*Client of The Legal Aid Society's Harlem Community Law Office, accompanied by Magda Rosa-Rios*)

Miriam Tangara (*Client of Northern Manhattan Improvement Corporation, accompanied by Danielle Salgado*)

For additional information on the unmet needs for civil legal services, see the 2010, 2011 and 2012 Reports of the Task Force to Expand Access to Civil Legal Services in New York at

www.nycourts.gov/ip/access-civil-legal-services.

The Chief Judge's Hearings on Civil Legal Services

SECOND DEPARTMENT HEARING

Tuesday, October 1, 2013

WITNESS LIST

1- NEW YORK CITY CORPORATION COUNSEL

Hon. Michael A. Cardozo

2- CLIMATE CHANGE EXPERT

Klaus H. Jacob, Ph.D. (*Professor, Lamont-Doherty Earth Observatory, Columbia University*)

3- LOCAL OFFICIALS

Hon. Richard Schaffer (*Supervisor, Town of Babylon, Suffolk County*)

Hon. Scott J. Mandel (*City Council President, City of Long Beach, Nassau County*)

4- CLIENTS

Nicholas Dorman (*First Responder and Client of New York Legal Assistance Group, accompanied by Ann Dibble*)

Cesar and Maria Lopez (*Clients of Queens Legal Services, accompanied by Aisha Baruni*)

Huan Qiang Lin (*Client of The Legal Aid Society, Queens Neighborhood Office, accompanied by Tashi T. Lhewa*)

Milagros Garcia (*Client of The Legal Aid Society of Rockland County, Inc., accompanied by Alexander Bursztein*)

5- COMMUNITY BASED ORGANIZATIONS

Catherine M. Lyle (*Foreclosure Counselor, Margert Community Corporation*)

6- PRO BONO AND CIVIL LEGAL SERVICES

Martha Krisel, Esq. (*Second Vice President & Access to Justice Chair, Nassau County Bar Association; Chief Deputy County Attorney for Special Projects, Nassau County*)

Miriam Buhl, Esq. (*Pro Bono Counsel, Weil Gotshal & Manges LLP*)

Seymour W. James, Jr., Esq. (*Immediate Past President, New York State Bar Association; Attorney-in-Charge of the Criminal Practice, The Legal Aid Society*)

7- DISASTER RELIEF EXPERTS

Michael M. Weinstein (*Chief Program Officer, Robin Hood Foundation*)

David H.K. Nguyen, Esq. (*Director, Disaster Legal Services Program, Young Lawyers Division, American Bar Association*)

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010, 2011 and 2012, which are available at www.nycourts.gov/ip/access-civil-legal-services.

The Chief Judge's Hearings on Civil Legal Services

THIRD DEPARTMENT HEARING

Tuesday, September 17, 2013

WITNESS LIST

1- NEW YORK STATE COMPTROLLER

Hon. Thomas P. DiNapoli

2- ALBANY LAW SCHOOL PANEL

Dean Penelope Andrews *(Dean and President, Albany Law School)*

Denise V. Gonick *(President and CEO, MVP Health Care)*

3- BUSINESS PANEL

Mark N. Eagan *(President and CEO, Albany-Colonie Regional Chamber)*

4- JUDGES PANEL

Hon. Carmelo M. Laquidara *(Rensselaer City Court)*

Hon. Margaret T. Walsh *(Family Court, Albany County; Acting Supreme Court Justice, Third Judicial District)*

5- VETERANS' SERVICES ORGANIZATIONS PANEL

Joseph Sluszka *(Executive Director, Albany Housing Coalition, Inc., Veterans Housing and Services)*

Courtney Slade *(Veterans Justice Outreach Coordinator, Albany VA Medical Center)*

6- CLIENT PANEL

Michael O'Donnell *(Client of Legal Aid Society of Northeastern New York, accompanied by Kristie M. Cinelli)*

Michael DeBenedetti *(Client of The Legal Project, accompanied by Tia Sullivan Hock)*

Laurie Schaible *(Client of Empire Justice Center, accompanied by Saima Akhtar)*

Jason Keller *(Client of Legal Aid Society of Northeastern New York, accompanied by Laura Dwyer)*

For additional information on the unmet needs for civil legal services, see the 2010, 2011 and 2012 Reports of the Task Force to Expand Access to Civil Legal Services in New York at

www.nycourts.gov/ip/access-civil-legal-services.

The Chief Judge's Hearings on Civil Legal Services

FOURTH DEPARTMENT HEARING

Thursday, October 3, 2013

WITNESS LIST

1- BUFFALO LAW SCHOOL DEAN AND STUDENT PRO BONO EFFORTS

Dean Makau W. Mutua (*SUNY Buffalo Law School Dean, Distinguished Professor and Floyd H. and Hilda L. Hurst Faculty Scholar*)

Emily A. Dinsmore (*SUNY Buffalo Law School, J.D. expected May 2014*)

Kerisha Hawthorne (*SUNY Buffalo Law School, J.D. expected May 2014*)

2- LOCAL OFFICIALS

Hon. Mark C. Poloncarz (*County Executive, Erie County*)

Catherine M. Mackay (*Director, Cattaraugus County Department of the Aging/ NY Connects*)

3- CLIENTS

Diane Butler (*Client of Legal Assistance of Western New York, Inc., accompanied by David Pels*)

Ursula M. Anderson (*Client of Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc., accompanied by William W. Berry*)

Richard Hesse (*Client of The Legal Aid Bureau of Buffalo, Inc., accompanied by Marc J. Connors*)

4- BUSINESS AND COMMUNITY LEADERS

Dennis C. Walczyk (*Chief Executive Officer, Catholic Charities of Buffalo*)

Miguel Santos (*Consumer Advocate, National Grid*)

Joseph Fruscione (*Vice President & Commercial Branch Manager, M & T Bank*)

5- CHIEF ADMINISTRATIVE JUDGE FOR COURTS OUTSIDE NEW YORK CITY

Hon. Michael V. Cocco (*Chief Administrative Judge for Courts Outside New York City; Supreme Court Justice, Sixth Judicial District*)

For additional information on the unmet needs for civil legal services, see the Reports of the Task Force to Expand Access to Civil Legal Services in New York in 2010, 2011 and 2012, which are available at www.nycourts.gov/ip/access-civil-legal-services

APPENDIX 7:

**Transcript of the Third Department Hearing
Held on September 17, 2013**

1 STATE OF NEW YORK
2 COUNTY OF ALBANY

3
4 IN THE MATTER OF THE CHIEF JUDGE'S
5 HEARINGS ON CIVIL LEGAL SERVICES,
6 THIRD DEPARTMENT HEARING

7
8
9 PROCEEDINGS held in the above-entitled
10 matter on the 17th day of September, 2013,
11 at 10:00 a.m. at the Court of Appeals,
12 Eagle Street, Albany, New York.

13
14 BEFORE: HON. JONATHAN LIPPMAN, Chief Justice
15 of the State of New York

16
17 HON. A. GAIL PRUDENTI
18 Chief Administrative Judge

19 HON. KAREN K. PETERS
20 Presiding Justice, Appellate Division,
Third Department

21 DAVID M. SCHRAVER
22 President, New York State Bar Association

23
24
25 Reported by: Colleen B. Neal

1 CHIEF JUSTICE LIPPMAN: Good morning. It's a
2 delight to see all of you. Before we have our first
3 witness testify let me just give you a little background.
4 This is the 2013 Hearing on Civil Legal Services. As you
5 know, these hearings are under the auspices of the
6 leadership of the judiciary and the profession in this
7 state.

8 I have with me Karen Peters, the Presiding
9 Justice of the Third Department; Chief Administrative
10 Judge A. Gail Prudenti, on my left; and all the way to the
11 right is David Schraver, who is the President of the New
12 York State Bar Association.

13 The reason why we have the leadership of our
14 court system and the profession preside over these
15 hearings is because they are essential to the cause of
16 equal justice in our state. There is a crisis in this
17 country in relation to civil legal services for the poor
18 and these hearings are designed to quantify what that
19 crisis is here in New York and then proceed from there a
20 process that I will explain to you.

21 The hearings were put together in large measure
22 by the Task Force to Expand Civil Legal Services in our
23 state. Our chair is here, Helaine Barnette. Where are
24 you, Helaine? Good to see you. And you've done such a
25 terrific job. And I believe from the Task Force Steve

1 Banks is here, Camille Enders, Anne Erickson. Fern
2 Fisher? No. Okay. Denise Kronstadt? No. And Lillian
3 Loyd. I saw her, I know Lillian. Thank you all.

4 Really the Task Force has done wonderful work
5 and we're so pleased that you can be with us today. I
6 think around the country our access to justice efforts are
7 such a large measure of the work of the Task Force.

8 Let me also say that what this is all about is
9 not just a crisis in terms of representation for
10 defendants who have a particular lawsuit -- let me also
11 say that I would be very neglectful if I didn't mention
12 Judge Victoria Graffeo, my colleague, who is all the way
13 in the back, it's hard to find her, but I see her there.
14 And Judge Graffeo has been the co-chair of our advisory
15 committee on the 50-hour pro bono rule.

16 The lawyers and Judge Graffeo are also heading a
17 group on in-house pro bono work and in so many other areas
18 and done just a spectacular job in the cause of equal
19 justice in our state and on behalf of promoting civil
20 legal services.

21 Let me sort of summarize what's been going on;
22 that people fighting for the necessities of life, whether
23 it be a roof over their head, their physical well-being,
24 their livelihoods, the well-being of their families,
25 fighting for the basic essentials of life, cannot get

1 legal representation in our state and in our country. At
2 best we are meeting 20 percent of their needs.

3 And if you look at an organization as well-known
4 and spectacular as The Legal Aid Society in New York City,
5 you can see Banks there, they turn away eight of nine
6 people who come to them in search of legal representation.
7 So this is a terrible situation, and a bad economy makes
8 it worse.

9 And what's happening on the civil side of our
10 courts is that -- now on the criminal side we all know we
11 recently celebrated the victory battle of Gideon versus
12 Wainwright, which ensures that people in criminal cases,
13 defendants, have a Constitutional right to representation.

14 In civil cases, at least now, there is no
15 constitutional right. That's why people around the
16 country have been talking about a civil Gideon. And we're
17 just not there and not close to being there. Again, more
18 people than not, depending on where you are -- Lillian's
19 situation is a little different, Anne's a little
20 different, Steve's a little different, but every place is
21 the same story, that we cannot accommodate the people who
22 come seeking representation in matters. This is not
23 because they tripped over a crack in the sidewalk in front
24 of the courthouse, these are very essential. Evictions,
25 foreclosures, domestic violence, consumer credit cases.

1 All the things that really matter.

2 And the judiciary and the profession recognize
3 our unique role and our unique responsibility in this
4 role. The bottom line is if we can't have equal justice
5 in our courthouse, if everyone can't be represented and
6 have their day in court, then we might as well close the
7 courthouse doors. There's nothing more important. It has
8 no meaning without a level playing field.

9 So that's why we're very proud of the template
10 that we've developed in New York. We're due to a joint
11 resolution of the Legislature, we hold these hearings
12 every year. The resolution asks us to inform the
13 Legislature as to what the needs are in terms of civil
14 legal services, then we're holding hearings, the Task
15 Force provides a report, and then we put in the judiciary
16 budget a request for funds not to completely meet the
17 need, because there isn't enough money in the world to
18 completely meet the need, but to close the justice gap
19 between the resources available and the desperate need.

20 We've been very fortunate over the first three
21 years of our efforts, where the first year the Legislature
22 gave us twenty-seven and a half million dollars, the
23 second year forty million dollars, and last year
24 fifty-five million dollars for civil legal services in our
25 state, and we thank the Legislature and the Governor for

1 making that a reality. It is by far the highest amount of
2 funding for legal services in the country and yet the tip
3 of the iceberg.

4 So the other part of it where I mention that
5 there just isn't enough, even in Comptroller DiNapoli's
6 vast war chest that he has down the street over here,
7 there just isn't the funding that we need.

8 So there's one other thing that is very
9 important and that is the volunteer pro bono efforts of
10 the Bar and we're so thankful to President Schraver and
11 the State Bar and all of the local Bar Associations for
12 contributing over two and a half million hours of pro bono
13 work at least that we know.

14 We just started a reporting system with lawyers
15 so we can get a sharper idea with their registration the
16 report on how much pro bono work that they do so we will
17 know better exactly what we're doing in pro bono and how
18 that complements the money we're getting from the state.

19 And Judge Graffeo has been instrumental in terms
20 of our putting together an effective system for the 50
21 hours of pro bono that we're asking from law students, or
22 requiring from law students. We have a wonderful program
23 that we believe is going to be replicated shortly around
24 the country. California is next and New Jersey we believe
25 will happen very soon.

1 We have a program of older lawyers also do pro
2 bono work, Albany lawyers, Emeritus Program, the State Bar
3 has so many programs that are so helpful in terms of pro
4 bono work complementing the money that we get from the
5 state.

6 So again, all of this is about everyone gets
7 access to the courts. That's what we're interested in,
8 equal justice, a level playing field. And I think it's
9 fair to say that every society is judged by how it treats
10 its most vulnerable litigants. And for us too here in New
11 York, we should be judged by how we treat the most
12 vulnerable among us. What could be a greater test, a
13 greater challenge.

14 So what we're doing today, starting with
15 Comptroller DiNapoli, is trying to figure out what is the
16 need so in this year's budget that will come in December
17 we can quantify that need, put in monies to the
18 Legislature and hopefully get a good result. We've been
19 so pleased with where we are so far, but there's so much
20 more to be done.

21 So without further ado, I welcome you all to the
22 hearing which is going to be from 10:00 to 1:00 today. We
23 have six different panels. The Comptroller is a panel in
24 and of himself as opposed to the other multiple people in
25 the panels.

1 But I do want to say that from both a
2 professional and personal experience I know Comptroller
3 DiNapoli is one of the most committed and dedicated people
4 in this state to the cause of justice for everybody in our
5 state, treating everybody with respect and dignity as a
6 legislator, as a Comptroller and Re-Comptroller. Tom
7 DiNapoli I think stands for everything that's good in
8 public service in this state. It is an honor and a
9 privilege to have him here.

10 I'm so pleased that in this first hearing this
11 year, and there's four hearings around the state, it is
12 appropriate that the lead witness, Comptroller DiNapoli,
13 is such a wonderful steward of our state finances, and
14 again someone committed to all the values that we care
15 about in this state, particularly in the judiciary and the
16 agenda that we have which is that everyone be treated
17 equally. And I think that's a hallmark of what
18 Comptroller DiNapoli stands for.

19 Tom, Mr. Comptroller, thank you so much for
20 being here and we're delighted and honored by your
21 presence.

22 HON. DiNAPOLI: Thank you, Chief Judge, you
23 humble me with your kind words, I thank you for that.
24 It's a privilege for me to be with you in this beautiful
25 and historical courtroom where the history of New York has

1 been made and continues to be made. And I appreciate the
2 opportunity to testify before you.

3 We submitted written testimony, but I will read
4 it for the record to make it official. So good morning,
5 Chief Judge Lippman, Chief Administrative Judge Prudenti,
6 Presiding Judge Peters, Bar Association President
7 Schrauer, and the cast who joins us. I'm honored to be
8 with you today at the Chief Judge's Hearings on Civil
9 Legal Services in New York.

10 As the Comptroller of the State of New York, I'm
11 the Chief Fiscal Officer of the state. My office engages
12 in continuous oversight of the state budget and is
13 responsible for auditing the payment, as well as the
14 results, of money spent.

15 New York State's enacted budget for state fiscal
16 year 2013-14 projected to total \$96.4 billion, not
17 including federally-funded spending. This figure, known
18 as the State Funds portion of the budget, represents all
19 state taxes and non-tax revenues that are available for
20 spending during the fiscal year in areas where federal
21 funds are not available.

22 The state continues to face budgetary
23 challenges. We have seen real progress in recent years,
24 both in the state's short-term financial position and in
25 the effort to move toward long-term structural balance.

1 But projected outyear gaps remain significant, at \$1.7
2 billion in the next fiscal year and \$2.9 billion in each
3 of the following two years.

4 The very difficult fiscal challenges that we
5 have confronted during and after the Great Recession have
6 had negative impacts on virtually every state program,
7 certainly including the one we're addressing today.
8 Still, in the midst of the continuing challenges the
9 current state budget includes increases for many important
10 programs.

11 Even in tough times we find ways to provide for
12 essential services. For example, school aid is rising by
13 5.3 percent on a school-year basis, and Medicaid is rising
14 by 3.3 percent this fiscal year. These are the two
15 largest areas of the state budget, and we all agree are
16 very important. So, too, are civil legal services. Even
17 in difficult times we can and should find ways to support
18 this essential program.

19 Traditionally, the primary source of funding for
20 civil legal services has been the interest on Lawyer
21 Account Fund. As all of you are well aware, an extended
22 period of low interest rates, among other factors, has
23 reduced this funding stream dramatically. Planned
24 expenditures from the IOLA fund this year are only \$7
25 million, compared to nearly \$32 million just a few years

1 ago.

2 Chief Judge Lippman has come to the rescue year
3 after year, this year targeting \$40 million in the
4 judiciary budget for appropriations for support of civil
5 legal services and an additional \$15 million for IOLA for
6 a total of \$55 million.

7 Why it is important to fund civil legal
8 services? The reality is -- and Chief Judge certainly
9 framed the discussion partly a few moments ago -- a vast
10 number of New Yorkers cannot afford a lawyer. And without
11 a lawyer they cannot adequately navigate legal problems
12 involving some very fundamental needs we often take for
13 granted, including housing, family stability and personal
14 safety in domestic relations, access to health care or
15 education, or subsistence income and benefits.

16 Who are the people who need lawyers? Well, they
17 are our neighbors. They're victims of natural disasters
18 like Superstorm Sandy and Hurricane Irene who are trying
19 to rebuild their homes. They're veterans, many of whom
20 are disabled, returning to us from honorable service in
21 Iraq and Afghanistan, trying to rebuild their lives.
22 They're workers in urban, suburban and rural communities,
23 many of whom earn not much more than minimum wage and need
24 lawyers to represent them in their daily struggles. And
25 those who are unemployed need lawyers just as much as

1 anyone else.

2 New York has been at the forefront for providing
3 low-income legal services. Civil legal assistance for the
4 poor in the United States began in New York City in 1876
5 with the founding of the predecessor to the Legal Aid
6 Society of New York. And under your leadership, Judge
7 Lippman, we remain in the forefront. Since your selection
8 as Chief Judge you have been tireless in your efforts to
9 shine a light on the legal needs of lower-income New
10 Yorkers and to provide them access to quality legal
11 assistance.

12 While my role as Comptroller does not include
13 recommending specific levels of expenditures I have the
14 responsibility to see that the tax payers' dollars are
15 used cost-effectively. It is said that you often have to
16 invest money to save money. I support Judge Lippman's
17 efforts in this spirit, not just because they help lower
18 income New Yorkers, but because they are in the best
19 financial interest of the state.

20 The economic consequences to the state of the
21 lack of civil legal services are significant. According
22 to the Office of Court Administration the lack of
23 representation for low and moderate income New Yorkers
24 places a huge burden on the courts.

25 In 2010 there were 2.3 million unrepresented

1 litigants whose lack of representation slowed judicial
2 proceedings for all litigants, including businesses that
3 suffer economic loss every day their legal disputes are
4 not addressed.

5 In our state Supreme Court the Office of Court
6 Administration has established standards for timely
7 disposition of cases, from the initial request for
8 judicial intervention to disposition. For expedited cases
9 the standard is 23 months; for standard and complex cases
10 the standard period is some months longer. Some cases are
11 resolved more quickly than the standard period, while
12 others can take months or years longer.

13 One of the hallmarks of a positive business
14 environment is a judicial system that resolves disputes
15 without undue delay. To the extent that we can ensure all
16 litigants appropriate legal representation, we enhance
17 both the fairness and timeliness of our state court system
18 for the benefit of all New Yorkers.

19 The lack of appropriate representation is a
20 particular issue in certain kinds of cases. Statewide, 49
21 percent of New Yorkers are unrepresented at statutorily
22 required settlement conferences in foreclosure cases.

23 Representation by counsel is still unavailable
24 for borrowers in thousands of consumer credit cases filed
25 in New York City; for too many parents in child support

1 matters in rural, suburban and urban areas; and for the
2 overwhelming majority of tenants in eviction cases in all
3 four Judicial Departments.

4 Providing civil legal services can help prevent
5 the downstream societal and financial impacts that stem
6 from problems such as domestic violence and homelessness.
7 For example, representation in domestic violence matters
8 can cut down on the costs associated with lost work days,
9 hospitalization, treatment by physicians, emergency room
10 visits, ambulance and paramedic services, physical
11 therapy, and mental health treatment.

12 While New York was not hit by the housing market
13 decline and foreclosure crisis as hard as some other
14 states were, both the state and the nation continue to
15 suffer repercussions of that decline and the resulting
16 foreclosures.

17 Many economists tell us that the lingering
18 weakness in housing markets is one reason our national
19 economy is not growing as strongly as we would like.
20 Representation in foreclosure proceedings ensures that
21 low-income homeowners have a fair chance at retaining
22 their homes, thereby stabilizing a still-troubled housing
23 market.

24 Representation of the custodial parent in child
25 support proceedings not only allows parent and child to

1 live with food, shelter and dignity, but protects
2 taxpayers who otherwise would have to pick up the bill.

3 The evidence of the monetary return to the state
4 of investment in legal services is plentiful. The United
5 States Department of Commerce estimates that every dollar
6 brought into the New York economy generates a multiplier
7 effect of 1.48. Civil legal services help generate
8 badly-needed SSI and other benefits. When these dollars
9 come into the state low-income families and individuals
10 use the money to purchase necessities like food, rent and
11 clothing. These expenditures in turn support local
12 businesses at the same time they assist those in need.

13 NERA Economic Consulting analyzed 2011 data
14 provided by the New York State Interest on Lawyer Account
15 Fund and estimates that in terms of benefits won the total
16 flow of funds brought into New York in 2011 alone is \$378
17 million. Expected future benefits may raise that figure
18 by many additional millions of dollars.

19 This figure includes federal funds brought into
20 the state in the form of direct federal benefits for
21 individual clients, such as SSI, Supplemental Security
22 Income; SSD, Social Security Disability Insurance;
23 Medicaid, unemployment compensation, earned income tax
24 credits and veterans benefits, much of which represents a
25 return of our fair share of the federal taxes that we pay.

1 Using the Department of Congress multiplier,
2 NERA concluded that the benefits received in 2011 yielded
3 an overall positive impact on the state economy of \$561
4 million. New York is not unique in this respect. Studies
5 performed on behalf of civil legal services providers in
6 Massachusetts, Maryland and a number of other states
7 conclude that such services generate substantial increases
8 in federal revenue.

9 Since this is clearly a national phenomenon, one
10 might reasonably ask what is the federal government doing
11 to expand access to these services? The answer is not
12 what we would hope for. The Legal Services Corporation is
13 the single largest funder of civil legal aid for
14 low-income Americans in the nation. Established in 1974,
15 LSC operates as an independent nonprofit corporation that
16 provides grants for high-quality civil legal assistance to
17 low-income Americans. It distributes more than 90 percent
18 of its total funding to 134 independent nonprofit legal
19 aid programs with more than 800 offices. Unfortunately,
20 LSC grants amount to less than 27 percent of New York's
21 legal services funding. And the trend is not good.

22 In fiscal year 2011 Congress gave the
23 Corporation \$378.6 million for basic field grants. In
24 2012 that decreased to \$322 million. In 2013 it decreased
25 to \$316 million. For fiscal year 2014 the U.S. Senate

1 proposes increasing the field grants to \$400 million; but
2 the House of Representatives wants to decrease that to
3 \$272 million.

4 And what should we do to move forward here in
5 New York? Well, certainly first and foremost let's
6 support the Chief Judge in his very important efforts.
7 And second, also the Chief Judge touched on earlier, let's
8 continue to find nonmonetary as well as monetary
9 solutions. And this also has been a Hallmark of Judge
10 Lippman's tenure.

11 While we cannot achieve our objective with
12 volunteers alone, tapping into the spirit of volunteerism
13 is a key component. It not only combines
14 cost-effectiveness with quality, it demonstrates the
15 dedication of the legal profession to the furtherance of
16 justice.

17 Pro bono attorneys are indispensable in the
18 effort to ensure access to justice for our most vulnerable
19 and needy residents. My congratulations to the New York
20 State Bar Association, and its members, for its robust pro
21 bono response. The Association promotes pro bono
22 participation through a variety of recruitment and
23 recognition programs, like the Empire State Counsel
24 Program, reserved for Association members who, during the
25 calendar year, contributed 50 hours or more of free legal

1 services.

2 These services are provided directly to persons
3 of limited financial means. They also go to organizations
4 whose services are designed primarily to address the legal
5 and other basic needs of persons of limited financial
6 means, or to increasingly the availability of legal
7 services to vulnerable and/or low-income individuals.

8 Our seniors, retired or active attorneys, are
9 leading the way also. The Unified Court System's Attorney
10 Emeritus Program works with the organized bar and legal
11 services programs to place attorneys in good standing, who
12 are at least 55 years old with a minimum of 10 years
13 experience, with pro bono opportunities.

14 During the two-year registration period,
15 Emeritus attorney volunteers commit to serving 60 hours of
16 unpaid legal assistance under the auspices of a qualified
17 legal service provider, bar association or court-sponsored
18 volunteer lawyer program. And you need not have years of
19 experience to become part of the solution.

20 On September 14th of last year the Court of
21 Appeals adopted a new rule requiring applicants for
22 admission to the New York State Bar to perform 50 hours of
23 pro bono services. What better way could there be not
24 only to meet the needs of our low-income residents, but
25 also to start off thousands of legal careers with a

1 built-in sense of the spirit of volunteerism and giving
2 back, something that may help define the entire careers of
3 the newest members of the legal profession.

4 In conclusion, I believe we must support
5 appropriate funding for civil legal services because doing
6 so is fair and equitable. Our failure to do so would
7 exacerbate the already-too-large justice gap that exists
8 between the well-off and the poor. But that is not the
9 only reason. There is an additional reason that is
10 especially important from my perspective as Comptroller.
11 The numbers show an investment in civil legal services is
12 a smart investment. The payback and benefit, in both
13 qualitative and quantitative measure is very clear.

14 I appreciate this opportunity to testify before
15 you. If you have any questions, I'm pleased to respond.

16 CHIEF JUSTICE LIPPMAN: Thank you,
17 Mr. Comptroller, we really appreciate it. Let me ask you
18 in the central message that we've been trying to get
19 across in the last -- certainly this is the fourth year of
20 trying to do this, is that this really is a question of
21 improving the financial health of the state, the bottom
22 line of our state, but it's so hard to get that message
23 across, in bad times particularly. There's a tendency to
24 say well that's really a good thing, I understand people
25 need help, but we have lots of priorities in terms of

1 people needing help and the money is just not there.

2 How do you get across that this is on top of
3 doing the right thing; which I think everyone wants to do,
4 particularly those in government. How do you get across
5 that this really is a dollars-and-cents issue? What we've
6 tried to do is do some of these studies that really put it
7 in certainly discreet areas as to what the benefits to the
8 state are; the classic example which I think is the better
9 problems that come in. But it's hard. When you're trying
10 to balance the books we know there are certain
11 expenditures, but it's hard to quantify that the benefits
12 to the state are so much greater.

13 HON. DiNAPOLI: You're right, it's very hard.
14 But I do think given the tough time we continue to
15 navigate through both from a mental and certainly in
16 people's personal lives as well. Everyone needs to
17 understand the need to look at all issues from the
18 perspective of what's a dollars-and-cents impact. And I
19 do think the studies that have been out there not only in
20 New York but detailed studies in other states, but a very
21 similar kind of research, you know, first of all, as you
22 point out, in terms of leveraging benefit dollars from the
23 federal government, the benefit is clear and you can
24 quantify a great deal of that.

25 And I think part of the message is really the

1 points we hear about so much in New York, and we have for
2 decades, New York sends a lot of money to Washington and
3 we never get back our fair share. It's a circumstance
4 that may be a forever dynamic because we're a wealthier
5 state so we may never come out fully ahead. But there's
6 always the concern how can we more effectively leverage
7 where we have a foot in the door with so many federal
8 programs.

9 So I think looking at other states and their
10 studies, they validate the same kind of model, the various
11 kinds of federal benefits that are out there we will
12 leverage more dollars. So I think being more consistent
13 in the message that we're getting something we're really
14 not entitled to.

15 And although I touched on it, I certainly think
16 we can spend a great deal more time documenting the
17 numbers of our veterans that are part of this issue as
18 well. We talk a great deal about honorable service and we
19 know that with the recent conflicts people are coming back
20 very injured and disabled. And everybody talks about the
21 heros, but in very tangible terms we need to recognize
22 that if you look at those that are homeless, facing mental
23 health issues, posttraumatic stress disorder, substance
24 abuse so on, is very often our veteran population. So
25 again because the federal government is willing to provide

1 benefits in that area another sense of the priority of
2 honoring that service and leveraging the dollars becomes a
3 very, very important one.

4 So I think citing more of the data that's out
5 there and again validate not only by the New York members
6 but by other states, but I also think there's the point
7 that I touched on in testimony is an important one as well
8 because everybody is going to look at their self-interest,
9 right; so, anyone who has an interest in a matter before
10 the court certainly suffers when there's a delay and
11 certainly from a business perspective we often get
12 complaints because they're trying to resolve a matter and
13 can't get a resolution.

14 If the courts are being clogged because of this
15 unrepresented population and that's jamming up the system,
16 for lack of a more artful way of saying it, that is a way
17 in which everybody suffers. So we all strive to have New
18 York have a better sense about a place to do business and
19 a more hospitable climate. The efficiency of the courts
20 is very, very important.

21 So I think making the connection to the ways in
22 which we all have a say even for those who perhaps say it
23 may be right but we can't deal with it now because of the
24 economics. Certainly the numbers in terms of drawing down
25 benefits are clear in terms of the impacts on the state's

1 economy and revenue of the state and the efficiency of the
2 courts, how important and essential that is to all
3 stakeholders in our state. And I think emphasizing those
4 important points is a way to bring it home that there is a
5 larger benefit, not just to the individuals and the
6 families who will be served by these services.

7 CHIEF JUSTICE LIPPMAN: And you mentioned I
8 think a couple of times the role in terms of the business
9 community. We've been able to quantify and say that for
10 every dollar invested six dollars is returned to the
11 state. But I think what people fail to realize too, and
12 you said it a number of times in your testimony, is that
13 the bottom line of individual businesses are really served
14 by providing legal representation to the poor.

15 We've had people come in sort of
16 counterintuitive to say well why would a head of a big
17 corporation care about legal representation to the poor?
18 But basically they come in say, the head of the biggest
19 banks or whatever, if you're letting people fall off the
20 cliffs those people, apropos your testimony, are not in
21 the communities spending money at the local stores,
22 putting money into the bank, doing all the things that
23 make us a thriving community. So we're trying to do both,
24 to get across to the state this is a wise investment, but
25 way beyond that it's multiplied through the financial

1 health of the community and all the different business
2 entities.

3 HON. DiNAPOLI: And certainly people and
4 families that are in crisis they don't disappear, they
5 will show up somewhere else if their issues aren't
6 resolved in a positive way, whether it's the health care
7 system or social services system, they will show up, and
8 very often with more critical issues and it will certainly
9 be much more costly.

10 So having positive resolution on these issues,
11 giving them positive legal representation hopefully they
12 will come to a point, with other kinds of assistance
13 that's out there, where they will no longer be in crisis
14 in the long run, and that benefits our bottom line
15 substantially.

16 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller.
17 Any other questions?

18 HON. PRUDENTI: Can I just ask you one quick
19 question, please? And Comptroller, I have to take this
20 opportunity to thank you and to thank other members of
21 your staff who are just so professional and so helpful
22 with regard to pointing out to us ways we can do business
23 better, as well as answering any questions we have with
24 regard to funding from the state, so I appreciate that.

25 But as I know you are well aware that we are in

1 the midst of preparing our budget going forward and of
2 course that will be a request that I will speak with the
3 Chief Judge about with these hearings from Civil Legal
4 Services. So I just want one question from my view as
5 Chief Administrative Judge in what I purchase. Can you
6 tell me the projections for state revenue for this fiscal
7 year, have we met those projections?

8 HON. DiNAPOLI: Certainly where we're at at this
9 point in the budget cycle we seem to be on target and
10 that's a good sign. One of the challenges is that we had
11 a significant bump-up in revenue ahead of projection
12 earlier in the year, much of that having to do with the
13 tax activity because of change on the federal level and of
14 course the day to pay the taxes, April 15th.

15 So whether or not all of that will hold up
16 through the balance of this year, through March 31st, we
17 still have been urging caution. But compared to where we
18 are at at this point in the fiscal year a few years ago
19 where we would be dealing with shortfalls and the need for
20 the Legislature to come back and make their cuts or
21 slowing down payments or putting off state aid to
22 localities, we're certainly not in that kind of a crisis
23 mode.

24 So much of our budget plan is very much tied to
25 the swing of the overall economy. And as we all can

1 appreciate, more of the indicators are certainly on the
2 positive side than they've been for a number of years.
3 We're certainly in a recovery mode statewide, although the
4 extent of recovery is uneven depending on which part of
5 the state you live in. But I have to say right now all
6 things seem to be holding together. That's good news.
7 But as I indicate, even with the good news of the current
8 year we still have a budget gap. So the challenge still
9 for New York is -- and I give credit to the Governor and
10 the Legislature, they have been successful in the past
11 three budgets in being more responsible on the front end
12 in terms of more of a realistic approach on revenue
13 projections, the budgets have healed together.

14 But because of the expected rising cost in a
15 number of areas we still see outyear gaps. Are they 10
16 billion gaps we had recently, no, but there are still gaps
17 there, so our hope is that we will not only end the budget
18 year balanced, but hopefully we'll see an arch uptake in
19 the economic activity of the state that might result in a
20 decreased projection as far as what the outyear gaps for
21 the next year and the couple years after that.

22 So it's fair to say so far so good. We're not
23 out of the woods yet. We're doing our budget now too.
24 For all of us we have to assume the kind of fiscal
25 discipline we've all had to exercise over the past few

1 years, that's not going to end any time soon. So it does
2 become a competition of priorities in where you choose
3 to -- if you wanted to do an increase where you choose to
4 make that decision. That's why I pointed out in the early
5 part of my testimony even during tough times there have
6 been increases in programs. Certainly when you're talking
7 about something like education aid, over a 5 percent
8 increase, you're talking about \$20 million plus, a big
9 chunk of the budget.

10 So there obviously are programs that state
11 policy makers are determining to be important enough to
12 get increase. And obviously in terms of dollar amounts
13 when we're talking about the civil legal services a small
14 fraction of some of those big programs have seen some
15 healthy increases in the context of a very, very tight
16 budget climate.

17 So what that would suggest is understanding an
18 overall environment is one of concern and needs to be
19 conservative in our estimates, but even in tough times
20 programs that have been deemed to have value have seen
21 increases. Keep making the case. Keep fighting hard for
22 this program.

23 HON. PRUDENTI: Thank you, Comptroller.

24 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller
25 DiNapoli, for your insightful testimony. Puts it into

1 context really of where all of this fits into the bigger
2 picture of the state economy and the state budget. We're
3 very happy that you have to contend with that, we have our
4 own issues to deal with.

5 But thank you for gracing us with your presence
6 and for your supportive statements. We do feel that this
7 is such an important point to talk about, prioritizing and
8 where there needs to be wise investments that on the one
9 hand are real dollars, but on the other hand in the short
10 and long run very much contribute to the economic health
11 of the state. So thank you, it's been a delight to have
12 you.

13 HON. DiNAPOLI: It's been a privilege to be with
14 all of you and thank you for your great work.

15 CHIEF JUSTICE LIPPMAN: Thank you, Comptroller.
16 The next panel is the Dean of Albany Law School Penelope
17 Andrews, and Denise Gonick, the President and CEO of MVP
18 Health Care.

19 MS. ANDREWS: Good morning to the panel and
20 thank you for the opportunity for me to testify on the
21 role of law schools --

22 CHIEF JUSTICE LIPPMAN: Thank you for coming in
23 because we need our home team here, Albany Law School.

24 MS. ANDREWS: I'm pleased to be here and I
25 applaud you and the Task Force for your attention to this

1 critical issue.

2 CHIEF JUSTICE LIPPMAN: Thank you for coming, we
3 really appreciate it. Go ahead.

4 MS. ANDREWS: You had mentioned in your remarks
5 that there was certainly a lack of funding. There's
6 always a lack of funding. And I would like to think that
7 law schools to some extent close the gap. So what I would
8 really like to do is talk a little bit about the role of
9 law schools and then mention some of our programs at
10 Albany Law School.

11 So let me start just by saying that this issue
12 is something that I feel personally very passionate about.
13 I grew up in South Africa where access to the courts is
14 very limited. And as a student this was something that I
15 felt -- this was the reason for my being a lawyer.

16 I think that we all agree that law schools, as
17 significant institutions in our society, have a
18 responsibility to instill a sense of service and
19 commitment to justice in our students. And this has been
20 a tradition of law schools and Albany Law School, I'm
21 proud to say, has followed this tradition.

22 So let me just outline quickly a few of our
23 programs. I won't go into all the testimony, I'll just
24 summarize some of what we're doing at Albany Law School.
25 Let me first mention the Albany Law Clinic & Justice

1 Center. At the clinic we have a pro bono program, our
2 faculty and research and scholarship in collaboration with
3 the community, these are all very important. And the
4 clinic is at the center of it.

5 As you know, clinical education is an important
6 part of a law student's training. And every year at
7 Albany Law School through the clinics one-third of our
8 students assist hundreds of individuals and families who
9 might otherwise not have legal presentation. And it is my
10 commitment to increase the number of students to a hundred
11 percent of students who are involved in representing
12 individuals and families.

13 In addition to providing this vital service,
14 Albany Law students are learning to practice law with
15 compassion and sensitivity to the needs of their clients.
16 In this way they are able to represent people who are
17 often economically and socially marginalized and who
18 typically lead vastly different lives to those of our
19 students.

20 Let me just quickly mention the other clinics.
21 We have the Civil Rights and Disabilities Law Clinic, we
22 have the Family Violence Litigation Clinic & Immigration
23 Project, we have a Tax and Transactional Law Clinic, we
24 have a Health Law Clinic. And then of course there's the
25 Law Field Placement Program which supplements the clinical

1 work and the clinical program.

2 Even before Chief Judge Lippman announced that
3 all law students must perform 50 hours of pro bono service
4 to be admitted to the New York Bar, Albany Law School had
5 a vibrant student-run, faculty-supported, pro bono
6 program. We at Albany Law School applaud Judge Lippman's
7 rule and believe it will be instrumental in creating an
8 even deeper commitment and passion for pro bono work in
9 many students as they move through their careers.

10 In response to the rule, Albany Law School
11 committed its resource to hire a full-time pro bono fellow
12 who supports our student and faculty in the pro bono
13 society. In our pro bono program students commit to
14 completing at least 15 hours of service through a project
15 each semester, although many students volunteer in the 50-
16 to 100-hour service range. Last year, 200 students
17 completed nearly 2,500 hours over the course of the year.

18 We are working collaboratively with The Legal
19 Project to fund and hire post-graduate fellows who will
20 work full time with their Domestic Violence Project. And
21 this is possible as a result of funding from the Office of
22 Court Administration which will be used to leverage
23 additional support from law firms and businesses to fund
24 the program in the long-term.

25 We are also very excited that with the Third

1 Department The Legal Project, Legal Aid, we are setting up
2 a health center to work with individuals and communities
3 who are unrepresented. So that is sort of just a snapshot
4 of the clinics and our field placement and pro bono.

5 Let me just talk a little bit about the faculty.
6 We have several faculty, and I won't tell you what
7 everybody does, but let me give a few examples of our
8 faculty's work in this area. Professor Connie Mayer
9 serves as the Law School's representative on the Statewide
10 Law School Access to Justice Council which is part of
11 Judge Lippman's Task Force to Expand Access to Civil Legal
12 Services in New York.

13 Professor Dorothy Hill integrates access to
14 justice and access to the courts routinely in an
15 Introduction to Lawyering classes, including a lengthy
16 dedication about dedication to justice and the public good
17 as an essential characteristic of an expert lawyer. In
18 this past semester she used a case example of access to
19 justice issues faced by many transgender individuals.

20 I could continue, but the point is that Albany
21 Law School is deeply committed at all levels to ensuring
22 access to the courts. Continuing this work and supporting
23 our students who want to pursue public services takes
24 resources. Our students are weighed down by their student
25 loans. There are some mechanisms that alleviate the loan

1 after the student performs a certain number of years of
2 service. We also have a limited Loan Repayment Assistance
3 Program for students who want to pursue a career in public
4 service and public interest. And one of my goals as the
5 Dean is to raise more money for the program.

6 Ensuring access to justice is central to the
7 mission of the law school. Our work -- in our clinics,
8 through our pro bono program, and by our faculty -- has a
9 direct impact on the community. But more importantly, it
10 helps students identify a passion for justice, and for
11 service, that will make a difference throughout their
12 careers. Based on recent history and the path of our
13 alumni, we know that Albany Law students go into public
14 service, continue to engage in pro bono work and answer
15 the calls to close the justice gap as a direct result of
16 their experience at Albany Law School and we are proud of
17 this tradition.

18 But our work at Albany Law School would not be
19 possible without the partnerships of those organizations
20 and institutions that provide access to the civil legal
21 services in the great State of New York. The combined
22 efforts in training, mentoring, advocacy and service with
23 these organizations and institutions make our efforts at
24 Albany Law possible and meaningful.

25 Let me conclude by saying that I have been the

1 president and Dean at Albany Law School for just over one
2 year and there are many things that I am heartened by in
3 this role. One is being part of the community of those
4 who provide access to legal services to marginalized,
5 struggling and poor New Yorkers. I am particularly
6 heartened by the commitment of Chief Judge Lippman and
7 this committee, and so I applaud you. And thank you for
8 allowing me this opportunity to testify before you.

9 CHIEF JUSTICE LIPPMAN: Thank you, Dean. And
10 thank you for your commitment and for your terrific
11 remarks.

12 Let me ask you a question. We speak to a lot of
13 deans and we talk to a lot of people, I do certainly,
14 around the country in the law school community. There are
15 deans who say quite directly that law schools are not in
16 the access to justice business. What do you think, Dean,
17 are law schools in the access to justice business?

18 MS. ANDREWS: Oh absolutely. If you believe in
19 the rule of law and you believe that as a society, a
20 democratic society, and the citizens in the democratic
21 society should have access to the courts, then that is the
22 business of law schools. And law schools train students
23 to work to provide access in a variety of areas in
24 government, in practice, in business. So I believe that
25 that is our role and that we should be vigorously

1 graduating students who are committed to the rule of
2 access to justice.

3 CHIEF JUSTICE LIPPMAN: We are in total
4 agreement with you. Let me ask you another question. I
5 think you touched on it in your remark. There clearly is
6 a disconnect in this country and here in New York between
7 the kids, the students, who are coming out of law school,
8 loads of lawyers, deeply in debt, and yet the jobs are
9 certainly not as plentiful as they were before the economy
10 took a nose dive. And there is on the other end this
11 desperate need, that these hearings are all about, the
12 civil legal services. And I've been working -- in fact,
13 I've been working with Judge Graffeo on a couple of
14 thoughts that we've been thinking about in terms of how to
15 solve this clear problem that we have. I think disconnect
16 is the right word.

17 Do you feel that in your everyday what you're
18 doing as a Dean of a very prominent law school, do you
19 feel that where you're training these kids you're not only
20 training them in the disciplines, but in the values of
21 what it means to be a lawyer, and they come out and yet
22 jobs are difficult to come by and burdened sometimes by
23 tremendous debt, and yet how do we get them over to meet
24 this need? We can instill in them the value of
25 understanding that being a lawyer is also about service to

1 others, but how do we -- this fundamental problem that
2 you're confronting, that we're confronting, how do we deal
3 with it? Does it drive you every day? Is it part of what
4 you're dealing with as the Dean of Albany Law School?

5 MS. ANDREWS: I think the quintessential
6 challenge for law school deans and law schools in this
7 century and in the next few decades is how to remedy the
8 disconnect that you mention. There is clearly a great
9 need for legal service by many members in the community
10 and yet people talk about there being too many lawyers.
11 So I think the challenge is to marry those two forces.
12 And I don't think it's an easy challenge. I think law
13 school tuition is of great concern. This is what we have
14 right now.

15 So as a law Dean my challenge is to ensure that
16 the values have a place to go because the point is
17 students graduate and they want to do this work and they
18 cannot. So that's the challenge and that's what I'm
19 committed to, to ensure that we're able to distribute the
20 needs in the community, and not just be idealistic but
21 actually put that into practice.

22 CHIEF JUSTICE LIPPMAN: And you know as we all
23 talked about when we meet with the deans and certainly in
24 New York we talk about what we need to do with the
25 curriculum to change it, to make it more responsive to the

1 need that's out there, but I'm sure that will happen with
2 all of the energy that's out there in terms of law schools
3 and what we should do with the third year, make it more
4 valuable, and some people even say maybe we should change
5 the whole framework.

6 The problem is whatever we do even if we succeed
7 is what happens afterwards and how do we channel the
8 students who -- you know, we can indoctrinate them until
9 we're blue in the face about what their responsibilities
10 are as lawyers, but I think solving that goes so much to
11 solving the problems that these hearings are all about,
12 and also continuing our legal profession, that I know that
13 President Schraever cares so much about, to make it a
14 vibrant one in New York.

15 So it's all kind of interrelated and I guess it
16 leads me to something else that you mentioned -- which
17 will be my last question, and if anyone has any -- you
18 talked about the relationship with partners. And I guess
19 that's what strikes me, in both our efforts to gain
20 funding for legal services and our efforts to produce more
21 pro bono work, do you believe that -- I think sometimes
22 people feel that law schools exist in a vacuum. And I
23 think what we're starting to realize, I'm sure at the law
24 schools, and certainly from our perspective and the courts
25 and in the profession, that we really are in this together

1 and that we can't succeed without each other. Do you feel
2 that you're grappling with these issues? That's what you
3 see?

4 MS. ANDREWS: Yes, I think that clearly a lot of
5 the opportunities that this quote unquote crisis has
6 generated has been seen in law schools that everything is
7 interconnected and that our partners, really we should be
8 working closely with our partners to ensure that they have
9 the resources to do what they wish to do and that we can
10 do what we should be doing.

11 I'm heartened that President Schraever has taken
12 on board the issue of legal education. And I think the
13 trick is I have committed my deanship to one of
14 student-centeredness. It's all about the students, the
15 graduates, and the future of the legal profession. So I
16 think that this moment has provided a great opportunity
17 for us to really look at these opportunities and not as a
18 cliché - this crisis we cannot waste.

19 So yes, I am heartened. I think that law
20 schools have to be involved. I'm pleased that Albany Law
21 School, because of our location, because of our legacy,
22 has always been involved in the community. And we are
23 fortunate to have very, very committed alumni, like Denise
24 Gonick here, who really care about the school and the role
25 of the school in the community.

1 CHIEF JUSTICE LIPPMAN: Thank you, Dean. I
2 think it's so interesting that a few years ago -- and Dave
3 knows this -- we tried to take part, tried many years, the
4 court system, tried many years gee let's get the academy
5 together with the court system and the Bar, and yet there
6 was a time that I think the academic community didn't
7 realize the synergy, you know, we're educating the
8 students. And I think sometimes there's always a silver
9 lining, and I think in the crisis that we have in
10 representation, the crisis that we have in the legal
11 profession, has in so many ways brought us all together in
12 recognizing that we have so much in common and that the
13 problems, as you say, are interrelated. Thank you so
14 much.

15 MS. ANDREWS: Thank you.

16 CHIEF JUSTICE LIPPMAN: Any other questions?
17 Presiding Justice Peters.

18 HON. PETERS: Firstly, I want to thank you for
19 taking the helm. You've done an extraordinary job in your
20 short tenure here and we're pleased to have you in Albany.

21 As the Presiding Judge of the Appellate Division
22 Third Department I sign practice orders for attorneys and
23 law students who are in a great number of organizations
24 from district attorney's offices to Legal Aid Societies,
25 and I'm wondering if you can help me understand how you

1 think you can get the rest of the law students involved in
2 clinical work? What do you think prevents them? Are they
3 employed part-time and therefore struggling to earn a
4 living; are they raising a family while they're in school;
5 or have they just not adopted our philosophy which is that
6 in order to have the joy of the practice of law you need
7 to give back to the community that you serve?

8 MS. ANDREWS: You mentioned some factors:
9 Raising a family, working part-time to raise money. But I
10 think there are other factors as well. One is first year
11 is such an incredibly anxious time for students because
12 grades mean everything, and there's the bar passage, and
13 so those factors impede some of that.

14 But I think really it is about right from the
15 start as the Dean and the faculty guiding students. Judge
16 Lippman had mentioned indoctrination. I don't think it's
17 indoctrination, I think our students -- in this country
18 our students come to law school with a passion for
19 service, I think what we need to do is harness that
20 passion, that energy. I don't think our law schools have
21 done a good job. Some law schools have, others have done
22 a mediocre job, but I think collectively we can do more to
23 harness the passion and the energy that students have
24 right from the start. I think we wait a little bit and
25 first year takes over and so on. But I think I'm

1 optimistic that we will be able to do more and encourage
2 students to think about servicing the communities.

3 HON. PETERS: Thank you.

4 CHIEF JUSTICE LIPPMAN: Before I go to Denise, I
5 think that right from the start is the right approach.
6 You're seeing it from the first year of law school and
7 we're seeing it during law school so that when they enter
8 the profession they have it in the fiber of their being of
9 what it means to be a lawyer. So I think getting them
10 from day one and getting them during those three years so
11 it does come that they're able to be admitted to the bar
12 they understand.

13 So thank you and thank you for being here and
14 it's always a delight.

15 MS. ANDREWS: Thank you, Judge Lippman.

16 CHIEF JUSTICE LIPPMAN: I meant what I said
17 about being totally on the same wavelength about what the
18 law school is supposed to be doing and what our profession
19 is supposed to be doing. Thank you so much. Now Denise
20 Gonick.

21 MS. GONICK: Thank you.

22 CHIEF JUSTICE LIPPMAN: Denise, you've gone into
23 the real world?

24 MS. GONICK: I have, yes. Thank you very much
25 for the opportunity this morning to testify on the

1 importance to the business community.

2 CHIEF JUSTICE LIPPMAN: This is the Albany Law
3 School panel. You understand that?

4 MS. GONICK: It is.

5 CHIEF JUSTICE LIPPMAN: That is the raison
6 d'etre of your testifying, so go ahead.

7 MS. GONICK: Actually, I was going to share with
8 you that there are really three perspectives that I bring
9 to you this morning. First, as the president and CEO --
10 the new president and CEO, I should say, of MVP Health
11 Care, I've been in this role for eight months now, this
12 issue is important to me. I obviously have a bottom-line
13 responsibility to that company.

14 Many of the comments that the Comptroller was
15 making about return on investment and being able to make
16 those connections I'm now living every day, so I
17 understand how important that is. Secondly, the fact that
18 MVP is a health care company is another way that I think
19 these two issues are interrelated. When you're running a
20 health care company you cannot ignore the community around
21 you. The community is a direct influence on what people
22 experience for their health. And then finally, as an
23 attorney that was educated here in Albany and did practice
24 in New York State, this issue is very important to me.

25 So let me just share a little bit about MVP. We

1 are a not-for-profit health plan that serves 733,000
2 members across New York, Vermont and New Hampshire, but
3 most of our membership is here in New York. We have more
4 than 1600 employees and they're all very committed toward
5 improving the health and wellness of the people that we
6 serve so that our communities can be amongst the
7 healthiest in the nation. And we have laid that out as
8 our new vision, that we will create the healthiest
9 communities in the nation.

10 So central to that vision we believe is the
11 desire to expand access to quality health care services
12 for the most vulnerable. I think it's worth noting that
13 we attempt to do this through all different means,
14 including partnerships between public and private
15 entities. Collaboration, in our experience, is the only
16 way to get those things done. In MVP's case it is through
17 the Medicaid Managed Care program, as well as the new
18 subsidized Exchange program that will be coming live in 13
19 days on the new exchanges. Medicare Advantage programs
20 for our senior citizens. Through each of those we think
21 we're committed to creating peace of mind for people that
22 their health care needs can be met through all different
23 stages of life. Expanding Access to Civil Legal Services
24 similarly supports a vision of equitable and healthy
25 communities that benefits everyone.

1 In many respects, the health care challenges
2 parallel those of the court system and access to justice.
3 The current economic climate has caused a lot of despair
4 for many people within our communities. The expanding
5 number of low-income families is at record levels and more
6 individuals and families are temporarily poor or out of
7 work after many years as income providers. Many are
8 facing new health care and legal issues, amongst other
9 challenges, because of this.

10 At MVP we focus very much on the health of our
11 communities. We're recognizing that good health is judged
12 and determined more than just by people's individual
13 health behaviors and the actual clinical interventions
14 that they might seek. So for example, the Robert Wood
15 Johnson Foundation has been collecting and analyzing data
16 to measure the relative health of every county in the
17 United States over the last several years. Socioeconomic
18 factors, such as the rates of unemployment, the percentage
19 of children living in poverty, and inadequate social
20 support plays as important a role in overall health as the
21 time one actually spends seeking medical care.

22 We understand, however, that health care needs
23 are often secondary to basic needs like food, clothing,
24 safety and shelter. A diabetes diagnosis, for example,
25 might be an afterthought for someone who is preoccupied

1 with mounting bills, with threat of foreclosure or an
2 unsafe living environment.

3 By ensuring access, equal access, to civil legal
4 service a family can, at little or no cost, attain the
5 assistance of a trained legal professional to navigate the
6 very difficult system. When local systems aren't prepared
7 to recognize the signs and symptoms of a lack of basic
8 needs small legal issues can find their way out of local
9 courts and into more advanced problems. Victims and other
10 individuals struggling to meet their basic needs can even
11 be seen as victims themselves or part of the problems
12 themselves and be denied access to help.

13 When a community is made up of individuals who
14 have equal access to health care and civil legal services,
15 its strength is evident through improved outcomes: Health
16 outcomes, home ownership, safety within the community,
17 business growth, entrepreneurship and healthy schools with
18 strong academic outcomes. Business grows as the community
19 grows. Strong businesses who demonstrate their ability to
20 do well attract other businesses and growth breeds new
21 growth.

22 In closing, businesses want to do business in a
23 community that ensures that justice is available to all.
24 In the Capital District the nonprofit community
25 contributes substantially to the economic well-being of

1 the Capital Region. The local legal services providers,
2 Albany Law Clinic & Justice Center, Legal Aid Society of
3 Northeastern New York, The Legal Project of the Capital
4 District Women's Bar Association, Empire Justice Center,
5 the Albany County Bar Association, Unity House of Troy,
6 and the Workers' Justice Center all contribute in many
7 positive ways to the economic and social well-being of the
8 community.

9 Equal access to justice, without regard to
10 income, is fundamental to our system of justice and
11 integral to our society. New York State can serve as a
12 model in access to legal services for all its residents
13 regardless of income. Working together with legal
14 services providers and law school clinics will ensure that
15 justice is delivered, thereby creating stronger
16 communities which I believe will foster healthier
17 individuals and families, strong businesses, and positive
18 outcomes for all. Thank you very much for the opportunity
19 to testify.

20 CHIEF JUSTICE LIPPMAN: Thank you for coming.
21 Let me ask you this one basic question. How does the
22 health care world interact with these kinds of providers?
23 In practice what do they have -- people don't understand
24 that there's a connection. We understand the basic idea
25 that some people sometimes have health problems and they

1 cannot access the resources that are available. But in
2 practice do you interface with providers?

3 MS. GONICK: Oftentimes I think institutional
4 providers, such as hospitals, and yes we work very closely
5 with hospitals, can be a great coordinator or facilitator
6 for people to find their way.

7 CHIEF JUSTICE LIPPMAN: Because it's a
8 labyrinth.

9 MS. GONICK: It is.

10 CHIEF JUSTICE LIPPMAN: You're talking about the
11 new changes and it's a very complex system. People
12 sometimes just can't do it themselves, isn't that the
13 bottom line?

14 MS. GONICK: I think that's true. And I think
15 it's confusing for people. Particularly in view of reform
16 we've worked hard to try to provide more educational
17 services for a wide variety of different educational
18 levels. So we have a lot more that's available on our
19 internet site. But also through our own expansion of our
20 Medicaid program have people that do community outreach,
21 go out into the community at places where you will find
22 individuals, supermarkets, shopping centers and so forth,
23 so that you also have that personal interaction to help
24 people.

25 CHIEF JUSTICE LIPPMAN: Any other questions?

1 Dave.

2 MR. SHRAVER: Let me just mention that yesterday
3 I was in New York City meeting with chairs of a number of
4 our sections in the State Bar, including the chair of our
5 Health Law section, and we were talking about their
6 efforts to get up to speed and the Affordable Care Act so
7 they can provide continuing education to the members of
8 the Health Law section as well as lawyers who don't
9 practice in the health law area on a regular basis.

10 Sounds to me like there may be opportunities for
11 collaboration here between the providers, the insurers,
12 the law schools, practicing bar so that we can all try to
13 understand this new world of health insurance and
14 exchanges and educate both practicing lawyers and the law
15 students who may be in a position to respond to the need
16 of people at really all income levels to understand and
17 access this new system. Is that something that anyone is
18 focused on or that you thought about in how we can work
19 together to do that?

20 MS. GONICK: I think that the insurers right at
21 the moment are 13 days away from the law interview
22 exchanges, have been very focused on providing education
23 to employer groups and making it available for
24 individuals. And I know that the State of New York has
25 been as well through the actual Exchange. I think that

1 would be a very good next step. I'm sure you will see a
2 hunger for people to be able to attend some educational
3 sessions, panel discussions.

4 The other interesting thing about health reform
5 is that this affects people quite personally. They get
6 educated broadly on what the law is about, but in the end
7 it's going to be their own -- it's not unlike doing your
8 taxes, your own set of personal circumstances are what's
9 going to drive what would be the best decision for you.
10 So yes, that does lend itself to individual counseling.

11 HON. PRUDENTI: Just very quickly I would like
12 to congratulate you on your appointment. It's with great
13 pride to see that you were educated on Long Island and
14 that you received your degree from Albany. In your new
15 role do you see that role as one where you will try to
16 create a cultured service among the individuals who work
17 for you in the health care industry?

18 MS. GONICK: Absolutely. And thank you for your
19 comments, I appreciate them. I think it is central to
20 MVP's vision about being an important contributing member
21 to the communities, and I think we have a unique
22 responsibility because we are in that health care space,
23 it is not a generic kind of business. And I'm trying to
24 put programs in place that enable employees to have time
25 to be able to volunteer on things that are particularly

1 important to them, but I'm also working on initiatives
2 that MVP will support as a corporate entity and that we
3 can work on collectively. I think that's important.

4 CHIEF JUSTICE LIPPMAN: Let me just add to that.
5 Judge Graffeo has been here and we are working on, and I
6 know the State Bar supports this strongly, making it
7 easier for in-house counsel to be performing pro bono
8 work. So we're going to be coming out with something in
9 the not-that-distant future in that area which I think is
10 kind of an untapped resource in terms of pro bono type
11 work.

12 So thank you both. Thank you for the Albany Law
13 School panel. It was a delight to see both of you and
14 thanks for coming. And Dean Andrews, always a delight to
15 see you.

16 Now let me call Mark Eagan who is the business
17 panel all by himself. I know Mark that you have to get up
18 to Saratoga so we're not going to waste any time and get
19 you started on your presentation.

20 MR. EAGAN: Thank you. And Denise I think did a
21 good job starting off with those --

22 CHIEF JUSTICE LIPPMAN: Mark is the President
23 and CEO of the Albany-Colonie Regional Chamber.

24 MR. EAGAN: Indeed I am.

25 CHIEF JUSTICE LIPPMAN: What does that mean,

1 Mark?

2 MR. EAGAN: Our organization is the primary
3 business advocacy organization for the Capital Region. We
4 represent 2200 organizations that employ more than 110,000
5 residents of the four-county area that we serve.

6 The ultimate goal of the Regional Chamber is
7 really community prosperity. Our goal isn't simply that
8 businesses do well, our goal is for our citizens and our
9 communities to do well. We look to serve as a catalyst
10 for the growth and prosperity of our region by providing
11 leadership, advocacy and resources. And we want every
12 citizen to have opportunities for success.

13 I'm pleased to be here today to support funding
14 for civil legal services for low and moderate income New
15 Yorkers. The proper functioning of a free society and an
16 efficient economy require availability of a fair and
17 balanced legal system to adjudicate legal disputes and to
18 preserve individual rights. This mechanism for resolving
19 disputes must be available to everyone. Access to legal
20 services at all socioeconomic levels is critical to
21 community stability.

22 Legal assistance can be critically important for
23 individuals involved, as issues related to marriage,
24 divorce, immigration, child custody --

25 CHIEF JUSTICE LIPPMAN: Mark, let me stop you.

1 And don't feel, anybody presenting, that you have to give
2 your whole testimony. We'll fill up your time, don't
3 worry about that. You can read it if you want.

4 MR. EAGAN: That sounds good to me.

5 CHIEF JUSTICE LIPPMAN: I want you to explain,
6 because I think it's hard to really understand, and yet we
7 have consistently over the years when you have business
8 people like yourselves who come in, how is it people don't
9 get it? How is it that a person gets legal assistance and
10 that helps his local business?

11 In other words, people in the communities have
12 all kinds of problems; they're going to be foreclosed on,
13 they're going to be evicted, they have a matrimonial case,
14 they have a consumer credit case, they have something in
15 family court. How is it that those people getting legal
16 assistance, what's the connection that brings you to want
17 to testify here today? What does one have to do with the
18 other?

19 MR. EAGAN: It's a great question. But really
20 there is a direct correlation. You know, many of the
21 folks who have access to these services are people who are
22 employed. So they come to work every day and they have
23 that burden or if they miss days of work because of the
24 stress of not being represented it directly impacts that
25 company's bottom line.

1 But in addition to that, you have to realize
2 that we also have many of our smaller businesses who fall
3 into this category. And we know we've been through many
4 years of a recessionary economy, so many of those small
5 businesses directly have relied on those services. Or
6 even if businesses are going to be involved in a case,
7 they want to make sure those on the other side are able to
8 have representation.

9 And then I think, Judge, it goes to my earlier
10 comments. Really the goal of our organization, even
11 though we're a membership base, our base is a business
12 community, our goal isn't just for businesses to do well,
13 our goal is really for our region to do well, our people
14 to do well.

15 CHIEF JUSTICE LIPPMAN: Because it's really
16 two-folded, kind of what I said, I don't know if you were
17 here for the beginning piece, but we were talking about
18 that we want to do the right thing. And I think
19 forward-looking businesses, business organizations, want
20 to do the right thing, want the community to be healthy
21 and all of those things, and that's clearly our aim in
22 promoting Civil Legal Services. Poor people, people of
23 limited income need help.

24 MR. EAGAN: They do.

25 CHIEF JUSTICE LIPPMAN: But the other thing is

1 it's harder for people to understand that the bottom line,
2 as you call it, is really affected if those people don't
3 get that help.

4 MR. EAGAN: It is. And I think we know that
5 it's all aspects of our community who have to be lifted
6 up. And often those that are low to moderate income don't
7 know where to turn to. And so the services that are
8 provided -- and Denise spoke of it -- she referred to
9 several organizations we're blessed to have here in the
10 Capital Region.

11 CHIEF JUSTICE LIPPMAN: You find you're working
12 with the providers in various interactions?

13 MR. EAGAN: We most definitely do. We most
14 definitely do. I think then it goes to the comments, but
15 really all added together the goals of those people who
16 are in the unfortunate circumstance who need the help or
17 those on the other side, ultimately we're all in it
18 together.

19 CHIEF JUSTICE LIPPMAN: The concern that the
20 business community has had with this issue has helped us
21 tremendously because it's not the normal, you know, we
22 call the do-gooders. We're all do-gooders, and that's
23 great. People come and say we need, we need, we need, can
24 you help? This person is terribly in need. And all of
25 that is wonderful and we all want to do good, but I want

1 you to know that by your coming in, by others through
2 these years of our being able to get public funding, this
3 is what is counterintuitive that the Legislature, the
4 other branch of government, are seeing this is not just --
5 this is not just -- not that that shouldn't be enough in
6 and of itself to see there are people in need and to say
7 that there are people in need, it's your support, your
8 understanding of the interconnection that has made them
9 stand up and take notice and say gee maybe this thing does
10 have a broad base and it's not just another need of which
11 there are so many, but it's something that affects the
12 bottom line health of our state in terms of the business
13 communities and the different multitude of entities that
14 make the life of any community in our state.

15 MR. EAGAN: Well said. And I appreciate the
16 opportunity to testify today. Our region wouldn't be
17 where we're positioned today and where we hope to go
18 tomorrow without the support of these services. So thanks
19 again.

20 CHIEF JUSTICE LIPPMAN: Thank you. Any
21 questions?

22 MR. SHRAVER: I just have one quick question.
23 We've been talking today about the importance of funding
24 civil legal services. Along with that goes the actual
25 funding of the courts generally so that the business

1 community, among others, have access to the courts to
2 resolve their disputes and to seek to satisfy their basic
3 needs.

4 I'm wondering whether you think that your
5 members, the business community at large, understands
6 these issues and understands the importance of funding the
7 court system, funding civil legal services as a smart
8 investment as in everybody's interest in helping to reduce
9 the tax burden and so forth.

10 MR. EAGAN: I wish I could say the broad answer
11 is yes. But I think really what it is is when it affects
12 you personally. So I think with the cases of businesses
13 if they have employees that have been impacted with legal
14 services they're thankful that they are here and those are
15 the folks who have probably testified in years prior to
16 me.

17 I think that for businesses who have to use the
18 court and they want it to be timely, they want it to be
19 efficient, they understand the adequate funding that can
20 occur. But until they're not there, you know, they want
21 their tax dollars to be as low as possible. I think the
22 folks most touched, and those that are most informed, do
23 understand.

24 MR. SHRAVER: If there are opportunities where
25 the State Bar Association, I'm sure the Albany Bar

1 Association as well, can help to get that message out to
2 the business community we welcome those opportunities.

3 MR. EAGAN: Thank you.

4 CHIEF JUSTICE LIPPMAN: Judge Peters.

5 HON. PETERS: In your capacity as the head of
6 the Chamber of Commerce do you provide information to
7 employers who are attempting to acquire information
8 concerning organizations that their employees might need
9 access to?

10 MR. EAGAN: Yes.

11 HON. PETERS: Like Immigration Pledge or
12 Disability Law Clinic?

13 MR. EAGAN: We do.

14 HON. PETERS: You do. So that you're providing
15 that information which can begin to foster that support.

16 MR. EAGAN: We really try and -- we don't
17 obviously directly provide it, that's why I'm here to
18 testify in support of the others. But oftentimes when
19 businesses don't know where to turn they start with us,
20 and the deeper and richer our tool box is the more helpful
21 we can be.

22 CHIEF JUSTICE LIPPMAN: I think it goes, Judge
23 Peters, one of the themes that is coming out of this is
24 it's all interrelated; whether the Bar Association, the
25 Chamber, whether it's the provider, whether it's the court

1 system, it really is. And I think it's what I was saying
2 before to the Dean, sometimes crises bring us together to
3 understand the interconnection. I think the civil legal
4 services issue has been such a perfect example of that
5 where the different parts of our community get it. If one
6 doesn't succeed the rest doesn't.

7 Anything else? Okay, on to Saratoga. Thank you
8 so much for coming by, we appreciate it.

9 MR. EAGAN: Thank you very much.

10 CHIEF JUSTICE LIPPMAN: The next panel is the
11 judicial panel. Carmelo M. Laquidara from Rensselaer City
12 Court and the Honorable Margaret T. Walsh from Family
13 Court in Albany County and also an acting Supreme Court
14 Judge in the Third Judicial District.

15 So we're delighted to have the two of you here
16 representing your different courts. And as unaccustomed
17 you are as to receiving questions rather than giving them
18 we'll try to ask you a couple of questions because I have
19 a good sense of what you're up against and I think maybe
20 we have to at these hearings make sure everybody else
21 does.

22 So let's start with the Rensselaer City Court.
23 What legal service is important to what you see every day
24 in your court? Why is this connected to the Rensselaer
25 City Court in your role as the judge?

1 HON. LAQUIDARA: Well I think, Judge, the two
2 main reasons that come to mind, one it just makes the
3 court system run more efficiently having an attorney
4 represent a litigant in a civil matter just makes the
5 whole process run more smoothly.

6 CHIEF JUSTICE LIPPMAN: How does your role
7 change when you don't have an attorney?

8 HON. LAQUIDARA: Well, it's a different
9 balancing act. That's the other reason I was going to
10 mention why this is such an important issue is because as
11 a judge I have to try to remain impartial and neutral and
12 I --

13 CHIEF JUSTICE LIPPMAN: Is that possible when
14 people in -- I know there's no black or white answer.

15 HON. LAQUIDARA: It becomes very difficult,
16 Judge, especially when one litigant is pro se and the
17 other is represented by an attorney.

18 CHIEF JUSTICE LIPPMAN: Exactly. You're
19 supposed to be a level playing field.

20 HON. LAQUIDARA: Right. And the pro se litigant
21 I think looks to the judge for some sort of assistance in
22 levelling that playing field when the other side in fact
23 is represented by an attorney. So it makes my job --

24 CHIEF JUSTICE LIPPMAN: So you feel conflicted
25 when that happens?

1 HON. LAQUIDARA: Yes, absolutely. Very
2 conflicted when that happens because part of me wants to
3 assist because the pro se litigant just oftentimes lacks
4 the basic understanding of the law, procedures, rules of
5 evidence and certainly it's difficult for them.

6 And I also think that the pro se litigant,
7 especially when they're up against a represented litigant,
8 I think they feel that the system is somewhat skewed
9 towards the party that's represented by an attorney. And
10 I try to of course maintain a neutral and impartial
11 position, but I think sometimes they feel that because the
12 other side has an attorney that they will be treated
13 better or that they will have a less difficult time with
14 their case.

15 CHIEF JUSTICE LIPPMAN: Do you feel from your
16 personal experience that what you see every day are a lot
17 of people coming into city court unrepresented? And if
18 so, what particular areas is it most likely to happen that
19 they will be unrepresented?

20 HON. LAQUIDARA: I looked at the numbers in our
21 court, Judge, and I would say 99 percent of the litigants
22 who appear in front of me on civil cases are
23 unrepresented.

24 CHIEF JUSTICE LIPPMAN: And that covers the
25 gamut of what kinds of cases?

1 HON. LAQUIDARA: Landlord-tenant cases, small
2 claims cases, commercial claims, even code violations
3 they're oftentimes unrepresented. The majority of them
4 are unrepresented.

5 CHIEF JUSTICE LIPPMAN: Is that mind-boggling to
6 you --

7 HON. LAQUIDARA: It is, Judge.

8 CHIEF JUSTICE LIPPMAN: -- in those kinds of
9 cases which are so basic to human needs?

10 HON. LAQUIDARA: Exactly. It is mind-boggling.
11 But certainly, as we all know, in criminal cases you're
12 entitled to representation and free representation should
13 you qualify financially.

14 HON. PETERS: Do you do criminal work as well?

15 HON. LAQUIDARA: I do. Besides being a
16 part-time judge I am a criminal defense attorney and I
17 also handle civil cases.

18 HON. PETERS: If I might I just want to talk a
19 second about a subject matter that the Chief mentioned
20 when he began his remarks. He talked about a potential
21 civil Gideon which I think is a great term. And since you
22 do criminal work and civil work you therefore see a
23 situation where everyone has an attorney and then you see
24 a situation where no one has an attorney.

25 HON. LAQUIDARA: That's right.

1 HON. PETERS: Can you share with us whether you
2 think it's critically important that both in civil and
3 criminal cases people have counsel?

4 HON. LAQUIDARA: I think it's absolutely
5 critically important. On the issue of civil cases we have
6 a person's shelter is at stake. Whether they're going to
7 have a roof over their head is at stake in a
8 landlord-tenant case. And certainly that's as important
9 as someone being represented in a criminal case.

10 CHIEF JUSTICE LIPPMAN: Could it be that -- I
11 want to make sure that you understand what we're saying.
12 That something could be as important as when their liberty
13 is at stake, could a civil case be equally important in
14 terms of the need to have representation?

15 HON. LAQUIDARA: I believe so, absolutely. The
16 civil cases that come before civil court and superior
17 courts of course I think are equally important. I think
18 in the vast majority of city court or town and village
19 court cases -- certainly people are incarcerated in
20 criminal cases. That obviously happens. But in the
21 majority of them probably not, there's other alternatives
22 other than incarceration, and they're still entitled to an
23 attorney free of charge if they meet the qualification.
24 In civil cases they don't have that same ability.

25 There are countless times when I wanted to

1 assign an attorney in a civil case and I obviously had no
2 authority to do so. I certainly have had some cases
3 where, especially in summary proceedings, the pro se
4 litigant was able to obtain the services of an attorney
5 through Legal Aid or The Legal Project, and just the
6 quality of the representation that they provide, the way
7 that the case proceeded in my court was such -- it was so
8 much more efficient. And clearly a better outcome was
9 reached when the pro se litigant had an attorney through
10 those organizations.

11 CHIEF JUSTICE LIPPMAN: Let's get Margaret
12 involved. Judge Walsh, what about family court; how does
13 the lack of legal representation affect you in your role
14 in family court?

15 HON. WALSH: Well, people are in family court
16 talking about the custody of their children. And I can't
17 always assign counsel in those cases.

18 CHIEF JUSTICE LIPPMAN: How does it affect your
19 role?

20 HON. WALSH: Well, my role is to make sure that
21 everybody is treated fairly. If one side has an attorney
22 and the other side doesn't, I have to be sure not only
23 that the pro se litigant is aware of and understands
24 what's going on and what's expected and what is going to
25 happen. But also, if you're asking the difficulty, might

1 as well start with the represented person looking I think
2 at the judge and wondering why is the judge helping the
3 other side? I have a lawyer, why is the judge -- is the
4 judge now on that person's side? Of course not. Of
5 course not. So we have to be very, very careful.

6 CHIEF JUSTICE LIPPMAN: And how often in family
7 court are people unrepresented?

8 HON. WALSH: They are unrepresented quite a bit.
9 Quite a bit. It happens very often that people do not
10 qualify for assigned counsel and they can't afford an
11 attorney. A family that makes maybe \$45,000 a year with
12 three children, three or four children, they don't qualify
13 for assigned counsel, but in no way can they afford a
14 retainer fee or another monthly bill.

15 HON. PRUDENTI: I agree with you wholeheartedly
16 with regards to families of modest means being in the
17 situation where they truly cannot afford counsel when they
18 come to the courthouse. Of course, our overriding concern
19 is trust and confidence in the legal system. But from the
20 operations point of view, from the Chief Administrative
21 Judge's point of view, I would like to ask each one of you
22 how much longer and how much more difficult do you think
23 the cases are and how much longer do they take when you
24 have non-represented individuals who appear before you?

25 HON. WALSH: They take longer in the courtroom

1 and they take longer in terms of weeks and months to
2 resolve. There's a very significant difference because
3 quite often people will attempt to get attorneys and they
4 will come back over and over trying to save money, trying
5 to borrow money so that they can have an attorney. And of
6 course that drags the case out for quite a long time.

7 But just the process of explaining what's
8 happening, we have to adjourn, adjourn, adjourn to see how
9 things are going, as opposed to just having an attorney
10 who could explain what the process is and then we can do
11 things in a much more orderly fashion. So it really takes
12 a toll on everyone when there isn't representation. And
13 the children. That's the biggest deal. When custody
14 matters are not resolved in a timely way it's the children
15 who suffer.

16 CHIEF JUSTICE LIPPMAN: Would the ideal
17 situation be apropos -- concerning Judge Peters'
18 question, would it make a world of difference to you if
19 everybody who came in, similar to a criminal case, that
20 when people came in they were basically represented?
21 Would that change your job, your world, in your two
22 respective worlds?

23 HON. WALSH: It would. And to be clear, there
24 are people who don't need attorneys because they've
25 reached an agreement on their own, so they can come in and

1 tell me what they would like. And I just talk about it
2 with them and if it makes sense to me I certainly let them
3 do it. But that's not always the case, so I think I would
4 like the freedom, the ability, the discretion to appoint
5 counsel when necessary. I would know that the People in
6 front of me are all aware of all of their options and that
7 would make my life quite a bit better so that I understand
8 that these people really know what they're getting into.

9 HON. LAQUIDARA: I would add, Judge, that cases
10 where two attorneys have come in, whether it's an eviction
11 proceeding, a small claims matter, it always seems to
12 reach a resolution and very quickly.

13 CHIEF JUSTICE LIPPMAN: Never! You mean lawyers
14 are of some worth?

15 HON. LAQUIDARA: Absolutely. Very much so. I'm
16 constantly doing trials and hearings with the pro se
17 litigants, especially when they're unrepresented on each
18 side. It's a fraction of the amount of hearings that I do
19 where there's two attorneys involved. It hardly ever will
20 go to trial or a hearing. It's just a lot more efficient.

21 The other thing I would add is the staff, my
22 clerks in court, are constantly barraged with legal
23 questions by pro se litigants when they're filing their
24 claims in court. And they, of course, have to walk a fine
25 line in terms of not rendering legal advice as well.

1 The other thing I see with pro se litigants is
2 often filing the same claim over and over when they've
3 lost already in court, they attempt to re-file. And it
4 certainly affects the efficiency and the amount of cases
5 we're hearing every day in court. So I think it would cut
6 down certainly the amount of hours that I would be there
7 and could focus on other things.

8 CHIEF JUSTICE LIPPMAN: Either of you have any
9 thoughts -- there's training around the country and
10 something that we're looking at here in New York is
11 nonlegal help for people by experts in a particular area,
12 whether it be foreclosure or, you know, so many other
13 different possibilities. Do you think that some cases
14 would not be before you if you had -- a lot of people
15 can't afford a lawyer but the problems are not so complex,
16 and what we're looking at are there in each area where
17 we could actually get people who aren't lawyers who could
18 help a litigant to maybe keep some of these cases out of
19 court and then save the real cases where lawyers can make
20 all the difference in the world? Is that something that
21 makes any sense to you? It's one of the areas that the
22 Task Force made a recommendation on and they were looking
23 at what we might do in New York.

24 HON. WALSH: We use trained mediators quite a
25 bit and that's very, very helpful. Many of the problems

1 that come to my court are not legal problems, they are
2 parenting issues that people have to resolve, and they can
3 be resolved with a neutral third person. So when people
4 go to mediation I think that is often very, very helpful,
5 and they don't need to step in the courthouse doors really
6 if they can get to mediation first. Often they come to
7 the courthouse, go to mediation and the case is resolved.

8 HON. LAQUIDARA: We don't have a mediator or an
9 arbitrator in our court, we're a modestly busy court and
10 we don't have the resources. But I think it would be
11 excellent to have that in every city court or local court.
12 My fellow judges that do have mediators or arbitrators
13 even on summary proceedings in their court in their very
14 busy city courts throughout the state, they've told me it
15 makes a huge difference certainly in the amount of
16 cases that --

17 CHIEF JUSTICE LIPPMAN: In some parts of the
18 state they have people who -- particularly in relation to
19 evictions and that kind of thing.

20 HON. LAQUIDARA: Right. And I think it would
21 make a huge difference to have that in many courts as
22 possible throughout the state.

23 HON. PETERS: If I might, I just have a quick
24 question of Judge Walsh, and definitely both of you can
25 answer if you wish. You mentioned the family that makes

1 \$45,000 a year and have three children and are illegible
2 for assigned counsel. The middle ground here I wonder
3 might be allowing assigned counsel in that situation with
4 the litigants paying back the cost of the assigned
5 counsel. I know when I first became a family court judge
6 many, many years ago we had a system in place in Ulster
7 County where that was exactly what was required of
8 individuals.

9 Do you think that's a possibility, of having
10 that middle ground where because, you know, they can
11 probably afford to pay for an attorney at the rate the
12 assigned counsel is getting paid, but they can't afford to
13 pay an attorney in the market place?

14 HON. WALSH: Right. I think that is absolutely
15 the way to go. Actually, our Bar Association has been in
16 conversation with some attorneys in the area about
17 developing a program just like that. Whether it's through
18 an actual assigned counsel plan or through another
19 community --

20 CHIEF JUSTICE LIPPMAN: Well, there are also the
21 similar thoughts when you talk about private attorneys
22 being helpful, there's low bono idea where you have
23 systems by which they charge less, whatever it is.
24 However you get there, where the cost is just less. But
25 the question is how you organize that and how that comes

1 to be.

2 But that's also a newly emergent kind of
3 thought, how do you provide low bono legal help or
4 nonlegal help but at least that's affordable to people.
5 When you talk about the family of four who earns \$44,000,
6 that's like double the rate of poverty and don't go
7 resolve a legal problem when you have that kind of income,
8 and yet they're often working people earning a living, but
9 yet they cannot afford it.

10 And that's why the providers, so many who are
11 out in the audience, are trying to figure out, we're all
12 trying to figure out what's the criteria, who do we give
13 legal assistance to when you only have so many dollars.
14 So if you're turning away eight of nine or two of four,
15 how do you decide who gets the assistance?

16 But I think it is instructive -- and I'm so glad
17 that you both came in today. I think it's instructive
18 people understand how it affects all of us in this judging
19 business what we try and do and try to understand that it
20 clogs -- not only clogs the wheels of justice, but
21 sometimes can make the Lady Justice uneven. And it's a
22 terrible dilemma for a judge to face that situation.

23 So we want to thank both of you for coming in
24 and graphically at the ground level explaining how this
25 works and how it impacts you in your courtrooms. We are

1 proud of both of you and we are pleased that you both are
2 here and thank you very much for coming in.

3 HON. LAQUIDARA: Thank you.

4 HON. WALSH: Thank you.

5 CHIEF JUSTICE LIPPMAN: The next panel, which is
6 also something we glancingly talked about a little bit
7 today, is veterans and how legal services could be of
8 assistance to veterans. So having the Veterans' Services
9 Organization panel and Joseph Sluszka and Courtney Slade.
10 Joseph is the Executive Director of the Albany Housing
11 Coalition, Inc., Veterans Housing and Services. Courtney
12 is the Veterans Justice Outreach Coordinator at the Albany
13 VA Medical Center.

14 Great to see both of you. Veterans have been an
15 issue that we have had in some of the hearings around the
16 state. We have had testimony from people who deal with
17 the veterans' issues. When we talk about legal services
18 it's rare that we divide it into a particular kind of
19 person who has unique needs. Certainly there are some.

20 Joseph, why don't we start with you. Why are
21 they different than anybody else and why are they in need
22 of legal services from the average person in the street?
23 We know the distinction between people who have a lot of
24 money and people who don't, but what's this all about for
25 veterans?

1 MR. SLUSZKA: Veterans have a unique need. Many
2 of them, especially those who have served in combat in any
3 war, whether it's Vietnam, whether it's World War II,
4 Korea and now Iraq, Afghanistan, because they're bringing
5 back home with them some issues of things that they saw,
6 that they did while in combat.

7 CHIEF JUSTICE LIPPMAN: What kinds of issues?

8 MR. SLUSZKA: You know, the nature of the
9 military is that you kill your enemy. And when that
10 happens or when you experience your comrade and buddy who
11 is killed by the enemy it can and does, and studies shows
12 has a profound effect on your emotional well-being. In my
13 mind it cuts to the core of who we are as people in terms
14 of our humanity. And that's my personal view about that.

15 CHIEF JUSTICE LIPPMAN: I gather it's obviously
16 been exacerbated by the fact that we've had our United
17 States military involved, in certainly the last number of
18 years, in places a great distance away where they're very
19 much in the middle of what they call boots on the ground
20 in Afghanistan or Iraq.

21 MR. SLUSZKA: Yes. And the other nature of the
22 current wars in Iraq and Afghanistan dissimilar to, for
23 instance, the Vietnam War there really is no front and
24 rear in this conflict. Driving down the road IDVs,
25 explosive devices, are just there. In contrast, during

1 Vietnam there was a front, you were in the jungle. But
2 then there was a rear and when your tour for weeks at a
3 time, whatever it was, was over you came back to the rear
4 where there was safety. And in Iraq and Afghanistan there
5 is no safety.

6 In our organization I have on staff three
7 gentlemen who served in Iraq, Afghanistan, and listening
8 to some of their stories about coming back and driving and
9 how difficult that can be for them, they see something
10 that doesn't make sense to them, they're immediate
11 reaction is to step on the gas and to swerve and get out
12 of the way.

13 So those are the kinds of things that our
14 veterans are bringing home with them. When Courtney
15 speaks I'm sure she will talk about some of the great
16 services that the VA is doing and that organizations like
17 the Veterans' Center, the Vet Center, we have one here in
18 Albany, are doing for combat vets to deal with those
19 emotional issues that they are bringing home with them.

20 That's one piece of it. The other issue that
21 some of our returning veterans are having -- and I deal
22 primarily with homeless guys, and that's a different
23 picture that I can get into as well. But some of the
24 folks, young men and women, who are coming back home now
25 when they left they signed a will, a power of attorney,

1 many of them. Some of the younger folks who had
2 girlfriends gave the power of attorney to the girlfriends
3 and they went out and got credit cards and spent a lot of
4 money and then when the soldier comes home the girlfriend
5 is gone from the scene and the soldier is left with this
6 debt.

7 CHIEF JUSTICE LIPPMAN: So how does this -- and
8 let's switch over to you, Courtney. How does this
9 translate to legal services? We understand, the public
10 understands you're traumatized, you may have a mental
11 health problem that comes you say from killing people,
12 watching people be killed, whatever it might be being in
13 action, how does this translate to legal services? What's
14 that connection?

15 MS. SLADE: I can say for the veterans that we
16 serve -- and we serve all veterans, including -- our
17 highest demographic is actually the Vietnam era currently.
18 But many of our veterans are facing criminal matters which
19 I do outreach to our 18 counties that we cover, from the
20 Canadian border down to Ulster County, in trying to link
21 them, as Joe mentioned, with treatment options. But many
22 of them are struggling with many civil legal matters that
23 put them at risk --

24 CHIEF JUSTICE LIPPMAN: Maybe what, mortgage
25 foreclosure?

1 MS. SLADE: Mortgage foreclosure, bankruptcy.

2 CHIEF JUSTICE LIPPMAN: Matrimonial.

3 MS. SLADE: Matrimonial. All of that. A lot of
4 variety. And it puts vets at the risk of homelessness.
5 And my program is under the goal from president and the
6 secretary of the VA to end homelessness among veterans.
7 So I can just say from the partnerships that we've
8 developed just in the last two years of providing civil
9 legal services within the VA has greatly alleviated --

10 CHIEF JUSTICE LIPPMAN: But do you provide it or
11 do you rely on legal service organizations?

12 MS. SLADE: We rely on the partnerships with
13 Legal Aid and The Legal Project.

14 CHIEF JUSTICE LIPPMAN: So you link them into
15 the local legal services?

16 MS. SLADE: Well, they actually come to the
17 hospital which is really wonderful because many of our
18 veterans come in on our van service. They actually get
19 the medical care and also meet with an attorney that
20 they've established an appointment with to avoid the
21 stress of -- maybe they don't have transportation, maybe
22 they don't have funds to get to a clinic in the community.
23 And from what we've received is a great deal of positive
24 feedback that that is available to them. And that's a
25 huge piece.

1 And then the evening clinic that we have also --
2 again, we're not providing it, the partnerships are, the
3 agencies that are here today, they allow for the veterans
4 to come at various times and it's been very, very helpful.
5 And a big piece of that is just alleviating the stress.
6 Affording them an opportunity to get the care that they
7 need regarding the symptoms that Joe had discussed and
8 also get maybe these areas that are just like the social
9 stressors.

10 HON. PETERS: Is there any federal reimbursement
11 for the legal services provided to veterans?

12 MS. SLADE: No, I don't believe so.

13 HON. PETERS: It would be nice.

14 MS. SLADE: It would be nice. The directive,
15 it's so new, it just allows us to provide space to meet
16 their needs there, but it's a great opportunity I think
17 for our veterans. And many of them are referred from our
18 homeless program and many of them actually work probably
19 with Albany Housing Coalition as well so there's a
20 collaborative there.

21 CHIEF JUSTICE LIPPMAN: The link that we're
22 looking at today is state funding for legal service
23 providers which allows you to help them. I mean this is
24 what you're trying to do. What we're trying to do.

25 HON. PRUDENTI: Sitting back and listening to

1 you, we've heard today about pro se litigants, people who
2 represent themselves in court, whether it be in family
3 court or landlord-tenant case, what you seem to be saying
4 is these individuals aren't even capable of doing that,
5 that they really need help and assistance from the legal
6 community because they can't even go to court by
7 themselves. They are, in certain circumstances, incapable
8 of understanding the proceedings because what they're
9 personally going through in their re-entry into society.
10 So for them civil legal services are even more important.

11 MS. SLADE: In mentioning that a lot of the
12 questions I get -- for a while my name was affixed to the
13 flyer that we were distributing and the expert -- you had
14 mentioned previously that the experts kind of just provide
15 consultation or flush out what needs to be filled out,
16 things like that. We've had problems resolved in our
17 clinics just by breaking things down. And I don't know if
18 necessarily I can say whether it required an attorney or
19 not, but they broke down those questions for them because
20 they felt overwhelmed by them because it had legal affixed
21 to it; it had, you know, go to a court appearance affixed
22 to it. So it's been very helpful.

23 MR. SLUSZKA: And Judge, from our experience
24 with my organization, homeless veterans face -- and here
25 in the Capital District there are probably, at last count,

1 around 900 homeless veterans. And again, our goal and our
2 purpose, and we've been doing this, sir, for 22 years, but
3 now I think there's light at the end of the tunnel
4 actually, given what the Court had said and what we've
5 experienced with our VA Secretary Shinseki who is
6 challenging all of us across the country to end veterans
7 homeless by 2015. What the VA has done is implement a
8 series of housing programs that hopefully will accomplish
9 that.

10 One of the barriers that we have seen over the
11 years, and it remains today, especially for homeless
12 veterans, is that we have a lot of mostly guys flying
13 under the radar who don't want to get a job on the books
14 who end up in the City Mission, who end up in our housing
15 with our organization primarily because they're facing
16 civil issues that they don't want to deal with or they
17 don't feel they have the resources to deal with.

18 One of the things we've done over the years
19 successfully is create a small group of pro bono attorneys
20 to assist them. In the last couple of years we formalized
21 that with the Legal Aid Society here. We've got a
22 terrific attorney who is a veteran who is working with our
23 guys.

24 So in order to solve the homelessness problem
25 with veterans we need to get to one of the underlying

1 causes which are unresolved primarily civil issues. We
2 also handle, within our organization through our Third
3 Judicial District Vet Track Program, criminal matters,
4 both in county courts and some of the city courts. And
5 there we do that with other veterans who appear, and that
6 works and works well and I want you to know that. That
7 operation works and we are thrilled. I am thrilled.

8 But back to the civil end. It's more of a
9 quandary. Some of the folks, because of their income, can
10 be served by Legal Aid. Some, as I heard with the last
11 panel, are kind of -- they're above that and they have
12 nowhere to turn to and so it comes to us to try to plead
13 with an attorney who is a veteran, because they're going
14 to look more kindly toward providing the pro bono service.

15 And to Judge Peters', I think it was, remark,
16 pro bono on kind of a graduated payment scheme I think
17 would be very helpful for those folks. But unless the
18 courts and those of us in the community resolve those
19 underlying problems we will continue to have homeless
20 veterans who are flying under the radar and who do not
21 want the otherwise incredible housing and employment
22 assistance that's available to them.

23 HON. PETERS: When you talk about flying under
24 the radar, are you talking about, for example, a veteran
25 who has a large outstanding child support bill for example

1 and doesn't want to be on the books because then a good
2 portion of his paycheck is going to pay the funds of?

3 MR. SLUSZKA: Yes, absolutely. And one of the
4 things we do with each of them when they are living with
5 us is take responsibility for yourself and let's work out
6 with an attorney a payment plan and let's get you back in
7 court to resolve this. And this is something that's
8 happened. They now have great jobs, they're able to pay
9 their child support and have sufficient income to live
10 their own lives. So absolutely.

11 CHIEF JUSTICE LIPPMAN: So legal assistance is
12 essential to all of these folks.

13 MR. SLUSZKA: Absolutely.

14 CHIEF JUSTICE LIPPMAN: Any other questions of
15 the panel?

16 MR. SHRAVER: To be clear, sounds to me like you
17 were saying that to meet the legal needs or to address
18 some portion of the legal needs of veterans in this area
19 you rely on both lawyers who are employed by Legal Aid and
20 pro bono private attorneys; is that right?

21 MR. SLUSZKA: That's right.

22 CHIEF JUSTICE LIPPMAN: Are there any other
23 sources of lawyers that you or legal services that you
24 rely on and often use?

25 MR. SLUSZKA: Some of our veterans actually hire

1 attorneys. These are homeless folks who for whatever --
2 some of them are receiving some compensation from the VA
3 for their war injuries as an example, and they're spending
4 that money, which would otherwise go to housing, for
5 private attorneys.

6 There are some veterans who when they file a
7 compensation claim, which is done for free by an
8 incredible group of folks from New York State Division of
9 Veterans Affairs and in each county level, if it's turned
10 down there is some veterans, when they go to appeal it,
11 see the TV ads and end up hiring a very expensive attorney
12 to file the appeal where the appeal is actually free from
13 where they originally filed the appeal. So that's an
14 indication.

15 MR. SHRAVER: Do you have any connection with
16 the Albany law school clinics with respect to trying to
17 meet some of these needs?

18 MR. SLUSZKA: Yes. In fact, I did a panel I
19 think two or three years ago when they first kicked off
20 their veterans initiative and we stayed connected with
21 them, yes.

22 CHIEF JUSTICE LIPPMAN: Thank you both for
23 really highlighting I think what is again a theme that
24 we've had over the years which is a great need for legal
25 assistance for veterans, and the legal service providers

1 have done a great job. The State Bar I know put some
2 focus on this same issue and it's something vital. So
3 again, we hope that we can provide some assistance in that
4 area. So thank you both very much.

5 MR. SLUSZKA: Thank you.

6 CHIEF JUSTICE LIPPMAN: We're going to go to our
7 final panel. You can all come up, and see if we can get
8 all the names right. You're bringing up your own cause so
9 we'll know if we get the names right. So let me see if I
10 have it right. We have Jason Keller and you have your
11 attorney with you, Jason?

12 MR. KELLER: Yes, I do.

13 CHIEF JUSTICE LIPPMAN: And that is your
14 attorney --

15 MR. KELLER: Laura Dwyer.

16 CHIEF JUSTICE LIPPMAN: Laura Dwyer. And we
17 have Laurie Schaible, is that the way you pronounce it?

18 MS. SCHAIBLE: Schaible.

19 CHIEF JUSTICE LIPPMAN: And Laurie, is your
20 attorney with you?

21 MS. SCHAIBLE: I have a representative from
22 Empire Justice Center.

23 CHIEF JUSTICE LIPPMAN: And is that Saima
24 Akhtar?

25 MS. AKHTAR: Yes, sir.

1 CHIEF JUSTICE LIPPMAN: And we have Tia Sullivan
2 Hock who is representing Michael DeBenedetti who can't be
3 here today, right?

4 MS. SULLIVAN HOCK: Yes, he was called into
5 work.

6 HON. PRUDENTI: That's a good thing.

7 MS. SULLIVAN HOCK: That is a good thing. So
8 I've come on his behalf.

9 CHIEF JUSTICE LIPPMAN: And we have Michael
10 O'Donnell?

11 MR. O'DONNELL: Yes, sir.

12 CHIEF JUSTICE LIPPMAN: And you're represented
13 by Kristie Cinelli.

14 MS. CINELLI: Yes, your Honor.

15 CHIEF JUSTICE LIPPMAN: Let's start with you,
16 Michael. You don't have to read anything if you don't
17 want to. Tell us what your problem was and how you want
18 help. Or you can read it, however you want to do it.

19 MR. O'DONNELL: Sir, I outlined it before I came
20 here so I won't repeat myself, make a fool out of myself
21 so I --

22 CHIEF JUSTICE LIPPMAN: Just tell us in your
23 own --

24 MR. O'DONNELL: Two and a half years ago my son
25 was taken away from his mother. Of course that eliminated

1 any possible visitation or anything else I could have with
2 him because they put him in Berkshire Farms, a boys' home.
3 I spent a half a year going back and forth to court,
4 taking a bus into Cobleskill, spending the night at the
5 hotel, getting up early enough to get to court on time
6 because there was no bus system to go to Cobleskill that
7 early in the morning. And then I would have to do the
8 same thing in order to get back to Albany where I lived.

9 So subsequently a half a year I was going to
10 court and I was known as the interested party. Not the
11 father or anything else, the interested party.

12 CHIEF JUSTICE LIPPMAN: How did you feel at that
13 point?

14 MR. O'DONNELL: What's that?

15 CHIEF JUSTICE LIPPMAN: What did you feel at
16 that point? As a non-lawyer did you feel that --

17 MR. O'DONNELL: I felt like I was busting my
18 head against a brick wall and --

19 CHIEF JUSTICE LIPPMAN: That's not a good
20 feeling.

21 MR. O'DONNELL: -- there was no damage to the
22 wall, more damage to my head.

23 CHIEF JUSTICE LIPPMAN: So what did you do? How
24 did you connect to someone who could help you?

25 MR. O'DONNELL: I just kept doing the same thing

1 expecting different results, which I didn't get different
2 results because every time I would go his mother wouldn't
3 show up so they would put it off. Well, we have to
4 adjourn this until next month. So that's another hundred
5 some odd dollars to take a bus and stay in a hotel all
6 over again. And I ended up doing that for six months.

7 One day I was at the coalition -- volunteering
8 at the vet house I mean, volunteering, which I did weekly
9 two-, three times a day because I didn't really have a job
10 or nothing and so it was a good way to spend my time. And
11 one day after, you know, coming back from court and
12 everything with no accomplishments whatsoever Mike O'Brien
13 and a couple other people went into the room and I asked,
14 you know, basically what was going on, you know, like I
15 was waiting for -- was stuff coming in and they said yes
16 they're lawyers, they come and talk to the men in this
17 house.

18 I talked to my counselor who was also there and
19 he said yes and he went in and introduced me to Mike
20 O'Brien. I told Mike O'Brien exactly what I was doing for
21 six months and that I wasn't getting no visitation rights
22 or -- he wouldn't even talk to me because he thought I was
23 the reason he was sitting in Berkshire Farms. And I
24 couldn't explain to him because I couldn't make contact
25 with him over the phone or nothing else, I was cut off

1 completely from him.

2 Mr. O'Brien listened to what I had and
3 everything else, of course I had all the stuff I got from
4 the legal library and everything so when I was haggling at
5 my own defense. So I would go in there and the judge
6 would say, you know, I was an interested party. I wasn't
7 his dad or I wasn't related to him or nothing else just
8 because we have the same name, I was just an interested
9 party. And that's as far as I was getting for six months.

10 Plus, you know, the expense it was costing me to
11 go to court every month for his mother not to show up and
12 then have to adjourn it or something like that. Or come
13 back next month, we'll see what we can do. Well, who is
14 going to pay for my expenses to get back home and
15 everything. And, you know, I had to stay at the hotel.
16 They only had one bus that went to Cobleskill so I would
17 have to sit there for four or five hours waiting for the
18 next bus to come through. And there's nothing to do in
19 Cobleskill.

20 So subsequently Mr. O'Brien took the case right
21 up, which really surprised me and everything. He started
22 digging into the information I had and the papers I had
23 and everything and he came to my house where I was living
24 through the Coalition. Thank God they found me a place to
25 stay and everything. I came to Albany homeless from

1 Oneonta. I came for the hospital, they replaced my left
2 arm, from my shoulder to my elbow was artificial, and the
3 same with my right foot. And so they took care of me and
4 they're still taking care of me. I mean anything that I
5 possibly need, especially from my mental aspect, they've
6 been taking care of.

7 CHIEF JUSTICE LIPPMAN: Your life was basically
8 impacted greatly by the assistance you've been getting?

9 MR. O'DONNELL: Oh yes. There's no words to
10 really explain that. As a matter of fact, when I went to
11 court Schoharie County labeled me, because of my
12 posttraumatic stress, as being mentally ill. So when the
13 judge there asked me one day if I had any questions about
14 what was going on and I was worried about the fictitious
15 clock on the wall that's ticking against me as I was
16 sitting there accomplishing nothing and I told him. He
17 said well Mike you don't have to worry about that anymore,
18 when you submitted these papers from Mr. O'Brien that
19 automatically stops the clock.

20 CHIEF JUSTICE LIPPMAN: So your legal services
21 assistance is something -- could you be in a position you
22 are today without legal services?

23 MR. O'DONNELL: No. No. Right now my son is
24 living with me in our two-bedroom apartment and he's going
25 to Albany High School. He would have been going to what

1 they call a transition program. But Mr. O'Brien stepped
2 into that because he knows my son through doing all this
3 work for him and said no this kid has hundreds on his
4 report card, he doesn't need no transition, he probably
5 could teach the teachers. I mean he cut six months out of
6 my son, he would have had to go to Lark Street and
7 transition program for six months for nothing.

8 CHIEF JUSTICE LIPPMAN: Thanks, Mike, for really
9 explaining to people what it means to have legal services.

10 MR. O'DONNELL: I could talk about what it meant
11 to me, only me, for four or five hours straight, because I
12 mean it completely changed my life.

13 CHIEF JUSTICE LIPPMAN: We've heard that same
14 story before and it is always moving and it always shows
15 the real life impact that providers have.

16 MR. O'DONNELL: After spending six months
17 beating my head against the wall and getting nowhere I had
18 no faith in the judicial system whatsoever, they were just
19 giving me a runaround. And his mother, which they took
20 away for something she did wrong, supplying drugs and
21 alcohol to a 12-year-old, they treated her like she was a
22 queen.

23 HON. PRUDENTI: And how do you feel today about
24 the judicial system?

25 MR. O'DONNELL: Well, now she called prior,

1 about an hour ago, reminding me it was her birthday.
2 Which Derrick called her that morning wished her a happy
3 birthday. You know, it is still his mother, I will not
4 and cannot keep him away from having communication with
5 his mother. I allow them to be together, go to see each
6 other and everything else, because it's always going to be
7 his mother.

8 HON. PRUDENTI: Do you have more confidence in
9 the legal system now?

10 MR. O'DONNELL: Definitely. I mean this is -- I
11 mean like I'm still paying child support, but we're not
12 going to worry about that. But it's the idea that every
13 morning when my son gets up, gets ready for school and
14 everything, the first thing I think of is Mr. O'Brien. He
15 wouldn't be here at the home or going to school this
16 morning if it wasn't for Mr. O'Brien.

17 CHIEF JUSTICE LIPPMAN: That's really very, very
18 helpful. Let's hear from Laurie. Laurie, tell us just
19 briefly how legal services has helped you.

20 MS. SCHAIBLE: I actually have testimony to
21 read. I'm more comfortable reading.

22 CHIEF JUSTICE LIPPMAN: You can do whatever
23 makes you more comfortable.

24 MS. SCHAIBLE: First I would like to say thank
25 you so much to the panel for this opportunity, I'm very

1 grateful. I now live in the Town of Selkirk, but up until
2 a few years ago I lived in the Town of Coeymans.

3 In 1986 my family was impacted by a traumatic
4 event that changed our lives. Because of this event I was
5 left on my own to care for my three young children.
6 Thankfully I was able to keep my home, but I left my job
7 to stay at home and to help our family heal from this
8 traumatic event.

9 I enrolled in welfare to receive benefits. My
10 children were not school age at the time. I'm very
11 grateful that these benefits were available to me when we
12 needed them. I received assistance for close to six
13 years, in one form or another, from HEAP to food stamps,
14 child care, and cash assistance. For some of that time I
15 did work, it was a graduating process.

16 Over the years I had asked for information on
17 many occasions from Albany County regarding the services
18 received and the related costs, but did not receive any
19 type of information, itemized billing, whatever.

20 A few years ago, more than 20 years after I had
21 received public assistance, I was in the process of
22 selling the home and once again contacted DSS for
23 information on the lien because of the benefits that I had
24 received. This was a condition of getting the assistance
25 at that time that I signed over my home. I let the county

1 basically put a lien on the house.

2 This time I did receive a response and this is
3 the paper work I received from them, one single piece of
4 paper with a piece of tape showing the total amount. No
5 other information or explanations were attached. Luckily,
6 I had kept most of the paper work. I did not know who to
7 turn to or who could help me, and this was very
8 distressing since I thought it could stop the sale of the
9 home. I was also very sad to think that all these years I
10 had been a part of the working class, also committed many
11 hours of volunteer time in the local area which were not
12 going to help in this situation, the money owed was the
13 money owed.

14 Finally, after research, I found Empire Justice
15 Center, contacted Susan Antos and immediately I received a
16 response. A law student was assigned to my case, her name
17 was Jessica, and I owe her a great deal. She spent many
18 hours going over the paper work with me, researching
19 history and law regarding the benefits in New York State.
20 It turns out the county was asking me to repay three
21 federal benefits that are not supposed to be included in
22 the repayment: Food stamps, child care, and HEAP. There
23 were also child support payments that were not credited
24 correctly.

25 Susan Antos was instrumental in contacting the

1 appropriate individual at DSS to review the monetary
2 charges and help determine what the end result would be.
3 Suffice it to say the total I owed after selling my home
4 was reduced by over \$20,000. If not for the assistance of
5 Susan and Jessica I would not have received much money at
6 all from the sale of the home. Clearly, for anyone
7 \$20,000 is a lot of money to lose. For my family, it was
8 critical for our ability to move on with our lives.

9 Empire Justice Center provided invaluable
10 assistance, both legally in knowing who to contact and
11 what charges were appropriate, and emotionally by assuring
12 me they would help and would stand by me until resolution
13 was achieved. I'm truly grateful for this contribution.
14 If they were not there to help me I am sure the result
15 would have been much different.

16 I am now working to hopefully inspire changes in
17 the New York State welfare laws which would require all
18 recipients to receive a yearly accounting of their
19 benefits, and also to more clearly explain the rights
20 citizens have in relation to welfare benefits.

21 I want to thank the Chief Judge and the panel
22 for helping to provide these services to me and families
23 like mine. It is very hard sometimes to keep going when
24 you think you have nowhere to turn. And by making sure
25 legal services are there you give us all a place to turn

1 in times of need. Thank you.

2 CHIEF JUSTICE LIPPMAN: Thank you, Laurie, I
3 think your story again is such a direct firsthand account
4 of what it means to get some legal help when you don't
5 know what to do and have no ability to work things out.
6 And sometimes things that are so complicated for you can
7 be so simple when you have an attorney like the people at
8 Empire Justice who come in and oh we know what to do.

9 So we thank you for coming in and telling us
10 your story.

11 Let's hear Jason. What happened with you? You
12 can either read it or just tell us, whatever you want.

13 MR. KELLER: My name is Jason Keller and today I
14 speak as a client of the Saratoga Legal Aid Society of
15 Northeastern New York.

16 I have two small children at home with my wife
17 and one with special needs who resides with his mother. I
18 served in the military, but I also got into some trouble
19 when I was younger, but I got my life back on track. I
20 work in the construction field as a painter and remodeler,
21 but I was let go due to lack of work from my last
22 employer. He encouraged me to apply for unemployment
23 insurance benefits, which I did, and I was shocked that,
24 and actually kind of scared, when I heard from
25 unemployment insurance benefits agency that I was fired.

1 Saying I was an independent contractor for part of the
2 time that I work there and that I was actually fired for
3 misconduct. There was an altercation between me and
4 another coworker and I never received a warning of any
5 sort, verbal or written.

6 CHIEF JUSTICE LIPPMAN: So what did you do? You
7 got this, you were shocked, what was your first instinct
8 as to what to do?

9 MR. KELLER: My first instinct was to try to
10 find a pro bono lawyer which literally nobody would help
11 me, so I contacted Saratoga Legal Aid Society.

12 CHIEF JUSTICE LIPPMAN: How did you know about
13 them?

14 MR. KELLER: Through another lawyer that my
15 grandfather knows, Donny Boyajian. He told me to talk to
16 Saratoga Legal Aid Society in my area. And I got a hold
17 of Ms. Dwyer who from that point on took over the case. I
18 had three hearings that were presided over unemployment.
19 One was for the time limit because it took so long to
20 fight for my unemployment. It was thirty days, took
21 almost four months, and I didn't know what to do. I was
22 scared.

23 CHIEF JUSTICE LIPPMAN: But in each of these
24 hearings they were basically legal issues that someone had
25 to deal with and if you walked in as what we call a

1 layperson, a non-lawyer, you would be totally lost.

2 MR. KELLER: I would be completely lost.

3 Ms. Dwyer found statutes that also my ex-employer had to
4 prove that I was an independent contractor, which I was
5 not.

6 CHIEF JUSTICE LIPPMAN: And this is a technical
7 legal issue.

8 MR. KELLER: Correct.

9 CHIEF JUSTICE LIPPMAN: We know, having had
10 those kinds of issues about whether you're independent
11 contractor or not. So what was the end result of it all?

12 MR. KELLER: The end result was Ms. Dwyer
13 found that he did not meet the deadline criteria. And
14 with that being said he actually had no choice but to
15 withdraw his other hearing against me.

16 CHIEF JUSTICE LIPPMAN: So what did it mean to
17 you? What happened in the end? Did you get the benefits?

18 MR. KELLER: I got the benefits. And the little
19 people, myself included, had a voice.

20 CHIEF JUSTICE LIPPMAN: Could you have, in your
21 wildest imagination, done this on your own?

22 MR. KELLER: Never.

23 CHIEF JUSTICE LIPPMAN: Much less get a
24 favorable result.

25 MR. KELLER: Actually, I would not be able to

1 take care of my kids.

2 CHIEF JUSTICE LIPPMAN: So having a legal
3 service provider that gives someone a helping hand when
4 they can't afford an attorney significantly changed your
5 life.

6 MR. KELLER: Significantly.

7 CHIEF JUSTICE LIPPMAN: And again, couldn't be
8 more evident the impact that legal services has on real
9 people with real problems. These aren't the most unusual
10 problems in the world, but they are problems that require
11 the services of a lawyer.

12 And talking about a lawyer, let's get to our
13 final client on the client's panel, but we're going to
14 hear from the lawyer this time instead of the client; Tia
15 Sullivan Hock. Tell us about Mr. DeBenedetti's problem
16 and how you helped him.

17 MS. SULLIVAN HOCK: I just want to clarify, I'm
18 actually the paralegal and legal services coordinator for
19 our project.

20 CHIEF JUSTICE LIPPMAN: Terrific. Go ahead.

21 MS. SULLIVAN HOCK: I'm actually going to read
22 his words because I think he grasps what kind of occurred
23 here.

24 CHIEF JUSTICE LIPPMAN: Go ahead.

25 MS. SULLIVAN HOCK: Chief Judge Jonathan Lippman

1 and members of the panel, thank you for the opportunity to
2 testify on the difference that receiving free civil legal
3 services made in my life.

4 In August 2007, I, Michael DeBenedetti, stood on
5 the yellow footprints at recruit Depot Paris Island where
6 I had started my journey to become a United States Marine.
7 During my time spent in the Marine Corps I was employed in
8 2009 to 2010 to Iraq. Towards the end of deployment I
9 sustained a permanent back injury that limits what I can
10 do in the civilian world and I was honorably discharged
11 from the Marine Corps.

12 Due to my injury I have missed time at work
13 which significantly decreases my income. During this time
14 I was still waiting for my disability rating. I could not
15 work and had no funds in which to pay my bills. I had
16 missed enough time at work which led to me become behind
17 on my mortgage.

18 Wells Fargo was the loan holder and I contacted
19 them to explain my situation. They first stated they
20 would be willing to work with me in deferring my payments.
21 But after giving them every piece of information that they
22 asked for, I still was receiving no help from the loan
23 officer that was assigned to my case, consistently leaving
24 messages with no return call.

25 When I eventually did get a hold of someone it

1 was never the loan officer assigned to my case and all
2 they could tell me was that they themselves could not take
3 a payment and that I needed to speak with her. This went
4 on for more than a month which pushed me further behind.
5 And when I finally did get in contact with her I was two
6 months delinquent and at that time she stated there was
7 nothing she could do for me. She stated that it was now
8 out of her hands and she would have to speak with her loan
9 department to check and see if anything could be done to
10 defer these payments to the end of my loan now that my
11 house would be in foreclosure.

12 At this point I had become fed up with getting
13 the runaround from Wells Fargo and was sick with worry
14 that I would lose my home. I asked my counselor at the VA
15 what options I had and they suggested that I get in
16 contact with The Legal Project. I called right away, and
17 the same day I spoke with Tia, who treated with me respect
18 and was quick to help me with setting up an appointment to
19 discuss my legal matter.

20 I met with The Legal Project attorney, Christy,
21 and she looked over my documents and gave me peace of mind
22 knowing that she could help me to keep my house. Finally,
23 I had some help. Within a week Christy made arrangements
24 with the bank for a reinstatement fee. Once I received
25 the reinstatement fee I could pay this and my mortgage

1 would be current and I would no longer be in foreclosure.
2 I was able to do this and get my house out of foreclosure.
3 I was so relieved. Slowly, my credit started to go back
4 up again.

5 During the two-to-three month journey Tia,
6 Christy and the other Legal Project staff have been
7 nothing but respectful, courteous and professional. I
8 would definitely use their services again if I needed to,
9 although I hope I don't need to, and I would also
10 recommend them to anyone I know who needs legal help and
11 can't afford it. It's so important for people like me to
12 be able to get help from programs such as The Legal
13 Project.

14 In my case, I'm a veteran who served our country
15 and who was injured when deployed and still was facing a
16 terrible crisis in almost losing my home. If not for The
17 Legal Project, I could have lost the home I worked so hard
18 for. Please do all that you can to make sure that these
19 important programs have the help that they need, so they
20 can help people like me and all of the others who find
21 themselves in situations beyond their control. My story
22 could have turned out very differently if not for The
23 Legal Project. Thank you for your time.

24 CHIEF JUSTICE LIPPMAN: Thank you, Tia. And I
25 think the story that you tell for Michael is the same as

1 Michael O'Donnell and Laurie and Jason, and demonstrates
2 the critical importance of legal services, whether it be
3 the Legal Aid Society of Northeastern New York, the Empire
4 Justice Center, The Legal Project, and so many other
5 providers around this state. And you've all been very
6 helpful in demonstrating, again first hand, what legal
7 services means to people in need in this state, people
8 fighting for the necessities of life. And I think your
9 stories really put a capstone on what we've heard all day.

10 We've heard from the Comptroller of the State of
11 New York who told us about how the state's economy is
12 bolstered, is made more robust by investing in Civil Legal
13 Services. That they, in the end, serve the bottom line of
14 our state, aside from doing something which helps people
15 in need.

16 We've heard from the law school community that
17 demonstrated just how important it is in conjunction with
18 public funding for legal services that there be pro bono
19 work; that law students understand while they're in law
20 school from the very beginning why it's important to serve
21 the community and do pro bono work and to help people in
22 need.

23 We've heard from the business community which
24 has told us how important legal services is not only to
25 again doing the right thing and helping people, but to the

1 bottom line of businesses and communities around our
2 state, how interested the business community is providing
3 legal services to people in need.

4 We've heard from our judges who tell us how
5 difficult it is to do their job when people are not
6 represented in court, and to keep the playing field level.
7 When a judge has to become the attorney at the same time
8 as being a judge they cannot do their job.

9 We've heard from veterans which is just one
10 category of clients who so desperately need legal
11 services, particularly to meet their unique needs when
12 they come back from action on behalf of our country.

13 And we've heard from all of you, which are just
14 normal human beings who have a problem and need some help
15 and sometimes just need the services of an attorney or a
16 paralegal or basically legal advice and representation
17 that will help them with the problems that they have.

18 So what we're going to do is take all this
19 information and put it together in terms of the report
20 that the Task Force is going to be making, in terms of the
21 requests that we're going to be making to the Legislature,
22 in terms of civil legal services. We could not do this
23 without hearing from you, understanding what the problems
24 are, understanding what we need to do to meet those
25 problems. Again, the problems of human beings, their

1 basic needs regarding the essentials of life.

2 So we thank everyone for being here today at the
3 first of our legal services hearings. There will be three
4 more; one in Manhattan, one in Queens County, and one in
5 Buffalo. And I think we're going to hear similar themes.
6 But it is the cumulative effect of the testimony that we
7 hear that allows us to try to meet the Legislature's
8 request of us, which is really what are the needs in
9 relation to civil legal services and what can they do to
10 help to provide the kind of funding that results in
11 providers having assistance they need to help citizens
12 like this last panel and the problems you have.

13 I want to thank everybody for coming on behalf
14 of the panel, we appreciate it. And it is our hope and
15 expectation that we can get the Legal Services funding
16 that we need to continue the progress we've made in New
17 York, which I think has been a template in so many ways
18 for other places around the country that are looking to do
19 the same thing that we're doing; to meet the crisis in
20 civil legal services, to see whether it's possible in this
21 country to get to the point where maybe there will be
22 something akin to a civil Gideon, meaning where everyone
23 will have the right to representation in a legal issue
24 that's involved, with the very least, the necessities of
25 life, where people are facing the basic human needs that

1 we all have.

2 So thank you all so much, it's been a pleasure
3 to be with you. And thanks especially to this last panel
4 for coming in. Thank you.

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

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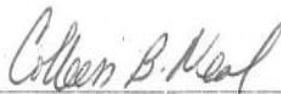
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C E R T I F I C A T E

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4 I, **COLLEEN B. NEAL**, Senior Court Reporter in and for the
5 Third Judicial District, State of New York, **DO HEREBY CERTIFY**
6 that the foregoing is a true and correct transcript of my
7 stenographic notes in the above-entitled matter.
8
9

10 DATED: September 23, 2013

11
12 

13 _____
14 Colleen B. Neal, Senior Court Reporter
15 Albany County Courthouse
16 Albany, New York 12207
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APPENDIX 8:

**Transcript of the First Department Hearing
Held on September 19, 2013**

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STATE OF NEW YORK

FIRST DEPARTMENT

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THE CHIEF JUDGE'S HEARINGS
ON CIVIL LEGAL SERVICES

_____X

Appellate Division
27 Madison Avenue
New York, N.Y.
September 19, 2013

B E F O R E:

HONORABLE JONATHAN LIPPMAN,
Chief Judge of the State of New York

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

HONORABLE A. GAIL PRUDENTI,
Chief Administrative Judge

GLENN LAU-KEE, ESQ.,
President-Elect, New York State Bar Association

CAROLYN BARNA/MONICA HORVATH
Senior Court Reporters

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

MERRYL H. TISCH,
Chancellor, New York State Board of Regents

DR. DAVID L. REICH, President and Chief Operating
Officer, Mount Sinai Hospital

WENDY Z. GOLDSTEIN, President and Chief Executive
Officer, Lutheran Healthcare

CYRUS R. VANCE, JR., District Attorney, New York County

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

HONORABLE FERN FISHER, Director, New York State Courts
Access to Justice Program;Deputy Chief Administrative
Judge, New York City Courts

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

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

JEROME YOUNG, Client of Legal Services NYC
(Accompanied by Peggy Earisman)

MARIA PEREZ, Client of The Legal Aid Society's Harlem
Community Law Office(Accompanied by Magda Rosa-Rios)

MIRIAM TANGARA, Client of Northern Manhattan Improvement
Corporation(Accompanied by Danielle Salgado)

1 OPENING/HON. LIPPMAN

2 HON. LIPPMAN: Good morning. I am
3 delighted to see all of you. I welcome you to this
4 year's hearing on civil legal services.

5 I'm going to make a brief opening statement
6 to give you some context of what this is all about
7 and then we're going to start with our first witness,
8 the Chancellor of the New York State Board of
9 Regents, Merryl Tisch.

10 Let me first say to you that this hearing
11 is a product of the joint efforts of the leadership
12 of the judiciary and profession in this state. Seated
13 with me is A. Gail Prudenti, the Chief Administrative
14 Judge of the New York State Courts; Luis Gonzalez,
15 the Presiding Justice of the Appellate Division,
16 First Department; Glenn Lau-Kee, the President-Elect
17 of the New York State Bar Association. And I want to
18 thank them for being here.

19 I also want to thank the Task Force to
20 Enhance Civil Legal Services in our State headed by
21 Helaine Barnett, who is seated over there. Helaine,
22 do you want to raise your hand? Okay. And others
23 who are here from the Task Force and, by all means,
24 stand and we will acknowledge you. Steven Banks;
25 Carmen Beauchamp Ciparick I know will be here. Mark
26 Cunha; Fern Fisher, who I just saw. She is right

1 OPENING/HON. LIPPMAN

2 over there. Michael Fricklas. Mike, great to see
3 you. Alex Forger, who I saw in the one, two, the
4 third row. Thank you, Alex.

5 Taa Grays, who is going to be here later.
6 Denise Kronstadt; Marcia Levy. Lillian Moy is
7 definitely here. Where are you, Lillian? There,
8 okay. Christopher O'Malley. Good to see you, Chris.
9 And Betsy Plevan.

10 Let me start this off by saying there is a
11 crisis in this State, in this city, in this country
12 in civil legal services for the poor. What we're
13 talking about are people fighting for the necessities
14 of life, the roof over their head, their physical
15 safety, health care, their livelihoods, the well-
16 being of their family.

17 At best, the reports of the Task Force and
18 so many of you members who are here tell us that at
19 best they're meeting 20 percent of the needs for
20 civil legal services in our state. I always use as
21 an example, and Steve Banks is here today from The
22 Legal Aid Society, The Legal Aid Society turns away
23 eight of nine people who come to them for legal
24 assistance, which is a pretty mind boggling
25 statistic.

26 The Legal Aid Society, I say it in the

1 OPENING/HON. LIPPMAN

2 understand that if we don't stand up for those
3 people, no one else will. That is the nature of it.

4 So, it is our special responsibility, and
5 my special responsibility as the Chief Judge of the
6 State of New York, to call out to the public to focus
7 attention on this critical problem. This is all
8 about equal justice. If we don't have equal justice
9 in our State, we might as well close the courthouse
10 doors.

11 There's no reason for us to exist in these
12 beautiful courtrooms, like this lovely courthouse
13 here on Madison Avenue and 25th Street. But if what
14 happens inside is if there's no level playing field,
15 then there is no purpose to our doing what we are
16 supposed to be doing every day in meeting our
17 constitutional mission.

18 We are proud in New York that we've set a
19 template for helping to fund civil legal services.
20 Pursuant to a joint resolution of the State
21 Legislature, we hold hearings each year. We try to
22 quantify the amount of monies that are needed for
23 civil legal services. We put them in the judiciary
24 budget. We put those monies in the judiciary budget
25 and then we advocate for those monies before the
26 Legislature and the Government.

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OPENING/HON. LIPPMAN

We have, in the last three years, managed to get \$27.5 million for civil legal services the first year, \$40 million the second year, and \$55 million this year for civil legal services. And we are very proud of that and I think, again, the monies that we're getting are the most in the country, but I have to say, the tip of the iceberg in terms of meeting our needs.

We've done a number of things to complement the public funding that we have gotten, one of which very important is the volunteer pro bono efforts of the Bar. I thank Glenn Lau-Kee and the New York State Bar for all of their assistance in getting and helping to foster pro bono services by lawyers in this state. Last year they contributed \$2.5 million hours of pro bono work.

We also have a new reporting requirement for lawyers that will help us to quantify better exactly how many hours of service New York lawyers are giving.

We also have asked for law students to give 50 hours of pro bono work over their law school careers to instill in them the core value of service to others. We are telling lawyers in our 15 law schools in New York if you want to be a lawyer, you

1 M. TISCH

2 have to embrace the core values of our profession
3 which, first and foremost, include service to
4 others.

5 And as to older lawyers, baby boomers who
6 are starting to look at retirement, we have a special
7 program called Lawyers Emeritus where they contribute
8 in their later years when they're cutting down on
9 their practices 50 or more hours of pro bono work.

10 So, it's an effort across the board, get
11 public funding and get lawyers to do volunteer work
12 on behalf of the poor. We're focusing on the
13 disconnect where so many kids come out of law school
14 today, in great debt, there aren't a hell of a lot of
15 jobs out there with a poor economy and yet, there is
16 a tremendous need. There is something wrong with
17 that and how we solve that disconnect is certainly
18 something that we're all focusing on.

19 But all of this, in essence, relates to
20 access to justice. Everyone should have their day in
21 court. Everyone should have equal access to the
22 courts. Every society is judged by how it treats its
23 most vulnerable citizens. And we are no different
24 and we can and should be judged by how we treat the
25 least advantaged among us, those who really need a
26 helping hand. And we're talking civil legal

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2 services. We're not just talking about the indigent,
3 the poor who have no resources. We are talking about
4 people of limited means, people who are working hard
5 and come face-to-face with a great legal problem that
6 affects their lives and that of their families, and
7 if they don't get help, they wind up falling off the
8 cliff into social services, their kids can't get the
9 education they need, they lose the roofs over their
10 heads. These are, again, we're talking about the
11 fundamentals of life that we're all entitled to. So,
12 today we start that effort this year to quantify what
13 the need is and what we can do to narrow the justice
14 gap in our State between the finite resources
15 available and the tremendous desperate need that we
16 have.

17 So, I welcome all of you.

18 I want to acknowledge the presence of
19 Appellate Division Justice Angela Mazzaelli who we
20 are so delighted to have with us.

21 We thank Judge Gonzalez for welcoming us to
22 your home here in this beautiful courtroom.

23 And, without further adieu, I want to ask
24 Merryl Tisch to come forward and give her testimony.
25 And might I say first from a much professional and
26 personal knowledge, Merryl Tisch is someone who I so

1 M. TISCH

2 greatly respect and admire and who I have known
3 Merryl and her family for my entire life and I can
4 say that she's done the Lower East Side of Manhattan
5 proud.

6 And in becoming the Chancellor of New York
7 State Board of Regents and every part of her public
8 live, she has been concerned with giving everyone a
9 chance to be a part of the American dream. That's
10 what her professional role is in the Board of
11 Regents, that we all deserve that and this really is
12 what we're doing here in terms of legal services
13 trying to explain everyone in life that it is not a
14 question where only the rich and powerful have access
15 to our courts.

16 Merryl will give you her perspective, the
17 Chancellor will give you her perspective,
18 particularly in relation to her present role.

19 So, Chancellor Tisch, great to see you.
20 Thank you for coming.

21 CHANCELLOR TISCH: Thank you for having me.
22 I am happy to see everyone. I am turning my back to
23 some as I speak and I mean no disrespect.

24 Good morning, Chief Judge Lippman. We do
25 go back sometime; Chief Administrative Judge
26 Prudenti; Presiding Justice of the First Department

1 M. TISCH

2 Gonzalez; President-Elect of the New York State Bar
3 Association, Glenn Lau-Kee. Thank you. Thank you for
4 inviting me to testify before you today.

5 Can you all hear me? Okay.

6 I am honored to be the lead witness in your
7 proceedings on this important issue and I will try to
8 provide useful context and suggestions from my
9 perspective both as an educator and Chancellor of the
10 State Board of Regents.

11 As an educator and a Regent, I always do my
12 homework, and I have done it to prepare for my
13 testimony today. I know that you and the Task Force
14 are rightly concerned with ensuring that our neediest
15 and most vulnerable New Yorkers have access to civil
16 legal services to ensure their children have, to use
17 your term, the "essentials of life." And I know,
18 because you invited me here today, that you realize
19 the lack of such services has broad and far-reaching
20 impacts not only on adults, but also on their
21 children.

22 And I know that you, like the Board of
23 Regents, sense the urgency with which this problem
24 must be remedied. Your reports from hearings in
25 previous years refer to the "Access to Justice Gap" -
26 in education, we talk about the "Achievement Gap." No

1 M. TISCH

2 matter what we call it in our respective fields, our
3 fundamental goal is the same - to ensure that all New
4 Yorkers have fair and equitable access to services
5 would enable them to live full and productive lives.

6 You have asked those who will testify
7 before you today for a description of their "economic
8 and social consequences of the lack of sufficient
9 civil legal services in communities and for the
10 courts." From an educator's perspective, I can tell
11 you that the consequences of the unmet civil legal
12 needs of New York's families are far-reaching and
13 devastating for our students.

14 Some sobering statistics: Based on June of
15 2012 data, New York's 4-year high school graduation,
16 New York State's high school graduation rate was 74
17 percent. When we adjusted those rates for college
18 and career readiness, it is significantly lower. It
19 is 35.3 percent. And the percentages of students
20 from at-risk groups graduating college and career
21 ready are staggering poor. (7.3 percent for English
22 Language Learners, 4.9 percent for students with
23 disabilities, 12.5 percent for our African American
24 students, 15.7 percent for Hispanic students.)

25 And the consequences for these students
26 don't end at high school. Over 50 percent of

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2 students in New York State's two year colleges, those
3 are our community colleges, take at least one
4 remedial course, which comes at a cost to both
5 society and to these students in monies and time.
6 The graduation rate after six years in a two-year
7 institution is 24 percent.

8 The Board of Regents and the State
9 Education Department have taken several steps to
10 address these issues and to ensure that all students
11 graduate from high school ready for college and
12 careers. We are implementing higher academic
13 standards known as the Common Core State Standards.
14 We are preparing and training great teachers and
15 leaders. We are turning around the lowest-achieving
16 schools and we are building effective and
17 instructional data systems.

18 But in a struggling economy- where jobs and
19 homes have been lost, and access to health care and
20 other services is all-too-frequently out of reach- we
21 have to challenge ourselves further to ensure that a
22 world-class education has a meaningful impact on all
23 students, especially those most in need. We need to
24 make sure that all students and their parents or
25 caregivers are able to fully engage in and benefit
26 from their educational experience - including those

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2 whose families are facing eviction or foreclosure;
3 those who lack access to needed health services; and
4 those whose families struggle unfortunately with
5 domestic violence and addiction - all of whom can be
6 helped with the provision of legal services.

7 We in the education field understand and
8 support your initiative and the work of the Task
9 Force to ensure that the civil legal needs of New
10 Yorkers are met. We understand that without the
11 "essentials of life," our most vulnerable students
12 and families cannot take full advantage of the
13 educational opportunities we as State leaders know
14 are so important to their future and the future of
15 this great country.

16 As Regents, my colleagues and I often visit
17 schools and students across the State. We know that
18 students deal with issues such as poverty, hunger,
19 homelessness, health, and domestic violence on a
20 daily basis. We know that these problems impact
21 their ability to learn and, in some cases, their
22 ability or desire to attend school altogether.

23 We know that the financial consequences of
24 obtaining only a high school diploma, as opposed to a
25 college degree, are dramatic and enduring.

26 For example, the U.S. Census Bureau data

1 M. TISCH

2 shows that in Monroe County, which is in upstate New
3 York, in 2011, the unemployment rate for individuals
4 with a Bachelor's degree or higher was 2 percent; for
5 those with only a high school diploma, the
6 unemployment rate jumped to over 7 percent. And
7 researchers have estimated that the academic
8 underperformance costs our nation a trillion dollars
9 a year annually.

10 At the State level, if New York increased
11 its college attainment rate by just 1 percent - from
12 33.8 percent to 34.8 percent - the State would
13 capture \$17.5 billion in what we call a Talent
14 Dividend.

15 With access to civil legal services,
16 families facing issues that can disrupt their home
17 life and educational opportunities - for example,
18 homelessness, eviction, or foreclosure; termination
19 of governmental benefits; immigration issues; or
20 divorce or custody disputes - could find stability.
21 And with such stability, students could better focus
22 on education and parents and caregivers could be more
23 engaged in their children's education.

24 Your efforts to ensure the civil legal
25 services are accessible to New Yorkers in need will
26 go far towards helping families provide safe, secure

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2 and stable home lives for their children, thereby
3 increasing the chance that they will stay in school
4 and go on to lead full and productive lives.

5 As you continue in your important work, I
6 offer the Board of Regents and the State Education
7 Department as a committed partner. We have long
8 recognized that a school community must provide the
9 right conditions for learning. Schools and
10 communities support and sustain these conditions by
11 ensuring that students are safe, supported, engaged,
12 and healthy, in part by helping to ensure that
13 students and their families have access to critical
14 services - legal, health, mental health, dental,
15 nutrition and counseling.

16 In coordination with the New York State
17 Council on Children and Families, the Department is
18 currently working on the new Community Schools
19 Initiative, for which just \$15 million was included
20 in the 2012-2013 Enacted State Budget. The goal of
21 the program is to improve student outcomes through
22 the implementation of community schools programs that
23 use school buildings as community hubs to deliver
24 co-located or school-linked academic, health, mental
25 health, nutrition, counseling, legal and other
26 services to students.

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I encourage the Task Force members to explore such potential partnership opportunities with our school communities and to provide these much-needed services.

I commend your efforts in this area and I welcome any questions that you may have.

I want to say that it is an honor for me to be here today to address this issue. It is also an honor for me to be here with Chief Justice Lippman, with Helaine Barnett, who is a long-time friend. And to be followed in my testimony by the new president of Mount Sinai Hospital. A hospital which is in the hub of communities in need of your services. A hospital for which I am so proud to say that last year my family gave a \$40 million grant to open the cancer center.

We could have opened it at any hospital and believe me, many were clammering for it, but we chose this hospital because of the leadership and its commitment to these communities.

So, I know you are going to have an outstanding Panel and I thank you for allowing me to be here with you today.

THE COURT: Thank you.

HON. LIPPMAN: Thank you, Chancellor.

1 M. TISCH

2 Thank you for your insightful testimony.

3 Let's see if we can more sharply explain to
4 everybody what it is, why the Chancellor of the Board
5 of Regents, and her testimony obviously says it,
6 would come here to address civil legal services
7 here. Do you think it's possible and what we're
8 trying to do is to go beyond the obvious need which
9 is to have legal service providers come and testify
10 and say to you we need more money to help. We've
11 made the argument that by providing civil legal
12 services to the poor and those that are of limited
13 needs we actually help the New York State economy.
14 When you look at the education community in our
15 State, is that possible, do you see a connection
16 between getting families aid in terms of legal cases,
17 legal representation, and what happens to the
18 education field, that could hurt the New York
19 economy, is there a connection?

20 CHANCELLOR TISCH: There is a huge
21 connection. And this is something that the President
22 of the United States is engaged with through the
23 Department of Education. By linking the
24 accountability from school systems, to community
25 based organizations, to health care, to legal
26 services, because we know that when youngsters do not

1 M. TISCH

2 have the ability to graduate from high school, for a
3 variety of reasons, we know that they cannot partake
4 in the American dream. They cannot go on to live
5 full, productive and independent lives. And people
6 are starting to grapple with the number. But for New
7 York State, it's going to be hundreds of millions of
8 dollars a year in lost opportunity both for what we
9 spend in terms of people who don't complete college
10 programs, don't complete high school programs, to
11 their inability to find jobs. And, for us, it's a
12 huge issue.

13 I would urge that if your Commission and
14 your Task Force has an opportunity, I would go to a
15 high needs school district in New York State and I
16 would speak to the principals and the superintendents
17 about how families struggle around their ability to
18 meet the challenges of the students and families who,
19 because of civil liberties issue, because of issues
20 that would generally come before the court, are
21 unable to produce results.

22 I would also remind us that New York State
23 spends \$54 billion a year on education. And to have
24 a graduation rate of college and career readiness
25 that hovers below 34 percent, should tell you the
26 dramatic impact on families and children throughout

1 M. TISCH

2 the State.

3 HON. LIPPMAN: It is really at both ends of
4 the spectrum. In other words, it's that while
5 they're in school, that families, they, you know, can
6 become part of the public social services system,
7 costing the State money, and then when they don't get
8 the education that they need at the other end,
9 they're not -- not a meaningful part of the
10 community. They are not earning money, they are not
11 getting into the stream of community life. So, it
12 really is a two-fold thing in the long run and in the
13 short-run economically that New York is hurt by not
14 having.

15 CHANCELLOR TISCH: I couldn't agree with you
16 more.

17 HON. LIPPMAN: And what about the issue of
18 stability? I think it's hard for people to
19 understand how a legal problem results in a child not
20 being able to go to school. Does that happen that
21 people run into legal problems and then the child is
22 going to a neighborhood school or whatever it is, all
23 of a sudden is somewhere else?

24 CHANCELLOR TISCH: One of the things that
25 we've identified as a really serious legal issue is
26 just how families who live in the shadows because of

1 M. TISCH

2 immigration status really struggle.

3 If you go into some communities in New York
4 City where there are huge immigration panels that
5 often times cause disruption in children's
6 educational access, you would be amazed by how
7 significant it is.

8 One of the things that really brought it to
9 light for me is every Friday I have lunch with my
10 mother and we go to the same luncheon place that
11 we've gone to for 15 years. And there is a Mexican
12 woman there who has served us lunch for 15 years. A
13 very simple, lovely woman.

14 And about two years ago on a Friday, I saw
15 that she was very teary and I said to her, "Nooney,
16 what's the problem?" She said her daughter, who was
17 graduating from high school, in New York City with
18 honors, just discovered that they were a family
19 living in the shadows.

20 Because when she applied to college, she
21 simply could not get a scholarship stipend that the
22 State would offer to a citizen and, therefore, going
23 to college was going to be an impossible piece of her
24 ability to break the glass ceiling for her family and
25 be the first person to graduate from college.

26 You know, I remember I called Matthew

1 M. TISCH

2 Goldstein who was then the chancellor of City College
3 and I said to him Matthew, what do we do about this
4 kid graduating brilliantly from our high school who
5 simply can't move further? And he said a large part
6 of his budget on new incoming students is spent on
7 legal services to these immigrants to help them come
8 out of the shadows that have perplexed their
9 families.

10 So, do I see it firsthand every day? I
11 would say if you live in New York, you would have to
12 have blinders on not to notice what a significant
13 problem it is.

14 HON. LIPPMAN: I think what this crisis has
15 done is it has taught us all it is all interrelated
16 in all of the parts of the communities around the
17 State, in New York City, whether it's schools,
18 whether it's health care, whether it's businesses.
19 This is not a foreign problem. This is not "Gee,
20 wouldn't it be nice if poor people have legal
21 representation." It really impacts together and I
22 particularly appreciate your comments about
23 partnership. And I think once we realize it affects
24 all of us --

25 CHANCELLOR TISCH: It's a great State. And
26 we shouldn't be delivering our services in silos.

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M. TISCH

Legal; educational, family. I mean, the ability to integrate all of these fantastic competencies that we've developed in this State and break down these silos, I think, needs to be a major consideration.

I know people talk about it often and they find it very complicated, but if we do not manage to break down these silos, what will happen is we will continue to lose generations of children who are probably in their lives have such hidden gifts and competencies that will never be developed. Shame on us.

HON. LIPPMAN: Exactly.

Any other questions?

Thank you, Chancellor. It was a delight to have you. Really, you honor us by your presence.

CHANCELLOR TISCH: Thank you.

(Chancellor Tisch is excused)

(Continues on the following page)

1 REICH/GOLDSTEIN

2 HON. LIPPMAN: Okay.

3 The next testimony will be by Dr. David L. Reich,
4 the President and Chief Operating Officer of Mount Sinai
5 Hospital and Wendy D. Goldstein, President Chief Executive
6 Officer of Lutheran Health Care.

7 Before we start do we have our electronics, in
8 order?

9 Doctor, say something and let's make sure we can
10 hear you.

11 DR. REICH: I will start by saying that soft
12 spokenness is not one of my faults.

13
14 HON. LIPPMAN: Okay, let's see if we can get this
15 started.

16 So, we just talked about the relationship between
17 education and Civil Legal Services. And how these different
18 aspects -- when we talked about -- I always say that we want
19 people to understand that this is a priorities, issue. That
20 legal services, are as important as health, education,
21 housing. The real truth is it's very hard to separate one
22 from the other. So that is why I think it is so instructive
23 that we have Chancellor Tisch here and the two of you.

24 Let's talk about the health industry and how that
25 kind of intersects, with the issue of legal services for the
26 poor and people of limited means.

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REICH/GOLDSTEIN

This is a panel. You are a team. So however you want to proceed.

MR. REICH: We have worked together in Mount Sinai, for many years in the past as a team so we have been together for as long as I can remember.

MS. GOLDSTEIN: Right. I am a Mount Sinai graduate as well.

HON. LIPPMAN: And don't feel that you have to read your statement. It is totally, your call.

If you want to just tell us what your view is and we won't hesitate to ask you questions.

DR. REICH: I will begin by saying, first of all, really on behalf of both of us, it's an honor and a privilege to be addressing, this panel.

We really commend, the efforts that you are making to really make legal assistance, to economically disadvantaged, New York residents a priority.

Mount Sinai Hospital and Icon School of Medicine together have about 18,000 employees this week and with the health system that we anticipate, within the very near future, we will have 36,000 employees. I am told we will be one of the 15 largest employers, in New York State. And that combination, with continuing health partners puts in clear focus the issues at hand. In that we have a huge number, a very large number of employees and students that

1 REICH/GOLDSTEIN

2 would benefit from Civil Service's legal funding for various
3 reasons that I will elaborate on in the next few minutes.

4 Additionally, as an advocate, for the health of New
5 York City residents a very large percentage of our patient
6 population, would also benefit in legal funding in ways that
7 absolutely would serve to improve the public health. At our
8 medical center many good paying positions would still
9 qualify, for legal assistance, under the guidelines, that
10 exist in New York State.

11 Mount Sinai, cares passionately, about it's
12 employees and tries to help. But as in other large work
13 places, the absence of funded legal services could
14 negatively impact, the work performance of our employees who
15 would be consumed with pressing family issues.

16 HON. LIPPMAN: What happens when there are some
17 complex legal issues?

18 If they have a legal problem, what happens to them
19 in the work place?

20 DR. REICH: Well, we have absenteeism.

21 And absenteeism, leads to the need frankly for more
22 employees. It is an inherently inefficient process to have
23 more employees to accommodate for the social ills that cause
24 the absenteeism.

25 HON. LIPPMAN: Aside from the quality, of
26 healthcare, that you provide does it hurt your bottom line?

1 REICH/GOLDSTEIN

2 DR. REICH: Yes. It absolutely does.

3 As an employer the health and well being of the
4 employees is definitely aided by the Civil Services or I
5 should say the legal services that are provided. And
6 therefore I think there is no question, although, I can't
7 quantify the number because it is very difficult to get at
8 this from an HR stand point, there is no question in my mind
9 as we deal with a very large work force, that there are many
10 employees that cannot come to work due to issues that could
11 be solved by Civil Service's funding.

12 THE COURT: Good.

13 Let me ask you another question doctor.

14 You have such a vast operation. What do you do
15 when you know there is a problem with legal representation?
16 You know your employee, students, have a real problem, who
17 do you go to and how do you deal with it?

18 Do you have people on staff, do you have a legal
19 service provider; how do you try to help your employees
20 solve these problems that get in the way of the service you
21 provide, hurting your financial, you know, bottom line?

22 How do you do that; what do you do?

23 DR. REICH: Well, I think that we try with whatever
24 means that we have in terms of administrative personnel and
25 our really amazing, Human Resources staff, our Vice
26 President for Labor Relations. They devote a tremendous

1 REICH/GOLDSTEIN

2 amount of time for dealing with the issues of employees that
3 have pressing family problems. And we extend every effort
4 to try to make time for people to deal with their issues, to
5 give them even -- there are contracts that govern how these
6 things work -- but essentially we bend over backwards to
7 never terminate anyone as to absenteeism.

8 HON. LIPPMAN: You try to connect them to a legal
9 service.

10 DR. REICH: We provide them through our employee
11 assistant services with knowledge of how to approach --

12 THE COURT: How to access help.

13 DR. REICH: Right.

14 And within our own team we have a lot of
15 experience. So often we can direct the people in the right
16 way and sometimes we can with our own expertise not
17 overburden that system. But there are certain things that
18 we could not do as employers.

19 We cannot help someone get a restraining order if
20 there is domestic violence, or, abuse.

21 HON. LIPPMAN: Exactly. You don't have the ability
22 or expertise, to provide, them with the help they need in
23 those kinds of issues.

24 DR. REICH: Correct.

25 HON. LIPPMAN: You think it would be a wise
26 investment for the State of New York to provide funding, to

1 REICH/GOLDSTEIN

2 Legal Services to be provided so if you urge someone through
3 the Legal Aid Society or all the wonderful providers that we
4 have in New York City that that would be a good thing, a
5 good investment for our state?

6 DR. REICH: In the written comments I sort of
7 summarize by talking about how an as an executive in the
8 medical center I have to make investments. And sometimes I
9 have to bring in a doctor who by their own receipts for
10 patient revenue for example would not be in any way a
11 benefit for the medical center but they help in many ways.
12 They help our social mission, and they provide services, in
13 other areas and essentially create a medical infrastructure.
14 So I will often invest in something which on its surface at
15 face value does not seem to be a good investment but I know
16 that that returns in investment.

17 It is like building a road. You know. Why does
18 the State of New York invest in roads? We invest in roads
19 because it improves, our economy and helps our people. It
20 is the same thing with this type of legal assistance. It
21 definitely helps the health of our population and it helps
22 the productivity of our employees.

23 THE COURT: At Lutheran Hospital, it is the same
24 basic premise?

25 MS. GOLDSTEIN: Well, we are a little bit
26 different. I think because we are a system, and we are very

1 REICH/GOLDSTEIN

2 community based.

3 I had the privilege of working, at Mount Sinai,
4 with David, for 16 years and went on to run this
5 unbelievably, committed, community organization, for the
6 last 40 years. Lutheran, moved itself from a fairly nice
7 Brooklyn community to what was at that point a gang strife,
8 very unstable area. We got it by buying the building.
9 Mayor Lindsey, gave it to us for a dollar because it had
10 been abandoned.

11 So we came into a community with the commitment, to
12 be the foundation of a renaissance, of that community. And
13 so we bring not only medical services. And we do this --
14 actually, we are an affiliate, of Mount Sinai. And we bring
15 in these expert medical services. But we understand that
16 the health of an individual goes far beyond the medical
17 care. So we provide housing. We provide job counseling.
18 We provide day care centers to children. We are the largest
19 provider, of health care in school based clinics, as the
20 Chancellor, was talking about. We are in 22 school based
21 clinics, around the state. We are in 14 homeless shelters.

22 THE COURT: So why do people need legal services?
23 What is the connection?

24 MS. GOLDSTEIN: Because in order -- every patient
25 comes to us burdened with a suitcase, full of issues.
26 Whether those issues are language or culture or whatever.

1 REICH/GOLDSTEIN

2 And if they carry with them the burdens of unresolved legal
3 issues it impacts their ability to follow direction from a
4 doctor. If you are concerned about domestic violence you
5 are not filling prescriptions, you are not taking your kids
6 back to the clinic, for asthma. You are not really being
7 able to participate, in these kinds of things. So we know
8 that without Legal Service's help that victim of domestic
9 violence is not going to be able to be a patient who
10 engages, in their care.

11 HON. LIPPMAN: So you can't do your job unless they
12 have to have legal representation.

13 MS. GOLDSTEIN: Exactly.

14 HON. LIPPMAN: That then allows them to be healthy,
15 and to receive medical care that is going to work.

16 MS. GOLDSTEIN: Exactly.

17 And we have a very large percentage of employees --
18 we are the largest employers in south west Brooklyn -- and
19 we have a very large percentage of our employees from the
20 local community. So they come to us very similarly with
21 legal problems as well. And, again, it is an issue of
22 absenteeism, and so on. And the impact is on the quality of
23 care that we can provide because it is inconsistent, because
24 of being able to really focus on problems of our patients,
25 when you have a different provider all the time because it
26 is not a thing.

1 REICH/GOLDSTEIN

2 We did have an incident actually in one of our
3 sites where one of our employees was actually shot by a
4 domestic partner. She had been unable to get a restraining
5 order. You know, the typical horrible, horrible things.
6 And it traumatized, the site. And we have become really
7 quite active in Brooklyn on domestic violence issues with
8 the courts because of what that did.

9 HON. LIPPMAN: But you both heard as the Chancellor
10 said, you know, we talked about partnerships. And it might
11 be counterintuitive, for people to think, gee, why don't
12 these leading people in the health care community, the chief
13 operating officers, the president, the huge entities, why is
14 this important?

15 And I think, you know, maybe it starts to come
16 together when we hear from the two of you on why we all, you
17 know, in our different walks of life can all focus on this
18 particular issue as being part of the puzzle.

19 DR. REICH: With your permission I would actually
20 like to give an example. Not an actual patient example, but
21 we have a post acute care program at Mount Sinai, where we
22 actually send volunteers into the community to try to make
23 certain that patients, do not unnecessarily return to be
24 readmitted, to our hospitals. Which is extraordinarily,
25 expensive. And so the example that I would give is of
26 someone who has become disabled, by virtue of their disease

1 REICH/GOLDSTEIN

2 and we have a landlord who is not maintaining ramp access to
3 a building. And we have actually had many circumstances
4 where our volunteers, in our "PAC" program in this acute
5 care program will have to deliver pharmaceuticals and
6 medical supplies to the home because the person is immobile
7 and unable to enter, or exit, the building without extensive
8 assistance. That person will not be able to come back for
9 proper follow-up care. These readmissions, are
10 extraordinarily, expensive and since this is largely going
11 to be a Medicaid population the cost of those readmissions,
12 comes to New York State.

13 So going back again to the concept, of the
14 investment. The investment in the Legal Services cures the
15 issue of the inability, to access medical care. It avoids
16 expensive readmissions, which are completely -- sorry, I
17 don't want to be redundant, here -- but completely,
18 avoidable and therefore, costing, the state more money. So
19 once again we would argue being pennywise and pound foolish
20 by scrimping, on the legal services that would save us tens
21 of thousands of dollars related to unnecessary medical care.

22 MS. GOLDSTEIN: And I think on a similar kind of
23 situation where we have come across it is with landlords,
24 again that are not maintaining, the buildings. So there is
25 a very high incidence, of mold, and dust and mites. And
26 here we are we are trying to educate, a parent -- a parent

1 REICH/GOLDSTEIN

2 that probably is not American born, probably not English
3 speaking -- that it is very important that her child with
4 asthma be in an environment that is not exposed to all these
5 pollutants, and yet she has no ability to impact the house
6 that she lives in. We bring that together with the Legal
7 Services and have been able to make a difference in that.

8 And, you know, the whole health reform, concept, is
9 this idea of prevention. Investing, in prevention. The
10 legal investment is a part of that prevention issue. It is
11 not just accessing, services once somebody is ill. But
12 enabling, patients, to really take care of themselves. And
13 part of that is their environment.

14 HON. LIPPMAN: I have one final question then I
15 will ask if anyone else has a question.

16 With the new health care changes coming into
17 effect, now does that impact the need for legal assistance;
18 is this an easy thing for people to understand and do they
19 need some kind of assistance?

20 DR. REICH: If we look nationally at the profit
21 margin, even though these are "not for profit" organizations
22 largely, the margin, that we have in hospital revenues
23 throughout the nation is declining very rapidly.

24 Even a very robust system like the University of
25 Pittsburgh went from over three percent margin to less than
26 two percent in only one year. So the "Affordable Care Act"

1 REICH/GOLDSTEIN

2 despite my very liberal and progressive politics, is
3 something which actually has a very negative effects upon
4 the medical centers in New York City, New York State and,
5 especially, the academic centers. So we are struggling and
6 wondering how even as we try to evolve into a health system
7 that will survive, how we will be able to have a margin and
8 admission to serve our communities -- which are largely poor
9 individuals -- in the years to come. And so anything that
10 we can do to improve the health of New Yorkers, anything
11 that we can do to improve the productivity of New York
12 employees -- of course a large percentage of which work in
13 the health care industry -- all of these things will serve
14 to support the medical centers of New York City and New York
15 State which as we concede based upon current events are in
16 really desperate states.

17 The number of closing hospitals affects us all. It
18 is very traumatic for us. We could argue about the need for
19 in-patient, versus ambulatory care. And we could go on for
20 hours. But the essence is that health care in New York is
21 as it is in the nation reaching a crisis. And the
22 investment of Legal Services is one that will actually help
23 support the health care system, in New York and it's
24 entities.

25 HON. LIPPMAN: Any other questions from the panel?

26 HON. PRUDENTI: Yes.

1 REICH/GOLDSTEIN

2 I would like to ask you -- when I was a youth and I
3 did something very similar, to what you do and somewhat
4 similar to being a resource coordinator, for the community
5 that we serve -- am I correct in thinking what you are both
6 seeing from the patient perspective as well as your
7 employees perspective is not only a need for Civil Legal
8 Services for the poor but also the need for Civil Legal
9 Services for people of modest means, some of your employees
10 as well?

11 MS. GOLDSTEIN: Absolutely.

12 I mean I think the thing is that we have a large
13 spectrum of, you know, when you think about health care you
14 think about people who are doctors and so on.

15 HON. PRUDENTI: Exactly.

16 MS. GOLDSTEIN: If you look at the number of
17 employees that we have that essentially qualify for food
18 stamps, working and qualify for food stamps, that these are
19 people that need this partnership with the court to be able
20 to really do their jobs and be a productive member of it.

21 We also have a lot of relationships with job
22 training programs for the community. So we are bringing in
23 people who have been homeless who now are just beginning to
24 reassert themselves. And they are working in our community
25 based programs and that makes it.

26 I think, you know, the question that you had asked

1 REICH/GOLDSTEIN

2 in terms of Health Reform act. The concept, underneath, the
3 Health Reform Act, which is if we align everybody's
4 incentive, we will do better. Because right now it is good
5 for one and not good for another. The big issue here is how
6 do we help align, the patient's ability to access services.

7 HON. LIPPMAN: Yes.

8 MS. GOLDSTEIN: And empower, them to do that.
9 There is a lot of dependence, on that. So I think that that
10 is a very important piece of this.

11 But there was just an article in the Times this
12 week with the number of people that are holding down one and
13 two jobs.

14 HON. PRUDENTI: Exactly.

15 MS. GOLDSTEIN: And yet are homeless. And we --

16 HON. LIPPMAN: But I think interfacing, with the
17 bureaucracies, whether health, housing, schools --

18 MS. GOLDSTEIN: Absolutely.

19 HON. LIPPMAN: So many other areas. And they are
20 not talking about cases necessarily that got into a court.
21 They are people who are trying to deal with the basics of
22 life and don't know how to do it.

23 MS. GOLDSTEIN: Right.

24 HON. LIPPMAN: I think the health industry is such
25 a perfect example of that where the rules whether it be they
26 are coming from the feds or coming internally, are complex

1 REICH/GOLDSTEIN

2 and not easy for the average person to navigate.

3 MS. GOLDSTEIN: And to understand what their
4 entitlements are.

5 HON. LIPPMAN: "Entitlement," is the right word.

6 MS. GOLDSTEIN: I think one of the biggest
7 tragedies, is there are entitlements in New York State and a
8 very large percentage of our patients we find don't know
9 about them, don't know how to access them and need the
10 guidance and support that an attorney would provide. And
11 that is why our partnership with the legal community, with
12 the Legal Aid Society is so essential, for us to be able to
13 achieve our mission of taking care of a whole person.

14 DR. REICH: I give you one more example to build
15 upon what Wendy has just explained to us. And that is that
16 we have obviously an aging population. Approximately,
17 25 percent of Mount Sinai's, employee would be classified as
18 people of modest means. And although New York has again
19 been a leading edge in creating the Adult Family Health Care
20 Decision's Act, the problems of the aging parents, the
21 establishment of the health care goals and working through
22 the very complex system is one that definitely affects
23 absenteeism, at Mount Sinai.

24 We have many employees who deal with the issues of
25 aging parents. And in terms of legal advice in
26 understanding what they will do in terms of legal care and

1 REICH/GOLDSTEIN

2 helping them to navigate, the entitlements in knowing what
3 to do to get them into Medicaid and get them the services
4 they need, these are clear and pressing issues that as an
5 employer I am aware of on a anecdotal but regular basis.

6 HON. LIPPMAN: Thank you so much. Thank you both.

7 I think it really highlights, again, that this
8 vital part of New York in your "industry" which I know maybe
9 we don't all use that word but the service you provide is so
10 essential and it is so interrelated.

11 MS. GOLDSTEIN: It is a dependancy. If we do not
12 have an effective, partnership we cannot do our job.

13 HON. LIPPMAN: So we really appreciate the both of
14 you coming.

15 MS. GOLDSTEIN: It was an honor. Thank you.

16 DR. REICH: An honor for both of us.

17 HON. LIPPMAN: Thank you so much.

18 Before we call our next witness there is still a
19 little whistle.

20 MS. GOLDSTEIN: It is very hard to hear.

21 HON. LIPPMAN: It is a little buzz.

22 COURT OFFICER: They are working on it.

23 MS. GOLDSTEIN: With this feedback it is hard to
24 hear.

25 HON. LIPPMAN: Okay.

26 Our next witness is someone who really needs no

1 VANCE

2 introduction although I am going to introduce him any way.
3 But we cannot allow the District Attorney to have a
4 whistling. This will not do.

5 You know Gerard, he is the District Attorney, so
6 please make sure you fix his microphone and electronic
7 equipment.

8 Let me just introduce the District Attorney,
9 Cyrus Vance. As you know, he is the District Attorney of
10 New York County. He is someone who I can say is one of the
11 outstanding, persons in law enforcement in the United States
12 of America.

13 The New York District Attorney's Office has a
14 historical history in terms of law enforcement. And
15 District Attorney Vance in every way has met that long
16 tradition of excellence, here in Manhattan. We depend on
17 him for his expertise, his knowledge, his seem less and
18 gracious, persona, in running again one of the most
19 important law enforcement entities in this city, this state
20 and this country.

21 So I consider him my dear friend and someone who
22 has been such a partner with the court system on so many
23 important creative new ways of performing our function in
24 the justice system where we all realize that all of us are
25 partners in a real sense in that without the prosecution,
26 defense, the courts and all of the other players, the

1 VANCE

2 justice system doesn't work. So it is particularly an honor
3 for us to have District Attorney Vance, who I so admire and
4 respect. And so I am delighted to have you here at this
5 hearing.

6 DISTRICT ATTORNEY VANCE: Your Honor,
7 Chief Administrative Judge Prudenti, Justice Gonzalez, my
8 good friend, Glenn Lau-Kee. It is my pleasure to be here.

9 I feel very lucky to be able to spend a little time
10 talking about the intersection between the criminal justice
11 system, which I am so deeply involved with and the need for
12 civil counsel by so many people that we deal with.

13 HON. LIPPMAN: I am so glad to have you here
14 because a lot of people will say before you speak, gee, what
15 is the connection? Why is the District Attorney here? What
16 does law enforcement, have to do with Civil Legal Services?
17 You are going to find out are from District Attorney Vance.

18 DISTRICT ATTORNEY VANCE: To me, I don't know --
19 this may not be very formal -- there is such an obvious need
20 and we see in our capacity as District Attorneys dealing
21 with criminal cases, the need for civil representation every
22 day.

23 And let me just give you sort of a background. We
24 have a hundred thousand new cases a year that come through
25 our office. And in so many of those cases people come to us
26 as victims or they come to us as individuals with a problem

1 VANCE

2 which can't be handled in the criminal justice system or
3 victims who have parallel need for counsel in order to put
4 their lives back together and we can't help them.

5 Now, when you have 100,000 new cases a year, I am
6 talking about literally thousands of individuals who come
7 into our system and who we can only partially help or not
8 help at all. And so when I think of the goals of my work, I
9 think there is so much that goes of the justice system
10 generally. I am interested in making sure that cases that
11 come into our office is handled in a way that enhances, the
12 pursuit of justice but also it is very important to me that
13 we focus on crime prevention in our application of our
14 prosecutorial powers and adequate civil representation for
15 those who typically can't afford it is key in my view to
16 achieving both those goals and why I was so delighted, to
17 come today and be able to speak with you.

18 We, of course, try to refer people who come in with
19 issues through "not for profits" and other government
20 agencies but the demand simply outstrips, the resources
21 available. Which is of course what you are facing here.
22 Agencies, that we refer people to are often unable to
23 represent them or to get them help in order to achieve a
24 fair resolution of their cases. And the inability for an
25 individual coming into the criminal justice system to get
26 help in these particularly difficult circumstances whether

1 VANCE

2 as a victim or someone who needs help but it doesn't
3 squarely fall within a crime our inability to help them is
4 in my opinion an injustice. And whether it is on the civil
5 side or criminal side we all want the same thing. We want
6 people to come away from their interaction with the justice
7 system feeling their voice is heard, their needs are met and
8 they are treated respectfully so that they can lead
9 productive, lives and they can add to their communities, and
10 add to our New York City community. But we just aren't
11 meeting those needs today. And I know that is what you are
12 focused on.

13 Some of the irreparable outcomes we see where there
14 is this intersection between criminal law and civil law
15 leads to irreparable and negative, outcomes. Let me just
16 give you a couple of examples. And we see everything in the
17 Manhattan District Attorney's Office from international
18 crime to violent crime to petit crimes. But we see
19 everything. And one of the areas that we have seen where we
20 think that your concerns demonstrates the need for what you
21 are fighting for is cases involving fraudulent deed
22 transfers. We see it a lot. And if a legitimate owner of a
23 property -- sometimes it may be an elderly person or it may
24 be someone who is simply unschooled, and doesn't have legal
25 sophistication -- if they are not represented by civil
26 counsel and people involved in deed fraud schemes file lis

VANCE

1
2 pendens against their property in an effort to resell it.
3 The property is forever lost to the rightful owner. And it
4 happens, Your Honor, as I say, much more than you expect.
5 There are deed fraud rings out there in the city of
6 New York. And they are looking for properties where the
7 legitimate owner for any number of reasons is not managing
8 the property. And the fact that someone owns a property
9 doesn't mean that that someone is necessarily a person of
10 means. It could be an elderly, citizen, it could be an
11 immigrant, who is unsophisticated in the ways of our legal
12 system.

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1 VANCE, JR.

2 D.A. VANCE, JR.: Criminals file a
3 fraudulent, sometimes forged, deed transferring
4 ownership to a straw buyer or corporation. And, as I
5 say, if the legitimate owner isn't able to jump in
6 there and needs a counsel to do that and file a lis
7 pendens - and I can't even tell you what a lis
8 pendens means, but somebody can - the property can be
9 lost.

10 And there is no remedy, no good remedy for
11 that owner whose had property, perhaps that's what
12 they are relying on for their children for their
13 education or for their retirement. It is lost to
14 them, except in a long civil remedy which they need a
15 civil lawyer to pursue in any event. That's one
16 example.

17 I also want to say that legal
18 representation in the civil arena is critical for
19 crime prevention, not just where it intersects with
20 our office. One of the areas that we see this most
21 is in immigrant fraud. There are so many cases that
22 we have where because there is not adequate and
23 accessible representation at the level it needs to be
24 for the immigrant community and in the handling all
25 the ways in which they interface with our system here
26 in New York, they are preyed upon by individuals who

1 VANCE, JR.

2 take advantage of them because of their immigrant
3 status. Sometimes it is the inability to speak
4 English fully well; sometimes it is preying upon the
5 association they both come from the same country.
6 But people who end up being victimized by fraudulent
7 purveyors of legal services are irreparably damaged
8 often, not just sometimes in the stealing of property
9 or legal fees that disappear and no legal work is
10 done or no legal work of value. But even more
11 disturbingly by promising, for example, that they can
12 provide a Green Card or by promising that they can
13 provide legal services.

14 They also may cause the client, the victim,
15 not just to part with their money, sometimes their
16 life savings, to become a citizen of the United
17 States, to come out of the shadows and to live fully
18 here by doing it in a way that is, you know,
19 accomplishes none of those goals, but puts them on
20 notice to the Federal Government that they are here
21 and they may end up providing no services and putting
22 these individuals in worse situations vis-a-vis their
23 immigration status than they were before they sought
24 out the help from someone who actually did nothing
25 more than scam from them. And we see this too often
26 also.

1 VANCE, JR.

2 So, with those individuals, if they had
3 access in their communities to competent legal
4 counsel to guide them through these processes, these
5 complex immigration processes, we wouldn't be seeing
6 as many of the cases where members of the immigrant
7 community in New York County are victims of fraud and
8 abuse.

9 I'm going to get some water, your Honor.
10 Just one second.

11 HON. LIPPMAN: That's our whole budget,
12 D.A. Vance, the water, so we're glad you're using
13 it.

14 D.A. VANCE, JR.: Thank you, your Honor.

15 I know that the report of a steering
16 committee initiated by Judge Katzmann in the Second
17 Circuit found that 74 percent of clients facing
18 deportation who were not detained, but were
19 represented by counsel, had successful outcomes in
20 their cases. 74 percent. Compared to 13 percent of
21 clients who were unrepresented. And, similarly, 18
22 percent of clients facing deportation who were
23 detained, but were represented, had successful
24 outcomes versus only 3 percent of individuals
25 detained who did not have counsel. Only 3 percent,
26 according to Judge Katzmann.

1 VANCE, JR.

2 And I think those statistics show the
3 importance of affordable competent representation to
4 protect our individuals in the communities, to
5 provide a sense of justice, and to also prevent crime
6 from being able to occur in the first instance.

7 There are many other instances, your
8 Honor. I think we have submitted written testimony
9 and I won't go through all of them.

10 But, to close, I would just say that the
11 support of civil legal services in one sense is just
12 so obvious and so enormous that I don't think there
13 is anything complicated about the need. The question
14 is, is there a will to provide the means to help
15 people who have the needs.

16 I think that adequate civil legal
17 representation for some of the reasons I've outlined
18 is vital to our work in law enforcement and is for a
19 reason also that is perhaps less obvious to everyone,
20 but equally urgent.

21 Our greatest asset in our communities and
22 the foundation of the work we do is to have respect
23 for the law. And where the law does not engender
24 respect, no level of police staffing can provide
25 security, and no prosecutor or judge can bring
26 civility to the streets where law does not live. And

1 VANCE, JR.

2 when people feel disenfranchised from our justice
3 system - as so many who need legal services do when
4 their rights are being trampled, when they are being
5 taken advantage of and being victimized, and they
6 have not recourse in our courts to right those wrongs
7 - then the law that we all believe in so passionately
8 is diminished. Respect for law is diminished in
9 every way in our communities. And I believe,
10 unfortunately, that is the current state for so many
11 people in Manhattan and I believe in other boroughs
12 and in other communities around the State.

13 It is hard enough when we have to tell
14 someone we can't help them with a civil problem, but
15 how much harder must it be when civil legal
16 assistance, the attorneys of last resort themselves
17 tell victims that they indeed have a civil case, but
18 they can't find the resources to help them.

19 And that's why although this is a very dire
20 situation and important information we are gathering
21 to remedy that, I'm delighted to be able to share my
22 thoughts, informal as they are, about what I see as
23 the Manhattan D.A. every day and having been an
24 Assistant D.A. even more on the front lines I saw it
25 even more startling when I was dealing directly on a
26 regular basis with victims and individuals who needed

1 VANCE, JR.

2 help. But I think we all know that everyone sees all
3 across this State in so many ways and in your hands,
4 I'm confident that we will make real progress to help
5 those who are in need and why I support your work and
6 why I'm proud to be associated with your efforts.

7 Thank you.

8 HON. LIPPMAN: Thank you, D.A. Vance, first
9 of all, for answering that very graphically the
10 question I posed, what is the District Attorney, what
11 is law enforcement and what does it have to do with
12 civil legal services. I think you loud and clear
13 explained that.

14 Let me start by asking you a more
15 philosophical question that kind of builds on the
16 thrust of a lot of your closing remarks. You know,
17 in the criminal law, we have the exemplar case of
18 Gideon versus Wainwright which basically ensured to
19 the maximum extent possible, and we understand it's
20 uneven around the country and the State, a level
21 playing field in terms of criminal cases, that
22 everyone gets their day in court, you have a right
23 when your liberty is at stake, you have the right to
24 representation.

25 As you know, on the civil side there is no
26 such right, at least certainly it has not been

1 VANCE, JR.

2 established yet, and there is a lot of talk about a
3 civil Gideon, that this should be the equivalent of
4 Gideon versus Wainwright on the civil side.

5 Do you think that it's ever possible, I
6 know this is a philosophical question, but bear with
7 me. Do you think that it's ever possible that in a
8 civil case a person fighting for the roof over their
9 head or something to do with their livelihood or
10 their family's or personal safety, that there could
11 be interest as important as one when one's liberty is
12 at stake that might point us towards the same concept
13 here that a person is entitled to a lawyer when they
14 are dealing with that kind of a case as sort of
15 in controvert or parallel to we have someone's
16 liberty at stake? Is that a reasonable analogy to
17 make?

18 D.A. VANCE, JR.: Well, I'm not a
19 constitutional scholar --

20 HON. LIPPMAN: Not your legal opinion.

21 D.A. VANCE, JR: -- and I've known that for
22 years, unfortunately.

23 But certainly as a matter of human concern
24 and empathy, it is as important for someone who is a
25 victim of domestic violence to have the means to
26 protect her money in a civil sense from someone who

1 VANCE, JR.

2 has abused her, to protect her children in the civil
3 arena from someone who may threaten them, or to be
4 able to find a place to live and be able to live
5 safely not just physically, but in a safe state of
6 mind. I think those are, if I were a Supreme Court
7 Justice, and I will never be, are those essential
8 liberties --

9 HON. LIPPMAN: You're still a very young
10 man.

11 D.A. VANCE, JR.: -- are those essential
12 liberties that the Constitution sought to cover or as
13 our history has evolved should seek to cover because,
14 in fact, those rights, even while they may not be
15 directly related to a litigant's liberty in the sense
16 of in or out of jail, they are very much related to
17 the promise of our Constitution that we live in a
18 society that provides opportunity and liberty to all
19 of those people.

20 I think the financial ramifications of that
21 are enormous, obviously. And I think you run up into
22 situations where you will have civil litigants
23 fighting each other in court, so to speak, who both
24 have -- who both may be indigent; therefore, while I
25 may think I may be able today to think I know who is
26 on the right of a civil case involving custody or so

1 VANCE, JR.

2 many issues, I can imagine that it's a very
3 complicated situation and so I think you will have a
4 huge financial sense.

5 But as a concept of what is and what is an
6 irreparable right of someone who is in this country,
7 I think freedom to live in security and freedom to
8 have a sense of -- that people -- that you're being
9 treated fairly by the justice system is not far from
10 the inalienable rights that our framed in our
11 Constitution.

12 HON. LIPPMAN: And let me ask, and as with
13 you, I don't see myself sitting on the Supreme Court
14 of the United States, not being as young as you --

15 D.A. VANCE, JR.: That's true.

16 HON. LIPPMAN: -- and not having such
17 possibilities ahead of me, without passing on the
18 legal on constitutional issues involved, I think it
19 is fair to say 15 years before Gideon versus
20 Wainwright no one would have believed that you would
21 have a, you know, that right of representation when
22 one's liberty is at stake in a criminal case. I
23 think over those 15 years, there's a case called Betz
24 that was before the Supreme Court, the community view
25 of representation in criminal cases changed and then
26 when Gideon came up before the U.S. Supreme Court,

1 VANCE, JR.

2 the attorney generals of over 20 states put in amicus
3 papers advocating for that.

4 So, while I think, again, without really
5 the legalities of it, I think by focusing on this
6 issue and changing the dialogue and having someone
7 like the District Attorney of Manhattan, such a
8 central place in our State and our country, talk
9 about the importance of civil legal services, maybe
10 we change the dialogue where people start seeing it's
11 important and it's parallel again on what could be
12 more important than one's liberty, but what could be
13 more important of physical safety or a roof over
14 one's head, you know, so it's interesting.

15 Let me ask one more question, Mr. District
16 Attorney, which is, when we talked about crime
17 prevention, you know, we're always saying that when
18 you provide civil legal services to people and help
19 them in these times of crisis, we certainly save the
20 Government, the State, money in terms of social
21 services and those kinds of things.

22 Do you think it's also possible that we
23 prevent in a meaningful way you having more customers
24 in the Criminal Justice System by saving people who
25 have serious legal problems, getting them back on
26 stable footing and those people maybe don't become

1 VANCE, JR.

2 people who are going to a life of crime? Is that a
3 reasonable statement to make? Does that make sense
4 to you?

5 D.A. VANCE, JR.: I -- I'm trying to think
6 of an example, but I'm not drawing one right now, but
7 I do think that it is very logical that the degree to
8 which someone who is in personal crisis and financial
9 crisis and it may be -- and the issues relate to
10 something that legal representation could help them
11 through, if that is not given to them, they may be
12 more inclined to find ways to get money to survive
13 that are illegal. And --

14 HON.LIPPMAN: Not far-fetched, right?

15 D.A. VANCE, JR.: It's not far-fetched, but
16 nothing immediately comes to me, but I absolutely
17 think that it's a logical statement.

18 HON. LIPPMAN: Any other questions?

19 HON. GONZALEZ: If in the vein of what Chief
20 Lippman said with respect to Gideon 15 years before
21 it was not seen, but it came about. And I think it
22 came about because of -- and as I said, you have said
23 many wonderful words, you have shared many wonderful
24 thoughts, the use of the word will in your closing
25 statement. And I think in part all this about will,
26 the same will manifested so that Gideon came about,

1 VANCE, JR.

2 the possibility that if we were to exercise the will,
3 and we have so far, it's demonstrated by the fact
4 that there's been funding. Of course, as Judge
5 Lippman said at the beginning of his comments, this
6 is the tip of the iceberg.

7 If we have the will, and as I said, which
8 has already been demonstrated, we've had results, but
9 if the concept of will apply and apply consistently,
10 effectively and efficiently, I think we would have
11 similar result with respect to the civil side as to
12 criminal side.

13 Now, just sharing a thought, thinking out
14 loud. If all of us here do believe in the lawful
15 objective we are trying to achieve, any time, I'm
16 just suggesting, any time that you get in touch with
17 or come in contact with one of your elected officials
18 that have a say ultimately and directly on a
19 position, any time any of us have an opportunity we
20 can bring it about.

21 You may have three things. You may have
22 someone that's totally opposed to it; someone that's
23 straddling the fence, and someone who is in favor of
24 it. If you talk to the one who is totally opposed,
25 you may or may not change their mind. If you talk to
26 someone who is on the fence, you may be able to push

1 VANCE, JR.

2 them off the fence. And if you talk to someone who is
3 already in favor of it, you may simply provide this
4 individual with more desire to bring about the
5 changes that are needed.

6 So, I guess I'm challenging you in the
7 event that you have the opportunity to deal with any
8 individual who is ultimately responsible, the bottom
9 line is the funding for these -- for access to the
10 courts, do so. It can't hurt. You may get something
11 positive out of it. But the bottom line is, it
12 cannot hurt.

13 So, I guess, you know, I challenge you but
14 I am saying it because of what resonated with me when
15 you mentioned the need is there, but the question is
16 the will. We have already shown that we have the
17 will from an organized point of view, that is the
18 organized effort was made to get funding and it
19 resulted in positive things. But the organized
20 effort is not the only effort. We can approach
21 individuals and maybe even it becomes a tsunami in
22 terms of the effect it will have on these issues.

23 Thank you for sharing and you brought out a
24 word that I think is deep, and that is the will.

25 Thank you.

26 HON. PRUDENTI: One quick question.

1 DR. BECKER

2 Mr. District Attorney, I know how hard your
3 office and the District Attorney offices around the
4 State of New York try very hard to instill public
5 trust and confidence in the system. Do you believe
6 that the lack of adequate civil legal services puts
7 you in an unenviable position with regard to
8 promoting that trust?

9 D.A. VANCE, JR.: I do. We all grow up
10 where when you come to the country, you believe that
11 we are special, because we have been promised a
12 contract. That we have inalienable rights. And
13 those rights are life, liberty and the pursuit of
14 happiness.

15 And when you have a life-threatening
16 situation, and by life-threatening I may mean
17 economically life-threatening or medically life-
18 threatening and you cannot -- you have nowhere to
19 turn and no one to help you, and you feel that you
20 are alone, that certainly can have an impact on
21 individuals who then come to our office and -- but as
22 I said in my remarks, I think that when people feel
23 alienated and when people feel there's nowhere to
24 turn, and they don't feel that they can seek justice
25 through the ordinary remedies, we all lose. And the
26 consequences can be very negative.

1 DR. BECKER

2 HON. LIPPMAN: Thank you.

3 D.A. VANCE, JR.: Thank you, your Honors;
4 Mr. Lau-Kee. Thank you so much to all of you.

5 HON. LIPPMAN: Thank you.

6 (District Attorney Vance, Jr. is excused.)

7 HON. LIPPMAN: The next witness is
8 Dr. Elizabeth Becker, Senior Vice-president of NERA
9 Economic Consulting. And Dr. Becker is going to talk
10 a little bit about cost savings and how civil legal
11 services very much affect the bottom line.

12 Doctor, it's a delight to have you here.
13 Thank you for coming.

14 DR. BECKER: Thank you so much for having
15 me. I am really honored and I am pleased to be
16 here.

17 I just wanted to put my testimony in
18 context a little bit relative to the earlier
19 witnesses. We've heard some of the earlier witnesses
20 speak about the important values of strong parenting
21 and the challenges that low-income people may face in
22 providing good parenting and care and support for
23 their children.

24 We've just heard about the importance of
25 ensuring legal rights. We've also heard about the
26 importance of access to medical and health care

1 DR. BECKER

2 services and the challenges that low-income people
3 may have in accessing adequate health care services.

4 So, what I really have been asked to do was
5 really provide a little more of a global picture of
6 what the economic value is of the provision of civil
7 legal services to low-income New Yorkers. But,
8 really, I think it is important to remember that even
9 as I talk about some numbers, that really it is about
10 provisions of services to people and the value that
11 really is being generated to individuals who are, in
12 many cases, really in desperate circumstances.

13 HON. LIPPMAN: Doctor, I think it's
14 important to know we agree with you totally and
15 obviously you're talking about real people and
16 problems, but I think numbers are important and don't
17 necessarily lie. And I think that translating -- I
18 think one of the reasons we've been able to be
19 successful, at least to some degree with the funding,
20 is that we're trying to demonstrate that this is not
21 just about doing the right thing, but that it really
22 does feed the bottom line for our city, our State and
23 really our country, so that's why we're so pleased
24 that you can give us that bird's eye view.

25 DR. BECKER: Well, thank you. I was
26 honored to be here last year and provided some

1 DR. BECKER

2 numbers last year about the economic value of the
3 services that were provided. And part of what I have
4 done this year is really updated the numbers with the
5 economic value of the services that were provided
6 through 2012 and compared them to the value that was
7 produced in 2011.

8 HON. LIPPMAN: What does it show?

9 DR. BECKER: It shows that there's about a
10 20 percent increase in economic value from services
11 provided in 2012.

12 HON. LIPPMAN: Even compared to last year,
13 there's a 20 percent increase this year?

14 DR. BECKER: Yes.

15 If you look at the economic value of
16 federal funds that are brought into New York State
17 from federal programs such as getting access to
18 supplemental security income or disability income;
19 Medicaid, a variety of federal programs that are
20 challenging for low-income people to become eligible
21 for because the bureaucracy can be quite overwhelming
22 for them.

23 So, the economic value from the services
24 that have been provided in 2012 and recent years, it
25 is about close to \$500 million in 2012. That's up
26 about \$8 million relative to what it was in 2011.

1 DR. BECKER

2 HON. LIPPMAN: \$500 million in terms of
3 what the impact of the investments that were made in
4 civil legal services?

5 DR. BECKER: That's right. And I think in
6 some sense it's a very conservative estimate because
7 it really looks at the flow of federal funds to the
8 State from provision of civil legal services in 2012
9 and just the past few years.

10 One of the things we know about identifying
11 and helping people to determine eligibility is that
12 many of the programs, SSI, SSD, have a long running
13 benefit, up to nine or ten years, in terms of the
14 average number of years that people continue to draw
15 benefits once they determine and establish their
16 eligibility. If you actually computed an economic
17 value of that future flow of funds which is the
18 common way --

19 HON. LIPPMAN: You are looking at a
20 particular slice of this, but if you really took it
21 in broader strokes, you would have even greater
22 physical impact?

23 DR. BECKER: Yes. Our estimates are it
24 would be about a billion dollars in terms of economic
25 value over the next nine to ten years from accessing
26 these federal programs that otherwise would have been

1 DR. BECKER

2 difficult for people to be able to access.

3 Another way that the 500 million is
4 somewhat of an understatement is that when these
5 federal funds flow into the State as a result of
6 low-income New Yorkers establishing their
7 eligibility, it's a multiplier effect as well. They
8 have income, they spend that income. They, you know,
9 they provide jobs for others in the State as well.
10 The multiplier effect is about an extra fifty cents
11 on a dollar for every dollar that comes into New
12 York.

13 HON. LIPPMAN: Kind of a ripple effect?

14 DR. BECKER: Yes. exactly.

15 So, the ripple effect on the 500 million
16 gets you to another about \$700 million in total
17 counting the multiplier effect.

18 HON. LIPPMAN: Can you think of a better
19 investment that returns that kind of --

20 DR. BECKER: Well, I know. When we talk
21 about these multipliers that are relative to the
22 actual dollars that are spent, I think the numbers
23 are a far and a way better investment than anything
24 I'm currently earning.

25 HON. LIPPMAN: If we all got that return,
26 we would be doing okay, right?

1 DR. BECKER

2 DR. BECKER: Yes.

3 In addition to updating the numbers, really
4 looking at the value of the federal benefits that
5 were acquired for persons who otherwise may not have
6 been able to establish --

7 HON. LIPPMAN: Let me explain it to
8 everybody. What the doctor is talking about is when
9 you have -- a lot of the money that goes to civil
10 legal services, and when we talked about this before,
11 is the interface with a lot of the different federal
12 bureaucracies and that produces money coming into New
13 York State because people wouldn't get those. When
14 someone used the word before entitlement, these
15 monies would not come to New York State without the
16 assistance of a lawyer to help people of limited
17 means access that assistance they are entitled to.

18 DR. BECKER: Yes.

19 Previously, when I reported these numbers
20 last year, we really were talking about the value of
21 federal funds coming into the State from what we call
22 extended legal representation.

23 HON. LIPPMAN: Right.

24 DR. BECKER: One of the more interesting
25 things more recently is that we've been able to
26 quantify some of the value from more brief services,

1 DR. BECKER

2 brief advice, contact by phone. Not necessarily
3 extended legal representation.

4 And these numbers are extended based on a
5 survey done that was done in Pennsylvania of about
6 500 surveyed participants and clients in
7 Pennsylvania, but the success rates that were enjoyed
8 by clients who were provided advice really with brief
9 services and advice. So, we've made also an estimate
10 base upon Pennsylvania survey rates and applied that
11 to the client data that we have in New York to
12 understand whether there's additional value provide
13 by sometimes fairly simple help to navigate these
14 complex bureaucracies and our estimate of the value
15 of the advice in brief legal services is about \$54
16 million. Again, this is mainly the same federal
17 programs that I had talked about, the SSI, SSD,
18 Medicaid.

19 HON. LIPPMAN: Right.

20 DR. BECKER: And then there's another
21 category about economic value added and that really
22 pertains more to the first topic that we had people
23 speak about today about parenting and the ability to
24 have resources to provide good and solid parenting.
25 And that is we have been able to capture some of the
26 economic value of civil legal services assistance in

1 DR. BECKER

2 obtaining child support and spousal support. It
3 would not necessarily be a net flow of funds into New
4 York State, but it would certainly be a flow of funds
5 towards those who may need assistance in providing
6 good parenting support. And the economic value that
7 child and spousal support is about \$15 million. Part
8 of that was through brief legal services and brief
9 services and part of it was through extended legal
10 representation.

11 So, the total economic value certainly far
12 exceeds any dollar value of what the investment
13 represents.

14 HON. LIPPMAN: I think the testimony was
15 really helpful in terms of understanding that yes, as
16 you said at the beginning, there is an intrinsic
17 value in what's being done, but there is a very basic
18 and almost overwhelming economic benefit to our State
19 and I thank you, Doctor, for really being able to lay
20 it out.

21 Any other numbers we should be aware of?

22 DR. BECKER: Yes, just one more, you know,
23 to put things in perspective. And I think that's
24 just to understand that when we are talking about
25 federal funds coming into New York State from Federal
26 Government programs, it's important to understand

1 DR. BECKER

2 that we are in the deficit in terms of the money that
3 we send to Washington. So, this extra flow of funds
4 that are coming back through the civil legal services
5 that are being provided to low-income New Yorkers is
6 really helping to balance.

7 HON. LIPPMAN: Doesn't even it out, but
8 helps?

9 DR. BECKER: Very modestly. Closes the gap
10 by about 2 percent.

11 HON. LIPPMAN: Thank you, Dr. Becker. We
12 really appreciate it. Thank you for your testimony.

13 Questions?

14 MR. LAU-KEE: Can you just elaborate a
15 little bit more on the extended legal representation
16 and I guess you call it the brief representation?
17 I'm interested in whether you see any efficiency
18 there. I'm interested in things like the efficiency
19 you see on both, whether one may be more effective
20 than the other or?

21 DR. BECKER: You know, we haven't really
22 evaluated the relevant efficiency of extended legal
23 services versus brief service consultation. The
24 appropriateness of one versus the other I think will
25 be very case specific, but we definitely have really
26 focused in the past on the value generated by more

1 DR. BECKER

2 extended legal representation and we understand that
3 there are some interactions with clients, with
4 low-income New Yorkers, that are very modest in terms
5 of time lost or the, you know, the cost that may be
6 borne in order to assist people. And that's really
7 why we're trying to capture some of the value of
8 brief legal services consultation

9 MR. LAU-KEE: So, you have no sense of how
10 effective they would be?

11 DR. BECKER: Relative to whether one is
12 more efficient than the other, no. We've not really
13 done a study comparing those types of consultations.

14 MR. LAU-KEE: Thank you.

15 HON. LIPPMAN: Okay. Thanks, Doctor. I
16 appreciate it. Thank you so much again.

17 DR. BECKER: Thank you. It's my pleasure.

18 (Dr. Becker is excused)

19 (Continues on the following page)
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1 FISHERR

2 HON. LIPPMAN: The Honorable Fern Fisher, the
3 Deputy Chief Administrative Judge for the New York City
4 Courts and also the Director of the New York State Access to
5 Justice Program.

6 I would also mention that former Court of Appeals
7 Judge Carmen Beauchamp Ciparick, is here. A member of the
8 Task Force. We are so pleased that she is here with us
9 today and we are graced, by her presence.

10 And I see you have pictures for us Judge Fischer,
11 charts, pictures.

12 HON. FISHER: Yes, I do.

13 Good morning.

14 HON. LIPPMAN: Good morning. How are you?

15 HON. FISHER: I'm fine.

16 HON. LIPPMAN: You are going to talk today about the
17 continued effort to simplify, the court process.

18 HON. FISHER: No. Actually, Judge Tacoma, is going
19 to address that in the Fourth Department. Today, I am
20 bringing brief but good news.

21 HON. LIPPMAN: Brief but good news. We always want
22 good news and brief is better. Go ahead.

23 HON. FISHER: I have been asked this morning about
24 statistics on how Civil Legal Service's funding increased
25 access to justice in 2012 to 2013.

26 HON. LIPPMAN: I think that would be very, very

1 DUNNE

2 I propose to make a very brief point about the link
3 between increased funding of Civil Legal Services and the
4 role of the organized Bar in promoting pro bono activity.
5 And how successful we can be when judiciary dollars are
6 channeled through organizations that can leverage the
7 private sector's pro bono resources.

8 First of all, the City Bar first applauds the work
9 of the Task Force and the leadership of Chief Judge Lippman
10 in adding forty million dollars in annual Legal Services
11 funding recently. And for the other steps taken very
12 recently to try to stimulate more pro bono work, including
13 the so-called "50 hour rule" and the mandatory reporting of
14 pro bono hours. Both of which are initiatives that the City
15 Bar applauded when they were announced.

16 We continue to believe the profession should be
17 doing everything possible to find these kinds of creative
18 ways to close the justice gap because the unfortunate
19 reality, of course, is that public funding alone will never
20 be enough, at least in the foreseeable future if not in our
21 life time. But one can only hope.

22 That said, we continue to urge all of you to
23 continue to advance the original goal of a \$100 million
24 increase. This is especially important now because of the
25 federal sequester, and because of the reduction in LSC
26 funding to New York people as a result of population shifts.

1 DUNNE

2 staff so we could be open all day Monday through Friday to
3 answer more calls, and by increasing our resources for pro
4 se litigants. We also used the increased funding to add a
5 staff member to coordinate our consumer bankruptcy project
6 which then freed up other staff attorneys to train and
7 mentor even more pro bono attorneys from around the city and
8 especially at our legal clinics. This again benefited
9 hundreds more New Yorkers by helping them resolve debt
10 collection cases, wage garnishments, and foreclosures. All
11 of which, incidentally, helped divert cases from the state
12 court system. An added benefit, of course.

13 We were also able to increase the number of cases
14 in our legal clinic for the homeless, benefitting an
15 additional 200 parents and children, which is particularly,
16 important these days with homelessness at a record high.

17 And then finally Super Storm Sandy also created a
18 huge and unexpected demand for legal services. And, again,
19 we were able to employ our limited financial resources to
20 hugely leverage our ranks with pro bono volunteers. In the
21 immediate aftermath of the storm, the Justice Center helped
22 train 375 pro bono lawyers in sessions at the City Bar.
23 These hundreds of volunteers then fanned out with just three
24 Justice Center staff to places in the Rockaways, and later
25 in Staten Island and Brooklyn, to provide emergency legal
26 help. These efforts assisted 450 households and small

1 DUNNE

2 minute ago, focusing as we have on the economic benefits of
3 this kind of "prevention", if you will, is, I think, a way
4 to captivate many of the audiences that need to be
5 captivated.

6 THE COURT: That is a good investment.

7 MR. DUNNE: Yes.

8 I am reminded of the conversations and debates that
9 we had ten or more years ago when we were focused on drug
10 courts. I remember the resistance back then. But as soon
11 as the tide began to turn and people began to realize that,
12 not only did these kind of treatment programs actually
13 prevent recidivism, they actually saved a heck of a lot of
14 money, suddenly people were all in favor of it.

15 HON. LIPPMAN: Across the political spectrum people
16 start to say, oh, yeah, drug courts, that is good. And I
17 think they are starting to say that about Civil Legal
18 Services. And I think the more we talk about that the
19 better.

20 So thank you so much, Mr. Dunne.

21 MR. DUNNE: Thank you.

22 HON. LIPPMAN: Next is the Client Panel.

23 Let me call up Jerome Young, Maria Perez and Miriam
24 Tangara.

25 MS. PEREZ: Buenos aires.

26 HON. LIPPMAN: Buenos aires.

1 DUNNE

2 HON. LIPPMAN: And what happened?

3 MS. PEREZ: She went to HPD, so HPD, will help us
4 assign a rent that we could afford and pay. And so they
5 assigned us a representative of Section Eight. They
6 negotiate. So they establish that we will pay the
7 30 percent of our family income and then renovation and they
8 will take us to Section Eight.

9 HON. LIPPMAN: Could you have done this yourself?

10 MS. PEREZ: No, never.

11 HON. LIPPMAN: Was your life changed by you living
12 differently than you would have lived if they hadn't helped
13 you?

14 MS. PEREZ: Of course. Me and my husband, we are
15 living very well, along with other four tenants from the
16 building. We are living well.

17 HON. LIPPMAN: So it is fair to say that Legal
18 Services changed your life or allowed you to continue your
19 life?

20 MS. PEREZ: Yes. It changed it radically. I
21 didn't even have immigration status and they helped me with
22 that also.

23 HON. LIPPMAN: So it is not just even the
24 individual issue that you came to them on, they helped you
25 with a lot of things relating to allowing you to live your
26 life?

1 DUNNE

2 MS. PEREZ: With all my life, of course. Because
3 with their help I could enter with my husband to Section
4 Eight.

5 HON. LIPPMAN: Well, thank you so much. Because
6 you demonstrate, most importantly, why this is important.
7 This is important to the individual whose life is just
8 radically, effected, impacted, by the help that they get
9 from Legal Services.

10 So we could not be more pleased that you are here
11 today with us Maria. And we appreciate you coming in. It
12 is very helpful in terms of us getting the funding we need
13 so that other people can be helped like you were.

14 Thank you.

15 MS. PEREZ: Thank you.

16 HON. LIPPMAN: Thank you.

17 Jerome, you want to tell us how did Legal Service
18 help you.

19 MR. YOUNG: Well, Legal Service helped me. I am a
20 war veteran. I did eight years in the military.

21 HON. LIPPMAN: Talk up so they can hear you.

22 MR. YOUNG: I am a United States war veteran. I
23 did eight years in the military. During one of my tour I
24 got injured and the injury was very severe. I was
25 diagnosed, with traumatic brain injury, "TBI".

26 So after my return, I tried to get employment which

1 DUNNE

2 this." And she take up my case.

3 And during that time we have Hurricane Sandy. So
4 she was not able to retrieve my paperwork to show where I
5 was going to psychiatrist. She need all the evidence. So
6 she helped me to find the proper place how to get the proper
7 documents to prove that I was --

8 HON. LIPPMAN: And Peggy, works for Legal Services
9 NYC?

10 MR. YOUNG: Yeah, she did.

11 And she told me what to do. And she present me
12 with the paperwork. And she bring me to the case. And the
13 case was tried and I was approved my Social Security. And
14 she helped me to get additional money, which really helped a
15 lot. Because I was really -- the money they was paying me
16 was good but the son of my mom was not working at the
17 moment, so I have to be stomaching, everything. I was
18 taking care of everything. So that additional Social
19 Security, helped me go over the edge.

20 THE COURT: So as a veteran, someone that comes
21 back and feels like you want to live a meaningful life on
22 your own and being able to access these benefits --

23 MR. YOUNG: Yes, sir.

24 THE COURT: Had a tremendous affect on you or
25 allowing you to go about your daily life in a way with
26 pride?

1 DUNNE

2 MR. YOUNG: Yes, sir. It make a big difference.
3 Not just for me but my son. He got Social Security also.
4 And covered medical. So all that additional stress I can
5 get rid of now.

6 So, I really, I really support it. Because she
7 really helped me and it really make a lot of difference in
8 my life. That is why I was more than happy to come here and
9 testify.

10 HON. LIPPMAN: It was so good of you.

11 And, obviously, you would like Legal Services, New
12 York to get the funding they need to help you?

13 MR. YOUNG: Yes, yes. Perfect.

14 HON. LIPPMAN: Thank you so much, Jerome. It
15 really helped.

16 I might mention, Maria, was a client of Legal Aid
17 Society of Harlem. And Magda Rios, was her attorney. I
18 wanted to acknowledge that.

19 And, let me ask Miriam Tangara. Miriam, you are a
20 client of Northern Manhattan Improvement Corporation and
21 Danielle Salgado, was your attorney.

22 Tell us how Legal Services helped you.

23 MS. TANGARA: I wrote something that I want to read
24 to you.

25 HON. LIPPMAN: By all means.

26 (Continues on the following page)

1 CLOSING/HON. LIPPMAN

2 MS. TANGARA: My name is Miriam Tangara. I
3 am 35 years --

4 HON. LIPPMAN: Speak up so everybody can
5 hear your story.

6 MS. TANGARA: My name is Miriam Tangara.
7 I'm 35 years old and mother of a 10-year old boy,
8 Moussa. I was born in France, came to the United
9 States in 2001 to join my fiance. I got married in
10 July 2001 with a man I met in Mali, a country in West
11 Africa, when visiting my parents' family members.

12 Year after year my relationship with my
13 ex-husband became controlling, abusive, then became
14 violent.

15 Eventually he was arrested after he
16 sexually assaulted me and was not able to come back
17 home. I was helped by the New York City District
18 Attorney's Office Victim Center and attended a
19 support group and individual counseling. I was given
20 an order of protection.

21 While all of this was happening, I received
22 court papers from our management office suing me for
23 nonpayment of the rent. This was the time to face
24 reality of supporting myself and my son. I was
25 filled with the fear somebody could take him away
26 from me and have me deported, a threat my ex-husband

1 CLOSING/HON. LIPPMAN

2 always made. I didn't know where to turn. Due to my
3 very complicated situation, my counselor referred me
4 to Northern Manhattan Improvement Corporation.

5 Today I'm here to share my experience as a
6 client of Northern Manhattan Improvement
7 Corporation. It is so important for me to be here to
8 say what services I received because without those
9 programs, I do not know what --

10 HON. LIPPMAN: How did you find them?

11 MS. TANGARA: I mean, a social worker told
12 me that when I was doing counseling they told me -- I
13 was telling them what I was scared of, and what is
14 going to happen. I don't have money. I don't have a
15 social security and I have nothing to pay the rent.

16 HON. LIPPMAN: They referred you?

17 MS. TANGARA: They referred me to there.

18 HON. LIPPMAN: You didn't have the money to
19 pay for legal services?

20 MS. TANGARA: No.

21 HON. LIPPMAN: If they didn't have the
22 ability to take you on as a client, you had no way of
23 dealing with it?

24 MS. TANGARA: Definitely.

25 HON. LIPPMAN: Go ahead. Please continue.

26 MS. TANGARA: To go back to what you said, I

1 CLOSING/HON. LIPPMAN

2 will just be with my husband and suffer for the rest
3 of my life. So, that is clearly without any help. I
4 will withdraw probably my -- the entire criminal case
5 because I have nowhere to turn and my fear is just to
6 -- I wanted to be with my son, but be in a safe place
7 than be in the house.

8 HON. LIPPMAN: Could there be anything more
9 important in your life?

10 MS. TANGARA: (Nodding)

11 HON. LIPPMAN: Continue.

12 MS. TANGARA: The first time I went to
13 Northern Manhattan Improvement Corporation, I spoke
14 to the Domestic Violence Project Director, Sarah
15 Banda. She asked if I needed help. I was very
16 scared, but I was able to talk to her about the
17 serious problems that I had. I was primarily
18 concerned about my housing case and our need to --
19 and our need for Public Assistance.

20 She also said that they had legal services
21 which could help me with my immigration status if I
22 needed it. I was very scared and I told her I was
23 fine. I was overwhelmed.

24 An attorney from the Legal Housing Unit,
25 Michelle Andrews, took my housing case. I was afraid
26 of being evicted because my ex-husband was not paying

1 CLOSING/HON. LIPPMAN

2 the rent prior to his arrest. The rent arrears went
3 up to more than \$14,000. I could not get help from
4 Public Assistance because my name was not on the
5 lease. In court, my ex-husband never agreed to add
6 me to the lease or give up his right to the
7 apartment.

8 After many times in court, my housing case
9 was resolved. Michelle did all the necessary
10 paperwork with Public Assistance to pay the arrears
11 and also fill out an application for FEPS. Moussa
12 and I were able to remain in the apartment.

13 During the entire time the housing and
14 criminal cases were proceeding, I received counseling
15 with Domestic Violence Project. I started opening up
16 to Ms. Banda about things that I was afraid of. It
17 felt good to have somebody that I can trust. At
18 first I never admitted to her that I needed to see an
19 immigration lawyer, but she offered for me to meet
20 with the Legal Department's domestic violence
21 attorney, Danielle Salgado. I met with Danielle and
22 she explained to that there was a benefit known as a
23 U-visa which helps victims of crimes in obtaining
24 legal status in the United States.

25 HON. LIPPMAN: Danielle was telling you
26 things you really had no idea of?

1 CLOSING/HON. LIPPMAN

2 MS. TANGARA: Yes.

3 HON. LIPPMAN: Go ahead.

4 MS. TANGARA: She contacted the District
5 Attorney's Office and confirmed that I was helping
6 with the criminal cases against my ex-husband. She
7 helped me complete the necessary paperwork and filed
8 a U-visa petition on my behalf in 2010. My U-visa
9 was approved and I received my work permit in
10 December 2010. I will be getting my Green Card next
11 year, hopefully.

12 I started working part-time for a
13 prestigious French private school in Manhattan in
14 2011. I divorced my ex-husband in 2012 with the help
15 of a pro bono attorney Northern Manhattan Improvement
16 Corporation referred me to. In June 2012, I was
17 offered a full-time position as a French Teacher
18 Assistant. My son Moussa is now enrolled at this
19 school and he just started in September as a fifth
20 grader.

21 My son and I are doing well so far and look
22 forward to achieving a lot more.

23 HON. LIPPMAN: So your life has really
24 turned around, so much of it --

25 MS. TANGARA: Absolutely.

26 THE COURT: -- due to getting help you

1 CLOSING/HON. LIPPMAN

2 needed. Sounds terrific and sounds like you are on
3 your way to only good things. Thank you for coming
4 in and telling us your story because it illustrates
5 why there is a need for people to get help and get
6 their life in order and to the very basic things that
7 all you want is to have your son and have your life
8 and be able to live in a meaningful way.

9 MS. TANGARA: Yes. Thank you so much.

10 HON. LIPPMAN: We thank you, Jerome and
11 Maria. And their story, really, in the end is what
12 this is about. And we're going to take their story,
13 along with the testimony that we've had today which
14 showed us the interrelationship between education and
15 health care and the Criminal Justice System, with
16 this whole issue of legal services.

17 We saw the cost savings, the multiplier
18 that comes from investment in civil legal services
19 and a great benefit to our State and our city and to
20 our economy and we saw the progress that we made and
21 yet we see how much more needs to be done.

22 We saw that in addition to money, we need
23 the Bar, the State Bar, the City Bar, local Bars
24 around this state, to contribute their efforts to
25 help people in need to have access to justice, to
26 have access to the entitlement that belongs to them

1 CLOSING/HON. LIPPMAN

2 to be useful citizens in our society. And we saw
3 again with the last three witnesses how very basic
4 this is. This is just normal people, with normal
5 problems, and they need a helping hand. And legal
6 assistance, lawyers, legal skills can be so important
7 to allow people to achieve the necessities of life.

8 So, we're going to take all that we learned
9 today and we're going to take a look at our budget
10 this year that we're going to submit to the
11 Legislature and Governor and see what kind of funding
12 to ask for with the ultimate goal of closing and
13 ultimately eliminating this justice gap between the
14 need and the resources that we have that are
15 available.

16 I thank the Panel. I thank all of the
17 witnesses. I thank you all for coming. We
18 appreciate it and thanks so much for being here.
19 Thank you.

20 (Whereupon, the hearing is concluded.)

21
22 *****

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

25 _____
26 CAROLYN BARNA, SCR

MONICA HORVATH, SCR

APPENDIX 9:

**Transcript of the Second Department Hearing
Held on October 1, 2013**

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STATE OF NEW YORK
SECOND DEPARTMENT HEARING
THE CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES

October 1, 2013

Queens County Courthouse
25-10 Court Square
Long Island City, New York 11101

B E F O R E :

HONORABLE JONATHAN LIPPMAN
Chief Judge of the State of New York

HONORABLE RANDALL T. ENG
Presiding Justice, Appellate Division, Second
Department

HONORABLE A. GAIL PRUDENTI
Chief Administrative Judge

HONORABLE DAVID M. SCHRAVER
President, New York State Bar Association

CARRIE BELMONTE,
CAROL B DRUCKER
Senior Court Reporters

1 CHIEF JUDGE LIPPMAN: Good morning.

2 Terrific see you this morning. I can barely see
3 you, but I could see the first witness over there. This
4 courtroom is so majestic; it is so large we are dwarfed by
5 our surroundings, but it is a great place, and we are so
6 happy to be in Long Island City in this historic courtroom.

7 Before I give my attention to the first witness,
8 I want to thank the City of New York who our first witness
9 represents who has made this beautiful restoration of this
10 courtroom and what could be more majestic.

11 So, welcome to the fourth year of the Civil Legal
12 Services hearings. This is a hearing that is put on by the
13 leadership of the Judiciary and the legal profession in this
14 State to really try to engage the need for Civil Legal
15 Services, the need to how much resources are needed to close
16 a certainly greatly narrow the justice gap in our State
17 between the resources that are available which are finite
18 and the tremendous need for Civil Legal Services.

19 I want to thank the committee to enhance legal
20 services in our state headed by Helaine Barnett, who is
21 seated right behind our opening witness, for all of their
22 efforts here today, members of the committee are Steve
23 Banks, sitting next to Helaine, Barbara Finkelstein, who is
24 right there -- you are sitting in order -- Fern Fisher, who
25 is right there, Denise Kronstadt and Lillian Moy. Lillian

1 is right there. She is hiding. And we want to thank the
2 task force for all that you do to make this hearing
3 possible.

4 There is a crisis in Civil Legal Services in this
5 city, in this state and this country; and we believe that at
6 best we are meeting twenty percent of the Civil Legal
7 Services needs of people really fighting for the necessities
8 of life, a roof over their heads, their physical safety, the
9 well being of their families, their livelihoods. To give
10 you an example, The Legal Aid Society in New York City,
11 probably the premier Legal Aid organization in the country,
12 certainly the oldest, turns away eight of nine people who
13 come to them seeking Civil Legal Services, and this is still
14 an economy that is suffering.

15 We celebrate this year, the fiftieth anniversary
16 of Gideon versus Wainwright which mandated representation in
17 criminal cases, and yet in civil cases there is no such
18 requirement of representation, and people are suffering; and
19 yet there aren't the legal resources available, and we in
20 the Judiciary and the profession understand that if we don't
21 take the lead in this effort, no one else will, and that's
22 really the basis of these hearings, recognizing that equal
23 justice for the Judiciary and the profession is our number
24 one priority, and if we don't have equal justice we might as
25 well close the doors of our courtroom just like this

1 beautiful courtroom because if everyone doesn't have access
2 to justice, an equal chance of justice, have their day in
3 court, than what we are doing doesn't have any meaning.

4 We are proud that New York -- we have put
5 together a template that we follow and that sets an example,
6 I think, for the rest of the country by the joint resolution
7 of the legislator. We hold these hearings, and the
8 legislator asks the Chief Judge to report back on what the
9 needs are, monetary needs for Civil Legal Services. We hold
10 these hearings. We try and capture what that need is, and
11 then we put it in the Judiciary budget.

12 During the last three years we have been very,
13 very successful; twenty-seven and a half million dollars the
14 first year of public funding for Civil Legal Services, forty
15 million dollars the next year, and this year fifty-five
16 million dollars; and while those monies are, by far, the
17 largest public funding in the country for legal services, it
18 is literally just the tip of the iceberg. We need, in
19 addition, the volunteer, pro bono efforts of the bar and
20 some of that we are going to talk about today.

21 This last year the bar contributed two and a half
22 million hours of legal services and Dave Schraver and the
23 legal bar have been in the lead in providing that assistance
24 for the Empire State Capital Program and so many other
25 efforts to foster pro bono work. As you know, we now

1 require in New York every law student to contribute fifty
2 hours of pro bono work, and we have the Lawyers Emeritus
3 Program that tries to target the baby boomers who are on the
4 verge of retirement and try to get them involved in pro bono
5 work. We are focusing on the disconnect between the law
6 students who come out of law school today with a very heavy
7 debt burden, very few jobs out there and yet this tremendous
8 need what it will do to make this come together within a
9 more cohesive way.

10 All of this is about access to justice and equal
11 justice and the recognition that every society is judged by
12 how it treats its most vulnerable citizens in our society
13 and our society is no different. We can and should be
14 judged on that basis and certainly those of us in the
15 profession, in the Judiciary, have that as the ultimate
16 test.

17 So today we start this process of -- really a
18 third of four hearings -- but the process of the hearings
19 that allows us to quantify the need to put in the budget.
20 We are moving towards the budget that Judge Prudenti is
21 preparing that we will submit to the legislator on
22 December 1; and with that, along with that budget, there
23 will be a report by the task force. Helene Pasture
24 (phonetic) is working on that report following each of these
25 hearings.

1 I want to just introduce the panel before we
2 start. On my far left is David Schraver, the President of
3 the New York State Bar Association. We are so pleased that
4 the bar is sponsoring these hearings along with the Court
5 system and their commitment to legal services.

6 Thank you, David.

7 And next is Gail Prudenti, the Chief
8 Administrative Judge of the Courts, the former Presiding
9 Justice of the Second Department. She is sitting to my left
10 and Judge Prudenti does all the hard work and will. After
11 we hear from the task force and from the witnesses, Judge
12 Prudenti will put it altogether in a budget that we can
13 present to seek the funding that we need.

14 And to my right is the Presiding Justice of the
15 Second Department, Randall Eng, who we have worked so
16 closely with here in Queens County. For so many years he
17 was the former Administrative Judge of the Criminal Term in
18 Queens County, and it is an honor to sit with Randy on the
19 bench. He represents, really, the best in our court family
20 and again oversees this part of the work in Queens County,
21 the entire Second Department, which is the largest appellate
22 county in the state.

23 I would also note that Judge Jeremy Weinstein is
24 here.

25 Jerry, where are you?

1 There he is.

2 He is the administrative judge of the Civil Term
3 in Queens County, and we are very pleased to have Jerry with
4 us, a long-standing administrative judge here in this great
5 county.

6 And, Jerry, make sure that this courthouse along
7 with Judge McDonald looks like it looks today, you know,
8 every day.

9 So without further ado let me introduce to you
10 our first witness, Michael Cardozo, who is the Corporation
11 Counsel of the City of New York and who I have had the
12 pleasure of having a lifetime relationship with. I can't
13 think of a more outstanding lawyer in this state, and
14 Michael is fond of saying that he has the premier legal job
15 in the state, and I think that is pretty close to true. The
16 Corporation Counsel of the City of New York is a fabulous
17 job that requires a fabulous lawyer, and we are so pleased
18 that Michael is here with us. He is a long-standing
19 contributor to court reform and legal reform in this state,
20 and I know how much Mayor Bloomberg relies on him, and it's
21 an honor, Mike, that you are here with us today, and we are
22 so pleased to hear your testimony.

23 HONORABLE MR. CARDOZO: Thank you so much. It is
24 a pleasure to be here. I wish I could take credit for this
25 the beautiful courtroom. I am afraid that is not within my

1 job description.

2 THE COURT: We give you credit.

3 HONORABLE MR. CARDOZO: Good morning, Chief Judge
4 Lippman, Justice Eng, Judge Prudenti and President Schraver.

5 It is an honor to be here today in my role as the
6 Corporation Counsel of the City of New York and to share
7 with you some observations from the City's perspective about
8 the impact of natural disasters like Superstorm Sandy on the
9 legal needs of low-income New Yorkers, the experience of
10 legal service providers in responding to those needs and
11 lessons the Sandy experience teach us for the future.

12 Now, much of what we learned in this connection
13 and about which I will testify is also drawn from the City's
14 experiences after other crises in the last several years.
15 While there are major differences between these events, what
16 they share in common is that each has resulted in the need
17 for urgent and substantial legal assistance, particularly
18 for low-income people. Whether it was the man-made disaster
19 of 9/11; the time-sensitive opportunity for immigrant
20 children to gain status in this country, or the extreme
21 weather events of Hurricane Sandy -- Irene, the earthquake
22 in Haiti or the terrible destruction resulting from
23 Superstorm Sandy, low-income people have been faced with the
24 acute need for counsel and representation by attorneys which
25 by necessity must be on a no-fee or low-fee basis.

1 I want to begin by emphasizing that, as I see it,
2 both the City and legal services providers have
3 responsibilities for helping to ensure the availability of
4 legal services during and after a crisis of this nature.
5 The city has two important roles.

6 First, it has the critically important function
7 of providing communication to the public with current
8 information, not only regarding important news developments
9 about the disaster but also to provide specific information
10 explaining how to obtain legal assistance for those in need.

11 Secondly, the City can also be instrumental in
12 helping to find emergency physical space for attorneys who
13 provide the actual legal assistance.

14 The other key role in the aftermath of this kind
15 of natural disaster belongs to legal services providers
16 several of which are affiliated with the City's major bar
17 associations. Utilizing attorney volunteers from the
18 private bar to supplement the work of their own staffs, they
19 have been the key source of direct legal services to those
20 in need.

21 And for those entities be able to provide such
22 help requires funding primarily for the training and
23 supervision of attorneys as well as the salaries of the
24 staff attorneys who are or must become subject matter
25 experts, and who form the backbone of the non-profit and

1 legal services organizations poised to provide these
2 services; and this is appropriate for many reasons,
3 primarily because City lawyers cannot provide such
4 assistance due to a multiplicity of factors including the
5 potential conflicts that arise in these types of situations.

6 In that connection, I should also note that
7 although large law firms are typically an excellent source
8 of pro bono attorneys, we have seen that in certain kinds of
9 crises, such as those involving mortgage foreclosures and as
10 in Superstorm Sandy, insurance matters -- many of these law
11 firm attorneys could not represent people in need because of
12 firm representation conflicts.

13 Let me paint the picture of the legal services
14 challenge presented by Superstorm Sandy:

15 Of the more than eight hundred forty thousand
16 people living in the neighborhoods that sustained the
17 greatest damage from the Superstorm, virtually all of them
18 live within the Second Department, approximately seventeen
19 percent or one hundred forty-two thousand eight hundred were
20 already living below the poverty line. Moreover, eighty
21 thousand residents of four hundred Housing Authority
22 buildings were affected by power outages and the loss of
23 heat and hot water; and, in addition, the many homeowner
24 affected by the Superstorm, who might not otherwise have
25 been categorized as needing or qualifying for pro bono legal

1 assistance, their homes were or are their most valuable
2 asset. They had expected to convey this asset to their
3 families, and without it, would be impoverished for years.

4 In the immediate aftermath of the Superstorm,
5 these homeowners were not only displaced, either temporarily
6 or permanently, from their homes but many were left
7 cash-poor. How would they and the thousands of others
8 needing pro bono or low cost legal assistance find an
9 attorney to help them get back into their home, obtain food
10 stamps, deal with unemployment issues and scores of other
11 legal problems? Where would these attorneys come from? And
12 where would they physically be located?

13 From the City's perspective, one of the ways it
14 met these issues was to be sure its 311 call center and
15 related website could advise callers whom to contact for
16 legal assistance. This required, of course, that the City
17 obtain such information quickly and efficiently, and then
18 train its 311 operators about the crisis and the available
19 resources. In addition, the City also helped to see that
20 space was allotted to legal service providers at the
21 Restoration Centers so that Sandy victims could speak in
22 person with an attorney.

23 When the seriousness of a crisis became clear,
24 several legal services organizations immediately recruited
25 and directed primarily volunteer attorneys to locations

1 where they could provide assistance on an immediate basis.
2 A number of non-profit organizations and community-based
3 groups, including the Legal Aid society, Lawyers Alliance
4 for New York, Legal Services-NYC, City Bar Justice Center,
5 Brooklyn Bar Association's Volunteer Lawyers Project, Queens
6 Bar Association's Volunteer Lawyers Project and the New York
7 Legal Assistance Group were present and worked incredibly
8 hard under unusually difficult circumstances.

9 The City Bar Justice Center played a coordinating
10 role among these groups. For example, it not only helped
11 facilitate the dispatching of volunteers, but, as time went
12 on and the need for pro bono legal services for Sandy's
13 victims continued, it also hosted a monthly roundtable to
14 raise the knowledge and understanding about insurance
15 claims. It held several meetings with the other legal
16 assistance providers throughout the early days of the crisis
17 and served as a central focal point of communication. These
18 various organizations' own staff attorneys worked with
19 numerous volunteer attorneys at locations set up in
20 neighborhoods most affected including Restoration Centers
21 co-located with Federal, State and City emergency personnel
22 as well as at public buildings, churches, schools.

23 Many of these legal services attorneys were
24 viewed as first responders. For example, FEMA asked many of
25 them to go door to door to check on disabled and elderly

1 residents, and they performed clean-up and garbage removal
2 work. If it had to be done, they were doing it, even if it
3 wasn't legal work.

4 The actual legal work that has had to be done as
5 a result of the storm has been varied. Attorneys have
6 provided counseling, immediately after the storm and
7 continuing thereafter, about the victims' legal rights.

8 This the limited representation model that can be
9 offered in the clinical setting and in this context meant,
10 for example, helping people fill out FEMA and other
11 government assistance forms. Moreover, administrative or
12 judicial proceedings, such as FEMA appeals, insurance
13 disputes or actions against contractors, as well as
14 re-building efforts by homeowners, have been taken on by
15 volunteer and legal services staff attorneys. Many of these
16 matters are not yet resolved and many are likely to be
17 protracted. I note that the City's Department of Consumer
18 Affairs has been monitoring the contracting work undertaken
19 after Superstorm Sandy, holding accountable through its
20 licensing function the providers of services to homeowners
21 attempting to re-build.

22 Legal services attorneys were able to tap into
23 their and their volunteers' existing knowledge of areas such
24 as employment law, real estate law and landlord tenant law.
25 But they also undertook to learn and then train volunteers

1 in new or unfamiliar topics including preparation of FEMA
2 applications for assistance; appeals of FEMA denials and
3 insurance claims; and continuation of federal benefits such
4 as food stamps and welfare payments. One of the significant
5 products of this work was the development of a FEMA appeal
6 template form that could be completed by homeowners on their
7 own, a form that has been made widely available throughout
8 the country for others to use.

9 The need for training in many of these areas was
10 acute since many of the lawyer volunteers were unfamiliar
11 with the areas where legal help was needed the most such as
12 insurance law. Experts were retained to provide that
13 training which was funded by a prominent foundation.

14 I cannot emphasize enough the difference that
15 adequate funding makes in the legal work that needs to be
16 provided to people under these circumstances. For example,
17 in the wake of Superstorm Sandy, grants were provided to the
18 new York Legal Assistance Group's Storm Response Unit to
19 focus on the special needs of immigrants and their families,
20 including through collaborations with the Mayor's Office of
21 Immigrant Affairs, Catholic Charities and the Federation of
22 Protestant Welfare Agencies. Multi-lingual help was
23 provided and referrals were made to caseworkers and a
24 hotline, all of which provided help with FEMA and other
25 disaster benefits applications, as well as housing,

1 insurance and other public benefits. Other funding was
2 directed to the Lawyers Alliance for New York to assist
3 non-profit organizations affected by the storm. Their work
4 included hosting free webinars on disaster relief and
5 various rebuilding topics; support in five neighborhood
6 clinics in Sandy-affected areas; and phone consultations
7 related to Sandy relief. Lawyers Alliance continues to
8 provide direct legal assistance to non-profit groups on
9 matters including real estate, employment law, government
10 grants and loans, operating a disaster relief program and
11 insurance coverage.

12 On yet another front, the Center of New York City
13 Neighborhoods was provided resources to fund housing
14 counselors and legal service providers. In coordination
15 with the City's Department of Housing Preservation and
16 Development, this has included giving homeowners access to
17 expert help securing critical relief and resources from
18 FEMA, insurance providers and other public and private
19 programs. They have also assisted individual homeowners in
20 applying for forbearances and loan modifications while
21 repairing and rebuilding their homes. Also in the housing
22 area, we can predict that there will be a need for legal
23 counseling under a program being developed with the State
24 under which homeowners will be able to sell their homes to
25 the government. Specialists at the Center for New York City

1 Neighborhoods will be an invaluable resource to assist in
2 the legal issues involving foreclosure or similar mortgage
3 issues that are likely to arise.

4 Let me pause here to express, on behalf of Mayor
5 Bloomberg and myself, the City's enormous thanks to all
6 these legal service organizations and the volunteer
7 attorneys who made such an extraordinary contribution in
8 this time of crisis. It was another shining example of
9 efforts that former Chief Judge Judith Kaye, speaking after
10 the events of 9/11, characterized as "the bar's finest
11 hour."

12 New Yorkers should also thank the generous
13 companies and charities that helped fund the important work
14 of the legal services groups.

15 As I mentioned earlier, the City has a key role
16 in communicating information to the public about legal
17 services. Its 311 system, operated by the City's Department
18 of Information Technology and Telecommunications, partners
19 with City agencies to provide the content of information to
20 the public. During and after Superstorm Sandy its 311
21 operators provided information to people about referrals to
22 bar associations and non-profit organizations, as well as
23 the lawhelp dot org website that is the most comprehensive
24 online source of information about entities providing legal
25 assistance. It is essential that in planning for future

1 crises provisions be made for the 311 and related web system
2 to be supplied with information so that it can explain to
3 the caller how to find a lawyer or a legal services
4 organization that can help.

5 In addition, government officials are also well
6 positioned, particularly during a crisis, to help obtain
7 space for lawyers to meet with clients, such as a
8 Restoration Center or churches, schools and meeting halls.

9 Unfortunately, we all know that while it is
10 likely that there will be another crisis, we don't know what
11 type it will be, when it will occur or where emergency legal
12 help will again be needed. So we must remember, and be in a
13 position to act upon, what we have learned from this crisis.

14 Specifically, we know that low-income individuals
15 will be impacted more seriously than people who can more
16 easily afford services of all kinds, particularly legal
17 assistance. Communication needs to be enhanced to all
18 members of the public, and it should include information
19 about legal help. Lawyers poised to provide that assistance
20 must be given adequate space in which to work and meet with
21 clients. The legal problems that emerge during such a
22 crisis necessarily can involve longer-term matters,
23 particularly litigation or quasi-litigation matters
24 involving disputes with insurance companies, landlords or
25 employers. Legal services providers are in the best

1 position to train volunteer attorneys, but they must be
2 adequately funded.

3 Based upon our experiences and observations, I
4 would offer the following specific recommendations as we
5 consider planning for future emergencies:

6 One, we should continue to encourage members of
7 the bar to be trained in and to provide volunteer service
8 during times of emergency. The new mandate regarding the
9 reporting of pro bono service and contributions sets the
10 stage for such encouragement.

11 Two, although the specific nature of the crisis
12 will affect the kind of legal help needed, we should be able
13 to identify now many of the general subject areas of law
14 that will be needed. Support should be provided to legal
15 services organizations to develop training materials with
16 the assistance of subject matter experts that can be
17 available at the ready and utilized on demand whether it be
18 in insurance law, emergency housing and landlord/tenant
19 issues, FEMA protocols or trusts and estates law.

20 Three, the Court system should place a high
21 priority on developing a more coordinated means of sharing
22 information with the public -- perhaps with the assistance
23 of the bar and City government communication resources --
24 regarding matters such as the status of the opening and
25 closing of Court Parts, juror and witness responsibilities

1 and case schedules. I know that the Federal State Judicial
2 Council, on whose Advisory Group I sit, is actively
3 considering this issue.

4 And, finally, in light of my observations and to
5 implement some of the recommendations I have made, I suggest
6 that consideration be given to creation a soon as possible
7 of a working group comprised of government and court system
8 officials along with representatives of bar associations and
9 legal services providers. Armed with the experiences gained
10 from Superstorm Sandy and earlier crises, this group could
11 start preparing now for the inevitable need for legal
12 services during and after the next crisis. With careful
13 preparation in advance, resulting in a plan that can be
14 implemented quickly, there is likely to be less chaos in the
15 midst of an inherently chaotic situation.

16 Thank you very much for the opportunity to be
17 part of this conversation about this complex and critically
18 important topic. I will be happy to answer any questions
19 you have.

20 CHIEF JUDGE LIPPMAN: Thank you for the really
21 thoughtful testimony that focuses on one of the reasons we
22 have chosen to have this hearing this year in the Second
23 Department, because of Sandy and all of the issues that you
24 raised, and how they impact the Civil Legal Services.

25 Let me just ask a couple of questions.

1 How important are legal services in the context
2 of the other issues that the City is dealing with in
3 something like Sandy where you have this crisis? Where does
4 legal services for the people impacted by -- in this case
5 this natural disaster -- where does it fit in?

6 HONORABLE MR. CARDOZO: Well, the legal issues
7 that the City were dealing with on behalf of the City, Judge
8 Lippman, were enormous and compounded by the fact that the
9 lawyers employed in our offices had to leave because our
10 offices were downtown, and to say we were in overdrive and
11 riding in a lot of unprecedented areas is an understatement.

12 At the same time, as we all know, if someone --
13 some individual -- has a problem, and he or she is not
14 familiar with legal necessities, it is particularly
15 difficult. It is easier, as you know, if the lawyer for the
16 City can be talking to a lawyer representing someone who has
17 some difficulties who understands the legal implications of
18 what we are talking about.

19 So the City, for example, designed this program;
20 Rapid Repair it was called. We got lots and lots of
21 contractors to go in and rapidly repair thousands of homes
22 in this area, Staten Island and so forth. Inevitably, there
23 were some disputes that arose. Obviously, the City could
24 not represent the person on the other side, so to speak, and
25 that's where the legal service organizations became vitally

1 important. So on the city's side, every city agency --
2 virtually every agency's lawyers were on overdrive and their
3 difficult work was made easier when they had lawyers on the
4 other side, if you will.

5 CHIEF JUDGE LIPPMAN: What are the logistics
6 of -- the City is obviously providing the kind
7 of coordinating role with a lot of the things that happened
8 in the aftermath of the storm. What are the logistics with
9 you dealing with the providers and that whole community at
10 the same time trying to balance these volunteer efforts of
11 the bar? How do you do that? How does that come into play?
12 Who is doing that in the city when you have ninety-seven
13 other things happening? You understand better than anybody,
14 the critical role of providers; how does that come together?

15 HONORABLE MR. CARDOZO: Well, it is difficult.
16 The bar associations and legal services providers did such
17 an outstanding job that my office; particularly, Andrea
18 Berger, who is here with me today and a couple of
19 individuals in City Hall would reach out to some of the
20 legal service organizations to say, Hey, you know, where can
21 we help? For example, we needed a place for the Restoration
22 Centers.

23 Getting the information to 311 is critically
24 important. We can't be wasting two days finding who to call
25 and, fortunately, because I think we do have quite good

1 relations with the various bar associations in many
2 different ways, we work together, but at the same time, we
3 do have to recognize that legal service providers have a
4 role that sometimes comes in conflict with a particular
5 issue, and the lawyers represent individuals that have to do
6 their job and the City has to do their job. Even when we
7 have differences with the legal service providers, we are
8 able to understand our professional obligations and try to
9 work around the problems, but that's why there is a
10 difficult line that cannot be crossed.

11 Unfortunately, the City has different views with
12 some of the different legal service providers. I don't say
13 that critically of anybody, but that's where I think the
14 communication -- why I think we need to lay out a blueprint
15 which might be useful.

16 311 becomes overloaded by definition in crisis
17 for all sorts of things. So you have to have a quick
18 ability to say, Here are the words you should utter, In
19 Queens call the Queens Volunteer Legal Services for help and
20 give the number; or here is this website. We can't wait
21 three days finding who to call to do those type of things;
22 and similarly for space, so there is an immediate issue,
23 your Honor, and then there is the longer term issues.

24 CHIEF JUDGE LIPPMAN: The suggestion of a working
25 group in advance -- one final question from me, and then I

1 will see if the panel has any other questions:

2 We are particularly concerned in these hearings
3 with providing funding for the legal service providers and
4 do you have any thoughts what and where -- as you know from
5 looking just at Sandy, at the aftermath, just how valuable
6 the providers were -- how do we try to put together
7 something for the legislator in terms of the needs dealing
8 with the question of these kind of unforeseen events? You
9 have providers who have a budget.

10 One of the reasons we do the hearings is this
11 great need and yet a limited amount of resources. Do you
12 have any thoughts how do providers deal with this? How do
13 you deal with a Sandy and legal services providers and you
14 have this limited budget and all of a sudden there is this
15 tremendous need, and you are not the legislator, and you
16 can't provide the money, but any thoughts how the provider
17 can deal with these unforeseen crises?

18 HONORABLE MR. CARDOZO: I don't have -- as you
19 say, I am not the legislator. It is very difficult to
20 predict how to do that.

21 I think it is important to raise consciousness of
22 what happened in Hurricane Sandy, but it starts to fade
23 every day.

24 I don't know the budget process for the
25 legislator. I think the importance of pro bono legal

1 services, who were such an incredibly important resource
2 here -- there is going to be something else. We don't know
3 what it is. I think we have to build on that to be sure
4 that everyone is aware, but what it is exactly, sir, I don't
5 know.

6 THE COURT: I think each of the lawyers has that
7 same issue, not just the provider.

8 HONORABLE MR. CARDOZO: Yes.

9 THE COURT: It is the City of New York. It is
10 the pro bono efforts. Whether it is funding or planning or
11 whatever, but certainly your main theme about working
12 together and planning in advance is so important.

13 Any other questions from the panel?

14 HONORABLE MR. SCHRAVER: I have none.

15 Thank you for your testimony.

16 HONORABLE JUSTICE ENG: Thank you very much for
17 your very comprehensive presentation. I learned a lot about
18 these issues, and I certainly realize now we need more
19 education.

20 I am interested in communications though because
21 there are so many thoughts on people's minds as these
22 situations develop. Now, I am just wondering how we can
23 effectively communicate now in light of our dependence on
24 power, on electricity. That was my biggest problem when
25 Superstorm Sandy hit. I for one had no power for thirteen

1 days in my home, so I had no effective means of
2 communicating through the internet because my cable service
3 was out as well. I am just wondering what resources the
4 City has to make meaningful communication to the population
5 that, of course, needs information regarding attendance in
6 court, jury duty and things like that. What is under
7 consideration regarding the channel by which we can
8 communication as decision makers in the Courts?

9 HONORABLE MR. CARDOZO: Well, I am not an expert
10 Justice Eng, but those topics are being touched on, I know,
11 in the Federal State Judicial Council. I think there needs
12 to be accelerators. Communication is a key problem when the
13 internet is down. Downtown Manhattan was wiped out. We
14 have to have alternate means of communication, and, you
15 know, I think you need to get the technician experts in
16 there, but we need a protocol so that we are not hunting and
17 pecking, as you will, so that people know what to do. So,
18 for example, when the Family Court initially announced that
19 it was closed and then it was -- I forget the details --
20 announced only in certain boroughs, but the one hundred
21 lawyers in hundreds of offices dealing with Family Court
22 didn't know where to go. I am sure we could all tell our
23 stories about that. I don't know the technology issues, but
24 it is a critical point.

25 HONORABLE JUSTICE ENG: The only communication

1 that I had was the battery-operated radio in my home, but we
2 have to get involved with the media as well to see that we
3 have a seat at the table regarding this kind of information.

4 HONORABLE MR. CARDOZO: I agree.

5 HONORABLE JUDGE PRUDENTI: Just very quickly, a
6 follow up on the Chief Judge, Presiding Justice and based on
7 your experience and expertise of the creation of this group,
8 what I think we can take away from this testimony today is
9 that it is important because of lessons learned, because of
10 crisis management, but going forward for practices and
11 protocols and resources that are already in place before
12 something happens; and it is your view from having worked
13 with various groups as well as being the Chief Counsel in
14 the City of New York, that we must do this sooner rather
15 than later?

16 HONORABLE MR. CARDOZO: Yes.

17 CHIEF JUDGE LIPPMAN: Thank you, Mr. Corporation
18 Counsel. We greatly appreciate you coming in to testify.
19 Thank you.

20 (Whereupon, Senior Court Reporter Carrie Belmonte
21 began recording the follow proceedings:)

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1 CHIEF JUDGE LIPPMAN: Klaus Jacob is the next
2 person testifying. He is an expert in weather change.
3 Thank you so much for coming in. And you are now going to
4 make the connection between legal services and climate
5 change and we're delighted to have your testimony.

6 DR. JACOB: Thank you, your Honor, distinguished
7 panel and guests in the audience. My name is Klaus Jacob.
8 I have been with Columbia University for 45 years, retired
9 from full-time service in 2001 as a senior research
10 scientist and I am currently part-time employed as a special
11 research scientists at the Lamont-Doherty Observatory of
12 Columbia University and teach also a course as an adjunct
13 professor at Columbia's School of International and Public
14 Affairs in the science of risk management which is relevant
15 to this topic.

16 CHIEF JUDGE LIPPMAN: Let me, say Dr. Jacob, you
17 qualify as an expert, as we do in these cases. You are
18 clearly qualified.

19 DR. JACOB: I also have the honor to serve with
20 the Mayor for New York City on the New York Panel on Climate
21 Change and on the Advisory Function HUD, the U.S. Housing
22 Urban Development Department, at a competition about
23 rebuilding by design that's currently on the way.

24 CHIEF JUDGE LIPPMAN: Let me say, Dr. Jacob, and
25 to all of our witnesses, that you don't have to read your

1 statement. Whatever you prefer to do. We are happy if you
2 just tell us the substance of your testimony and we'll ask
3 questions but whatever you are comfortable with, Dr. Jacob.

4 DR. JACOB: Okay. Thank you very much.

5 Well, Sandy was declared a major natural disaster,
6 but we should think about this work. It is really a
7 national disaster because it was a natural, extreme event,
8 and we as a society made it into a disaster because of our
9 vulnerability of our environment but also because of our
10 social vulnerability.

11 This is a discipline which I teach, a well-known
12 fact that disasters have following characteristics: Mainly,
13 they amplify pre-existing social stresses, they don't create
14 them. They simply amplify them. Vulnerability to those
15 extreme events correlates very strongly with income and
16 poverty. On the other hand, resilience clearly is a
17 function of access to resources and wealth.

18 Now, what happened during Hurricane Sandy, those
19 who were at a marginal livelihood were often put by this
20 event from just barely above the poverty line below the
21 poverty line. Moreover, many of the victims of Sandy still
22 face problems that are unresolved.

23 Let me take you through a typical generic example.
24 If a family that barely can own their own house lives in a
25 flood zone in which they normally pay maybe 1,000 or \$1,500

1 per year in FEMA flood insurance rate, they got severely hit
2 by this event and the insurance covers only a fraction of
3 the real losses. But that is only a situation before and
4 during Sandy. Now they face additional problems because
5 since Sandy FEMA raised the base flood elevations by several
6 feet.

7 If these owners that barely can make it before
8 Sandy are now faced with the prospect that they have to
9 raise their house in order to qualify for reduced FEMA flood
10 insurance rates and if they can't afford that raising, then
11 they will be hit as it is planned, not yet effective but
12 coming down the pipeline in 2014, with insurance rate in the
13 order of 10 to \$15,000 where they paid before 1,000 to
14 \$1,500. This will put many of those in marginal situations
15 essentially on a course of foreclosure.

16 So they don't have the money to raise the house,
17 they are still struggling with the effect from Sandy and
18 they will be hit with new rates that they can't afford in
19 the first place. So this is a disaster spiral that in the
20 sounds of risk management is very well understood.

21 How to get out of this? Well, many of these that
22 are on this disaster spiral will need legal services either
23 in the past or still in the future just from Sandy alone and
24 then from recurring events in the future as well. This
25 foreclosure situation and insurance issue will only play out

1 in the months to come and there will be great need for those
2 that understand the legal system at least to have civil
3 legal service provided to them.

4 So there is no doubt in my personal experience
5 that this is an incredible need. Now, many will say are
6 those services that you can provide cost effective. I only
7 can report from outside the legal experience that I have in
8 the risk management where I was part of a study that was
9 performed by the directive of Congress, a study that was
10 performed by the National Institute of Building Scientists
11 in which all the FEMA data that were evaluated over the last
12 20 years and the following finding was made: That for every
13 one dollar invested in mitigation measures, there was a
14 return of four dollars of not incurred losses. That's a
15 four to one benefit cost ratio.

16 Now, I am not a legal expert obviously but it
17 stands to reason that whatever you can do in the legal
18 services to provide early input and legal advice to those
19 who need it most in an overall sense you would have a great
20 societal benefit.

21 So to sum up, I believe that Civil Legal Services,
22 in my professional experience, in disaster risk management,
23 is not having only a social and moral imperative, which it
24 definitely has, but is good, cost-effective business and
25 hence should be part of a prudent public policy.

1 And with that, thank you very much for giving me
2 the opportunity to make this testimony and I am open to any
3 question you may have.

4 CHIEF JUDGE LIPPMAN: Thank you, Dr. Jacob. I
5 think anyone that questions how an expert in climate change
6 can testify in Civil Legal Services, make a connection and
7 nexus has their question answered. You certainly did that.

8 Let me ask you, as an expert in climate change,
9 you know, we look at the impact of natural disasters and all
10 that can happen as a result. At what point do you think
11 that that turns into the need for legal assistance on the
12 day that this thing happened, whatever the climate, unusual
13 event is taking place, people have certain immediate
14 concerns. Now, at what point do you think this need for
15 legal assistance kicks in?

16 DR. JACOB: My recommendation having overheard
17 your conversation with counsel before, once the event has
18 arrived it's very difficult to communicate with people.
19 What ought to be done is that communication has to be in the
20 hand before the arrival of the storm. That is a community
21 issue where Civil Legal Services needs to do actually their
22 work almost before the storm arrives.

23 CHIEF JUDGE LIPPMAN: So when it hits it's in
24 place.

25 DR. JACOB: It's in the hand of the people. And

1 communication is broken down, there is no technological fix.
2 We still have power outages and phone outages and
3 communication outages for a long time to come before we are
4 more resilient on the technological side in dealing with
5 climate changes. The City has a huge task before it.

6 CHIEF JUDGE LIPPMAN: So when people are in
7 extremes and the house blows away and is destroyed or
8 whatever it is and the next day when they turn around and
9 say what do I do now, that's when you need legal services
10 and the other --

11 DR. JACOB: Absolutely. Absolutely. I mean,
12 technology has to be distributed in the communities and the
13 folks in the communities know to whom they can go in need.
14 All these community organizations, they should have that
15 information handy and ready and you should be known as Civil
16 Legal Services, that they right away can establish contact
17 with and contact may mean walking to it.

18 CHIEF JUDGE LIPPMAN: Exactly. Okay. Any
19 questions, Judge Prudenti, or --

20 HON. MR. SCHRAVER: Dr. Jacob, you talked about
21 the benefit of early legal services and I thought I heard
22 you also refer to the fact that even now these insurance
23 issues and other legal needs are continuing and will likely
24 continue for months, maybe even years.

25 DR. JACOB: Correct.

1 HON. MR. SCHRAVER: Can you speak at all to the
2 difficulty or the ability to sustain the effort to provide
3 these legal services for such a period of time.

4 DR. JACOB: Yeah, this is -- I mean, it's a little
5 bit the same issue with insurance, you know. It's for years
6 nothing happens and then you have to have the money
7 certainly to pay out. I was thinking about it when this
8 issue was raised earlier in this hearing and I was thinking
9 boy, if there is any means and ways legally to create a fund
10 or a bank in which annual allotment that the state or other
11 organizations may pay into, then in times of crisis, which
12 those disasters are, you can tap into it.

13 I don't know how that can be done, but I think
14 with these kind of up and down needs related to natural
15 disasters you cannot do that on an annual allotment basis.
16 So something has to be found by which you can pool those
17 resources so they are available at the time of extreme
18 needs.

19 HON. MR. SCHRAVER: Sort of a reserve fund or
20 something like that.

21 DR. JACOB: However the legal and financial
22 instrument can be constructed, yes. Absolutely.

23 HON. JUDGE PRUDENTI: Dr. Jacob, if I understand
24 you correctly, what you seem to be saying, to me, is that
25 with the climate changes that you are seeing as an expert

1 that there is a need for Civil Legal Services each and every
2 day of every year because of the constant change moreover
3 and also the need for federal flood insurance; is that
4 correct?

5 DR. JACOB: It's amazing how little knowledge
6 without legal advice normal folks on the street have about
7 what are their rights and what their options are to public
8 assistance. It's -- I mean, I have great difficulty myself,
9 and I had two and half feet of water at my house. I have
10 myself great difficulty getting through this maze of
11 regulations. It's not clear, for instance, even if you have
12 the means to build -- rebuild your house, let's assume
13 that's the case, it's not clear what are the regulations
14 right now as the flood insurance rules change. At what
15 elevation can I build, do I need to build, and what are the
16 financial consequences for either doing it or not doing it.
17 It's not just legal advice but without legal advice I think
18 you are really going to float in this maze of conflict and
19 communication.

20 HON. JUDGE PRUDENTI: Thank you.

21 HON. JUSTICE ENG: I just have a question here.
22 Most of the problems that seem to have developed related to
23 dealing with FEMA and agencies like FEMA but I'm wondering
24 what preparation we can make for something disastrous that
25 is not in the same category as a superstorm such as a cyber

1 attack, a cyber attack where information is just vacated,
2 eliminated, purged, people had bank balances, they no longer
3 have bank balances, utilities don't work because of a cyber
4 attack. How could we prepare in furnishing legal services
5 in that kind of scenario when we are not just dealing with
6 an agency but a general breakdown in our identification?

7 DR. JACOB: You touch really on a very sore point
8 and I only can come back to what I said earlier. Legal
9 Civil Legal Services have to do continuous work during the
10 times that we are not having disasters, and that's just the
11 only way.

12 The first responders are not -- despite what the
13 City wants to be, the City is a community and unless you tap
14 into that resource with yourself, legal services, you will
15 not reach those people that need it most when needed
16 urgently whether it's a cyber attack, earthquake, storm or
17 you name it.

18 I mean, that's what I have to teach my students,
19 you know, in disaster risk management, response is community
20 based first then come the various levels of government and
21 then come all legal and financial consequences weeks and
22 months later. That's when you can communicate without prior
23 preparation.

24 But I think that you are talking about an
25 immediate response. When someone needs legal assistance,

1 that knowledge has to be in the community before the event
2 occurs.

3 CHIEF JUDGE LIPPMAN: Thank you, Dr. Jacob. Thank
4 you for your testimony. Greatly appreciated.

5 (Whereupon, Senior Court Reporter Carol Drucker
6 began recording the following proceedings:)

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1 CHIEF JUDGE LIPPMAN: The next two people to
2 testify are the Honorable Richard Schaffer, Supervisor of
3 the Town of Babylon and Scott Mandel, City Council President
4 of the City of Long Beach, Nassau County.

5 We welcome both of you, and you really are on the
6 front lines of our government and response for people who
7 are suffering in an event like Hurricane Sandy and have to
8 deal with so many people who are in need of legal services,
9 so we thank you for your efforts on behalf of the
10 constituents, and we thank you for being here today to
11 testify on Civil Legal Services and what you have been
12 dealing with during this period reeling in the aftermath of
13 Hurricane Sandy.

14 Who is going to start?

15 MR. SCHAFFER: We will let Mr. Mandel start.

16 CHIEF JUDGE LIPPMAN: I have been down to Long
17 Beach, and I saw the progress that you made, and I ask you
18 before the hearing: We are going to have that boardwalk
19 shortly, right?

20 MR. MANDEL: Absolutely.

21 CHIEF JUDGE LIPPMAN: Now you can continue.

22 MR. MANDEL: Good morning, Chief Judge Lippman,
23 Chief Administrative Judge Prudenti, Presiding Justice Eng
24 and President Schraever, distinguished members of the Task
25 Force and colleagues.

1 My name is Scott Mandel and I am the president of
2 the Long Beach City Council. Thank you for the opportunity
3 to testify today regarding the impact of Superstorm Sandy,
4 the need for Civil Legal Services immediately after the
5 storm's impact, and the continuing need for on-going Civil
6 Legal Services in the City of Long Beach.

7 The physical damage inflicted by Superstorm Sandy
8 on the City of Long Beach was devastating. Countless homes
9 and businesses and parts of our municipal infrastructure
10 were either destroyed or heavily damaged. One of the
11 earliest needs to emerge from residents who were struggling
12 to cope with the wreckage around them was access to critical
13 information which was severely restricted after the storm.
14 Restoring this access and enhancing it, where possible, thus
15 became one of the City's first and foremost priorities.

16 In the immediate aftermath of the storm, the City
17 had to overcome substantial barriers in order to provide
18 critical information and outreach to our residents.
19 Widespread power outages forced the City to go
20 street-to-street throughout our community distributing
21 leaflets which contained information on topics such as
22 emergency shelters, access to medical services, availability
23 of water and sewer services, food and clothing distribution
24 centers and more. This process continued for many weeks
25 after the storm. Specifically, our Martin Luther King

1 Center, which serves as a community outreach resource for
2 our lower economic population, was severely damaged thus
3 cutting off a central hub for information distribution in
4 one of our most disadvantaged areas.

5 We simply went door-to-door. We used bullhorns
6 to make sure we reached out to our residents. As Justice
7 Eng pointed out, the internet was gone. There was no power.
8 There was no availability to align what we normally rely
9 upon. Our city is roughly about three miles long. We had,
10 at the time, approximately thirty-five thousand residents.
11 I can't say that for certain now because we don't know how
12 many have yet to return. Unlike the City of New York
13 which -- Corporation Counsel just addressed -- is
14 substantially a larger area, we were able to cover more
15 ground, but it did require substantial effort and really
16 boots on the ground.

17 After these needs gradually subsided, another
18 form of needed information took precedence; information
19 relating to residents' legal rights, protections and
20 entitlements on a broad array of matters ranging from living
21 arrangements, repairs and reconstruction. In an effort to
22 meet these needs, the City was fortunate to work with the
23 Nassau County Bar Association, Nassau Suffolk Legal
24 Services, Touro Law School, Hofstra Law School and the Long
25 Beach Lawyers' Association, which is our community's local

1 bar association, to provide several pro bono legal clinics
2 housed in the Long Beach City Court and other locations in
3 City Hall. The first of these clinics was attended mostly
4 by low-income families and displaced tenants seeking legal
5 advice regarding their landlords' obligations under their
6 leases. Accordingly, much of the legal advice rendered
7 during the first clinic revolved around the implied warranty
8 of habitability and other topics relating to leaseholds and
9 low-income housing. By the time of the second clinic,
10 residents had begun the rebuilding process and their
11 questions tended to mirror their evolving concerns in this
12 regard. Specifically questions regarding the
13 property/casualty insurance claims process, predatory
14 contractors and the FEMA claim reimbursement process,
15 dominated the agenda. To assist with some of these
16 questions, which were highly technical in nature, the City
17 and the LBLA also arranged for FEMA representatives to
18 attend the clinic. While attorneys were not always able to
19 answer the fact-sensitive questions posed to them. All
20 residents were provided with a degree of insight on how to
21 obtain the information they sought. Generally speaking, the
22 sense of direction that attorneys were able to impart seemed
23 to alleviate residents' concerns, particularly those
24 residents who did not know how to begin to address the
25 widespread and overwhelming destruction that they faced.

1 Without question, while the need for Civil Legal
2 Services is always of high value when specifically
3 addressing the needs of the residents of Long Beach after
4 Superstorm Sandy, the need became and remains to date,
5 critical and ongoing. Long Beach is home to a diverse
6 population with various social-economic levels. While the
7 devastation crossed all socio-economic levels, the crisis of
8 those residents needing legal services who could not afford
9 representation has become exacerbated due to the challenges
10 of required paperwork, documentation and navigating the
11 world of insurance coverage and FEMA processes.
12 Organizations such as Nassau Suffolk Legal Services have
13 consistently represented low-income residents of Long Beach,
14 but post Sandy especially, the need to continue funding
15 Civil Legal Services organizations remains critical to our
16 community. Providing legal counsel immediately following
17 this crisis was necessary to address the needs of the
18 residents of Long Beach. However, providing ongoing Civil
19 Legal Services has proven to be essential and critical in
20 allowing our city to move forward and for our residents,
21 specifically those who simply cannot afford representation,
22 to reclaim their lives.

23 In summary, I think Dr. Jacob really put it in
24 perspective. He said a storm of this magnitude amplified
25 socio-economic stressors. That's exactly what happened in

1 Long Beach. Our community that was in need --now those
2 needs were exacerbated.

3 I agree with the suggestions made by Honorable
4 Corporation Counsel, things to look toward in moving
5 forward, and I have to say that Long Beach is forever
6 indebted to the Nassau County Bar Association, Nassau
7 Suffolk Legal Services, Touro Law School and Hofstra Law
8 School.

9 Thank you very much.

10 CHIEF JUDGE LIPPMAN: Thank you.

11 Let me ask you one or two questions:

12 How did you get the legal services, the volunteer
13 attorneys? Did they come to you? Did you go to them? What
14 was their method in the aftermath of the storm? What was
15 the communication? How did this happen? We know that you
16 had a robust response from both the legal services community
17 and the bar.

18 MR. MANDEL: We were fortunate. Immediately
19 after the storm, communication was difficult on all levels.
20 Thankfully legal services reached out to us, and it was wide
21 spread, as you said, that Long Beach was in stress. These
22 organizations came and offered their services.

23 I am sure as time went on additional services
24 would have been forthcoming, but they almost immediately
25 responded to our need and in putting it in priority once the

1 storm hit, we were immediately in re-building mode
2 structurally. The infrastructure was devastated. We have a
3 community center which served as a community resource center
4 for lower-income residents in Long Beach. It was destroyed,
5 so the city had to repair that building, and that building
6 would serve as a hub to distribute information.

7 The normal process would be legal services would
8 reach out to that entity. The entity wasn't there, so not
9 only did legal services reach out to us, they found out.
10 That was almost immediate.

11 CHIEF JUDGE LIPPMAN: Other questions from the
12 panel?

13 Okay.

14 We are now going to hear from the Supervisor of
15 the Town of Babylon, the Honorable Richard Schaffer.

16 Welcome.

17 (Whereupon, there was a pause in the
18 proceedings.)

19 CHIEF JUDGE LIPPMAN: What happened?

20 MR. SCHAFFER: I'm sorry. I'm have a little
21 technical difficulty.

22 CHIEF JUDGE LIPPMAN: Judge Eng is going to fix
23 it. He knows technology.

24 (Whereupon, Senior Court Reporter Carrie Belmonte
25 began recording the follow proceedings:)

1 MR. SCHAFFER: I hope you can hear me.

2 CHIEF JUDGE LIPPMAN: We can.

3 MR. SCHAFFER: Good morning. Thank you for
4 inviting me to participate. Just as the counsel president
5 stated from Long Beach in Nassau County, we in the Town of
6 Babylon, just to give you a perspective, were the most
7 severely damaged town or municipality within Suffolk County.
8 We had about 9,000 homes that experienced anywhere between a
9 foot and six or seven feet of water in their homes. About a
10 third of those were declared severely or substantially
11 damaged FEMA classification 50 percent or more damage to
12 their home.

13 So we had a very widespread response in terms of
14 our emergency clean up as well as our immediate needs
15 response in terms of getting people, food and water and a
16 place, a warm place, to stay but we recognized immediately
17 that there was a need for legal services.

18 And so I guess my written testimony was submitted
19 for your consideration but just to add to or support the
20 corporation counsel's recommendation, I think the --
21 probably the most or the best result that could come out of
22 these hearings today would be to create that template that
23 the corporation counsel spoke about. And I wholeheartedly
24 support that, not only as an elected official but as an
25 attorney who is admitted to practice in the State of New

1 York.

2 Because what we recognized right away there was a
3 whole host of questions that may have been dealt with years
4 ago but we needed to kind of dust off our knowledge and
5 bring them up to date into today's times to make sure that
6 we were having attorneys provide accurate information and
7 advice to these people who were dealing with a whole host of
8 issues; the immediate-most response with FEMA and
9 interaction with FEMA and their insurance, home insurance
10 company.

11 We found that, that -- obviously after we came out
12 of the days of what had happened -- and I myself was out
13 that night literally taking residents out of their home in
14 payloader buckets in order to get them out of six and seven
15 feet of water with our first responders. Once that was over
16 we came out of that daze, we took a couple of days to do --
17 we went to work in coordinating with, as Mr. Mandel
18 mentioned, Hofstra and Touro Law School who set up great
19 clinics through their law schools to advise residents on
20 issues related to FEMA, issues related to homeowner's
21 insurance, issues related to contractors who had taken
22 advantage of them.

23 If you can believe, in this time of great need
24 there were a number of contractors out there who took
25 advantage, a lot who did a good job but a number who took

1 advantage of. And residents to this day are suffering as a
2 result of the work or work that wasn't done correctly or not
3 done at all based on contracts or nonexistent contracts,
4 just handshakes that were done and money changing hands.

5 So we have attorneys who are dealing with those
6 situations and ushering them through the local consumer
7 affairs department. And we had on our own improvise and we
8 had gotten -- not that we have a bar association in our town
9 but utilized the services of the Suffolk County Bar
10 Association and a number of attorneys who practiced locally
11 and set them up in town hall to act as pro bono attorneys
12 advising residents on questions they had on a whole host of
13 issues.

14 We did similar to what Long Beach did, and we took
15 people who went door to door to those 9,000 homes getting
16 vital information out to them. Those people then became
17 what we call case managers working out of town hall and
18 served almost like air traffic controllers to send people to
19 the various areas they needed, one being legal services, and
20 we found that it worked well.

21 We think that it's going to be needed for the next
22 two or three years because we don't think that people are
23 going to fully have aired all of the issues associated with
24 their own personal experience with this disaster, and so I
25 can't stress enough for the need for the template.

1 But also to answer the Chief Judge's fine question
2 to Mr. Cardozo relating to where does the money come from, I
3 think that -- and this is my own personal opinion and might
4 be with a recommendation to discuss with federal and state
5 legislators but when there is a federal declaration or a
6 state declaration from either the president or the governor
7 that any of these agencies who are providing these services,
8 whether it be Nassau/Suffolk Law Services or any of the
9 various law schools, they, too, should be eligible for
10 reimbursement for their expenses. Just as we as a
11 municipality submit a PW, a project work order, that
12 outlines the monies we've expended to repair the great
13 boardwalk in Long Beach or Marina at Ceder Beach, they too
14 should be eligible to apply for reimbursement so that monies
15 that have been expended by them that were not budgeted for
16 in the average course of the business can be gotten back or
17 reimbursed from the federal or state government as a result
18 of the federal declaration.

19 And I think that might solve the issue of where
20 does the money come from to fund this. And once you got the
21 template and you have got the funding available, it goes
22 into action just as the ambulance corps or the volunteer
23 fire department or any of the emergency groups that now have
24 grouped up as a result of what we experienced last year.

25 CHIEF JUDGE LIPPMAN: I thank you, sir. I am

1 intrigued by your thought which I think really is a great
2 idea and maybe we can work together, the local officials
3 really who have to deal with this and the legal and judicial
4 community to get together with part of this kind of aid
5 which is normal or relatively normal after a storm, have a
6 component that recognizes really what we are asking a lot of
7 the witnesses, that day one, you know, the home is floating
8 away or you going door to door and day two we can get some
9 legal assistance or whatever it is and they can get some
10 legal assistance.

11 MR. SCHAFFER: We have a manual how do you respond
12 when this happens to our fire departments and ambulances and
13 own counsel, town emergency personnel, you have a manual as
14 the chief corporation counsel suggested on how this is
15 rolled out and all they have got to do is determine that it
16 will be eligible for.

17 I know as we saw out of the goodness of their
18 heart they went to work right away not knowing it would be
19 eligible. But going forward, it should be determined as an
20 eligible expense as part of what our emergency response is.

21 CHIEF JUDGE LIPPMAN: I think that's very
22 insightful and I think that we -- we as lawyers and in the
23 legal profession, certainly in the judiciary, you know,
24 sometimes can be parochial a little bit about it but I
25 really believe and I think the two of you demonstrate that

1 these kinds of emergency events invariably without question
2 is such a legal component to it, almost immediately people
3 need assistance and so much of it is breaking through these
4 bureaucracies that only a lawyer can do. Well, in dealing
5 with FEMA and all of that and how helpful they are. Still,
6 it requires some translation and the average citizen is not
7 necessarily able to deal with it.

8 I think the other issue that you both mentioned,
9 Supervisor Schaffer that you brought up, there also needs to
10 be a place, facilities, where even if you can get the legal
11 service providers or the volunteer lawyers where how do we
12 connect them to the people, where can they go to give the
13 kind of advice that's needed. And I think your efforts are
14 critical in that regard.

15 How you know the legal assistance is there. You
16 know the people need it. How do you, you know, connect
17 them. I think that seems to be a critical area in the
18 aftermath of these kind of storms where there is a formal
19 location one might go or not necessarily go.

20 MR. SCHAFFER: I think what we did was utilize our
21 own town facilities. We were fortunate to have some not
22 damaged as Long Beach was but I think we improvised and were
23 able to work with our fire department. In fact, we had one
24 fire department that opened its doors, served as almost a
25 community center at that point, in order to help residents.

1 I think a similar fashion went on in Long Beach.

2 CHIEF JUDGE LIPPMAN: The last point I pick up on
3 in your testimony is the need to constantly update. I think
4 it seems and certainly in our experience in the court system
5 after 9/11, the second that event not is over but certainly
6 immediate aftermath is over, you have to start planning for
7 the next event, because you learn things in each one of
8 these occasions, as I'm sure each of you can testify to and
9 have testified to. We learn so much. And what may have
10 made sense to us before this latest event in the aftermath
11 looks like, you know.

12 Any other questions?

13 HON. JUDGE PRUDENTI: No.

14 HON. JUSTICE ENG: Thank you. One quick question.
15 I think that the leadership of the courts is very
16 enthusiastic about participation of law students in Civil
17 Legal Services and you apparently had a very positive
18 experience. Now I'm wondering if you had the participation
19 of Sandy clinics in schools or were they ad hoc, in other
20 words, put together in response, if you might want to answer
21 that.

22 MR. MANDEL: I know in the situation in Long Beach
23 they were ad hoc clinics. Really this type of response was
24 something -- a new territory. These were clinics put
25 together, disbursed in our city, very helpful, but they were

1 mostly --

2 HON. JUSTICE ENG: I would like to speak with some
3 of the students. I better move fast on that because they
4 are probably graduating, out in world.

5 MR. SCHAFFER: Dean Patty Salkin who is the new
6 dean at the Touro Center, we went to school together. I was
7 fortunate enough to get her on the phone right away. She
8 has developed, I guess for a word, a template, to set up
9 this clinic, what they were doing out of the Touro Law
10 Center. And she would be a good person for the panel to
11 inquire with.

12 CHIEF JUDGE LIPPMAN: And also with the presiding
13 justice, I hope and believe that the new 50 hour requirement
14 has been helpful because the law schools are dealing with
15 the infrastructure to deal with that requirement. And when
16 something like this comes up, I think they are right there
17 and already have that kind of put together in a way that it
18 can provide relatively quick relief.

19 So I think it all -- it all fits together, all of
20 our efforts. I want to thank the two of you at really being
21 on the front lines of this aftermath of Sandy and, of
22 course, all the crisis that hit local government and for
23 recognizing how important legal services are and pro bono
24 efforts, the acts of the lawyers.

25 I think that we all see, after an event like this,
cbb

1 how critical it is that lawyers provide their expertise to
2 help human beings in great need. Thank you both for your
3 efforts in being here today and great to see you. Thank
4 you.

5 (Whereupon, Senior Court Reporter Carol Drucker
6 began recording the following proceedings:)

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1 CHIEF JUDGE LIPPMAN: The next panel is always
2 one of the highlights of the hearings, and these are clients
3 who have been helped by Civil Legal Services, and so let me
4 ask Nicholas Dorman, Cesar and Maria Lopez, Huan Qiang Lin
5 and Milagros Garcia to come forward.

6 (Whereupon, there was a pause in the
7 proceedings.)

8 CHIEF JUDGE LIPPMAN: Now, I want to the say to
9 all of you what was said to the other witnesses, feel free
10 to tell us your story. You don't necessarily have to read
11 your statement, but if you want to, you can do that.

12 Let me start with Nicholas Dorman who I have
13 heard from before in the context of the New York Legal
14 Assistance Group and their efforts.

15 Nicholas, why don't you tell us what this is all
16 about in terms of your role as a first responder and NYLAG's
17 relationship to that and the lawyer involved. So,
18 Mr. Dorman, why don't you tell us what happened.

19 MR. DORMAN: First I want to thank you, Chief
20 Justice Lippman, for the invitation to speak at today's
21 hearing. My name is Nicholas Dorman. I grew up on Staten
22 Island. When Superstorm Sandy hit--

23 CHIEF JUDGE LIPPMAN: Nicholas, why don't you
24 move that mike closer so they can hear you.

25 Thank you.

1 MR. DORMAN: When Superstorm Sandy hit in October
2 of 2012, I was living with my wife, Tanya, who is a teacher,
3 and our two children in Great Kills in Staten Island. Our
4 house, like many of our friends' and neighbors', was
5 destroyed by the storm. We took in at least seven feet of
6 water from the bay and boats from a nearby marina crashed
7 into our home and landed in our yard. Thankfully, my wife
8 and children had evacuated to a friend's home in New jersey
9 before the storm, and they were not physically harmed, but
10 the impact to our home was so great that we have yet to
11 return and may never be able to live there again.

12 I am a member of the FDNY and was on duty during
13 the storm and many of the days that followed. Through my
14 family's own experience and my experiences on the job, I
15 have seen first hand the devastating impact Sandy had on
16 Staten Island and throughout the City.

17 Before the storm, my wife, kids and I were a
18 typical Staten Island family. We loved our home and our
19 neighborhood. We always paid our bills, including our
20 mortgage, insurance and taxes; but because of Sandy, our
21 lives have been turned upside down.

22 After the storm, the first thing we needed was to
23 find a new place to live. The four of us lived in my sister
24 and brother-in-law's basement for three months. Since
25 January we have been renting a new home in New Springville.

1 My wife and I quickly started to do everything we
2 thought we were supposed to do after a disaster. We
3 contacted FEMA and submitted a claim with our insurance
4 company. At first, we tried to do everything ourselves. We
5 weren't looking for handouts, but assumed our claims would
6 be handled properly and that we would be able to get the
7 assistance we were entitled to, but we learned very fast how
8 wrong we were and how difficult it would be to try to
9 navigate all of these issues on our own.

10 By mid-November, I was already extremely
11 frustrated trying to deal with FEMA and insurance companies.
12 I felt like I was getting the runaround instead of the money
13 I needed and was entitled to. I received an e-mail from
14 Senator Lanza's office about a van from a law firm that
15 would be at Hylan Boulevard and Armstrong Avenue the next
16 day to provide free legal assistance to people who were
17 having problems as the result of Sandy. I wasn't sure what
18 to expect, but by this time I knew I could use help, so I
19 went. That was when I first met a lawyer from the New York
20 Legal Assistance Group or NYLAG. I initially met with an
21 attorney on NYLAG's Mobile Legal Help Center, which is a law
22 office on wheels. I had never needed a lawyer before, but
23 was glad to be able to talk with one. I explained my
24 situation and the problems we were having. The attorney
25 gave me some good advice about dealing with FEMA and

1 promised that another NYLAG attorney would follow up with me
2 soon. Since that first meeting, the lawyers from NYLAG's
3 Storm Repose Unit, especially Christopher Fasano, have
4 helped me with many issues as my family tries to move on
5 from Sandy.

6 For example, like many impacted homeowners, we
7 still don't know whether we should sell our home, repair it
8 or tear it down and rebuild. We have applied for the
9 State's Block Grant Program and hope to qualify for a buyout
10 of the house, but don't know whether we will. In the
11 meantime, we are still dealing with insurance companies to
12 increase the payout of our claim and with FEMA. We are also
13 still responsible for the mortgage on our destroyed home
14 even while we are paying rent at our current home. Our
15 legal services attorneys have helped us obtain a mortgage
16 forbearance and are helping us avoid a possible foreclosure
17 while we pursue the buyout. NYLAG also introduced us to pro
18 bono lawyers at a private firm who are helping negotiate
19 with the insurance companies and NYLAG represented us in a
20 property tax appeal.

21 Unfortunately, even now, almost a year later, my
22 family and I keep facing new challenges. NYLAG is always
23 there to help when we need them. They have helped us
24 understand and tackle many of the issues we are dealing with
25 as the result of Sandy. It has been extremely valuable to

1 be able to consult with a Civil Legal Services attorney to
2 understand these issues and how they all impact one another.

3 I never thought I could lose so much so quickly.
4 I now appreciate firsthand the importance of having high
5 quality Civil Legal Services. I am grateful that I have
6 NYLAG in my corner helping me and my family as we recover
7 from Sandy.

8 CHIEF JUDGE LIPPMAN: Thank you.

9 Let me just ask you the basic question: Could
10 you have gotten through this without the legal assistance of
11 NYLAG?

12 MR. DORMAN: No, not at all. I was about to give
13 up before I got in touch with them with all the stuff that
14 we were doing.

15 CHIEF JUDGE LIPPMAN: I mean, when you have an
16 emergency like this, you just don't know where to turn and
17 really a lot of this hearing has been about a lot of
18 questions you have to deal with, kind of, being legal ones.

19 How do you deal with FEMA? How do you deal with
20 insurance and all of the different kind of different legal
21 problems?

22 MR. DORMAN: That's what we need the lawyers for,
23 to help us get through that.

24 CHIEF JUDGE LIPPMAN: Thank you for telling your
25 story.

1 Now turning to Cesar and Marie Lopez, clients of
2 Queens Legal Services accompanied by Aisha Baruni.

3 Okay.

4 Cesar and Maria, do you want to tell us what
5 happened to you and how Queens Legal Services has helped you
6 ?

7 CESAR LOPEZ: Good morning. I am Cesar Lopez and
8 as far as what happened, we are hear today --

9 CHIEF JUDGE LIPPMAN: Cesar, move the mike a
10 little closer to you.

11 (Whereupon, there was a pause in the
12 proceedings.)

13 CHIEF JUDGE LIPPMAN: There is a light on the
14 microphone.

15 MARIA LOPEZ: No light.

16 (Whereupon, there was a pause in the
17 proceedings.)

18 CESAR LOPEZ: There is a light.

19 We are here today to tell you why we believe more
20 resources are needed to support Civil Legal Services. We
21 are clients of Queens Legal Services. We have worked with
22 our attorney, Aisha Baruni, for more than two years. We
23 hope that our statement will be heard by the government so
24 that other families do not lose their homes just because
25 they cannot afford a lawyer to help them.

1 MARIA LOPEZ: I am Maria Lopez, and I am also
2 here for the same reason that he explained, and I want to
3 tell you that eight years ago my husband and I bought a
4 house in Far Rockaway. We were very exited. It was a dream
5 for us to come true, but we don't know nothing of lawyers.
6 We never -- didn't know nothing about how the house is built
7 , so we later on after we were forced to sign two loans in
8 order to get the house, we find out the house was poorly
9 built, and the owners had a -- well, I call it -- a hidden
10 agenda, because they didn't tell us all what was in the
11 contract that we signed. We don't know nothing. They make
12 a lot of promises that we -- well -- I believed. I believed
13 that. I didn't think before that such viscous people can
14 make you sign over a million dollar house, and we couldn't
15 really afford it. They practically gave us the mortgage and
16 after a year that we had signed the papers to make this
17 purchase my son suffered an accident. He lost his job, and
18 few months later I was diagnosed with cancer, so by then I
19 had to cut my job -- my job -- I couldn't work as much as I
20 used to because cancer advancing and advancing, gets worse
21 every day, so we stopped paying the rent. We can't afford
22 the mortgage because we believe in what they had told us.
23 The bank had told us that within a year our mortgage will go
24 down which never happened. We barely were trying to keep up
25 with the utility bill which in Far Rockaway are very high.

1 But by the time I realize what I had signed, the mortgage
2 went higher. We fell way behind, so the bank file for
3 foreclosure. It was two years later when they are trying to
4 sell the house. I found out about this amazing people, the
5 legal service, and I have here Miss Baruni who has been a
6 wonderful help to us. We explain. We went through with
7 her. We were trying to find out other places and everybody
8 turned us down, but she was amazingly patient,
9 understanding; and we told her all what we had done. I
10 signed this mortgage that I really cannot afford it, and
11 well, now we are losing our house, and she gave me -- she
12 gave us advice in how to go about it. Before that, I had
13 spoke to an attorney and he said, Listen, don't do anything,
14 just wait for the Courts to call you, so that's what I did;
15 that's what we do. Finally, she came to our rescue. That's
16 how I call her. She came. She help us and explain what
17 really was happening with the foreclosure and we will -- we
18 have some hope finally. We didn't -- which we don't have
19 money to pay her. I told her I don't have money to pay
20 expensive lawyer. We need help. We need it now, and she
21 was wonderful. There should be a lot of lawyers like her
22 because they give you hope when you think that everything is
23 lost. We still don't know the outcome of the foreclosure,
24 but she was there to help us. We are fighting not alone.
25 We have somebody with us, and that was wonderful feeling for

1 me.

2 Last year our home was flooded too. Our house is
3 built two blocks away from the beach, so the whole water
4 came up to here. I am short, but it still went over my
5 head, and we went looking for help from FEMA. FEMA gave us
6 pennies, not enough for what all the things that we had lost
7 , all the building there, all the clean up and all of that.
8 I couldn't stay in that house. There was no power, no gas,
9 no nothing, and I'm getting sick, and we had to move out of
10 the house for several months. I had to bother relative, and
11 it is not easy to live in somebody else's house.

12 Finally, Miss Baruni came to our rescue. She
13 came, and I told her what FEMA had given us, not nearly
14 enough of what we needed; and through her help with an
15 appeal, FEMA gave us what -- not what we lost -- but at
16 least something to clean up all the mess that was in the
17 house, and that's one of the reasons that I am here. I am
18 here because she was being very wonderful to us. We even --
19 she has been an angel to us -- she has nothing to do with
20 cancer, but she calls. She gives me hope. She always helps
21 me. She tells me, Things are going to get better, and they
22 are getting better, so I think that there should be a lot of
23 people -- a lot of wonderful attorneys like her who help
24 people like us that have no means to pay a wonderful lawyer,
25 a lawyer to help us with the stuff who knows what she is

1 fighting for, so for us I feel like the community is more
2 stronger if they have more legal services, more resources so
3 that they are able to help us.

4 And I thank you for your time. Thank you very
5 much for listen to me. I hope I was able to explain
6 myself -- my feeling to you.

7 CHIEF JUDGE LIPPMAN: You were.

8 Thank you. Thank you, Maria. Thank you, Cesar.

9 We are going to bring you up to the legislator
10 because you make the best argument possible in the world as
11 to why we need funding for legal services, so thank you for
12 telling your story. It really illustrates why we need this
13 funding, so thank you. It was terrific.

14 MARIA LOPEZ: Thank you very much.

15 (Whereupon, Senior Court Reporter Carrie Belmonte
16 began recording the follow proceedings:)

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1 CHIEF JUDGE LIPPMAN: So thank you, Maria. Thank
2 you very much.

3 Next, Huan Qiang Lin, client of the Legal Aid
4 Society, Queens neighborhood office, accompanied by Tashi
5 Lhewa.

6 MR. LIN: Good morning. My name is Huan Qiang
7 Lin. I come from China. I am a client of Legal Aid
8 Society.

9 (Whereupon, Mr. Huan Qiang Lin testified through
10 the use of a Cantonese interpreter.)

11 MR. LIN: Prior to the storm, I live with my wife,
12 two daughters in our house in Coney Island. Similar to many
13 New Yorkers, my family lost almost everything because of the
14 Superstorm Sandy. We were not to have been able to recover
15 if we did not have a lawyer advocating on our behalf.

16 On October 28th, 2013 (sic) when Sandy landed, my
17 house was really flooded as the water rose over eight feet.
18 The whole Coney Island Avenue was like that. We return on
19 October 30th. When the time I saw my house was flooded, all
20 the doors, windows, beds, furniture, water heater, boiler
21 appliances, all the items were totally destroyed. I even
22 saw some fish swimming inside my house.

23 We lost all power until November 16, 2013 (sic).
24 During that time, we don't have gas, electric, hot water and
25 it's not able to live in. Before the flood came, we were

1 notified by the City that there is going to be a storm and
2 fled. My family was forced to live separately because we
3 could not afford a hotel or an apartment. We have four
4 members in our family and we were forced to live separately.
5 My two daughters stayed at their classmate's house and my
6 wife stayed at her friend's house and I also stayed at my
7 other friend's house.

8 During this time, I was very worried about my two
9 daughters who had to miss classes. My family was forced to
10 live separately for three months until got assistance from
11 FEMA. I had slept inside my car. My family is in with
12 another family.

13 I am low-income family and I do own a laundry
14 business, but after the storm my business took a shot
15 because we lost power for three weeks. After the storm, the
16 tenant that I have on my second floor in my house moved
17 away.

18 I tried to file a claim with my flood and
19 homeowner's insurance company immediately after the storm
20 but because the company is also affected by the storm so we
21 were not able to communicate with them. I have always paid
22 my insurance premium on time and I don't know why when this
23 happened the insurance company, they don't want to pay the
24 insurance proceeds on time.

25 But then, then the Legal Aid Society in the

1 neighborhood finally got a \$40,000 check. And the loss of
2 my house is like \$250,000. And insurance covered exactly
3 that amount, but I don't know why I did not get any money
4 from the insurance company.

5 I tried to rebuild my house after the storm, but I
6 have faced many hurdles during the course and only Legal Aid
7 Society had been there to help me out. Because of a
8 language barrier, we really don't know what is out there,
9 any resources out there that can help us. We can only rely
10 on legal help society (sic).

11 I was fortunate to receive assistance from Legal
12 Aid, but there were numerous other New Yorkers affected by
13 Sandy that still need their help. I ask on behalf of myself
14 and other Sandy affected New Yorkers that you could increase
15 funding for Legal Aid services in New York and so that they
16 can continue to do their great work and help other low
17 income families like mine. With the fund, I believe that
18 Legal Aid Society can help many, many more other people.

19 Thank you. Thank you very much (in English).

20 CHIEF JUDGE LIPPMAN: Thank you. Thank you for
21 your testimony. It really, again, so demonstrates, you
22 know, the urgent need for legal services particularly in the
23 wake of an emergency like Sandy. And I take it without
24 Legal Aid you really would have been unable to deal with
25 this situation on your own.

1 MR. LIN: Yes. Definitely without Legal Aid help
2 maybe I'm still sleeping inside my car and have my family
3 living separately. At this moment I still don't have money
4 to build my house. I'm still living in my friend's house.
5 My problem is that I don't understand the insurance company.
6 They just want to collect my premium but they never want to
7 give out reimbursement once a crisis comes. I'm really
8 upset about this.

9 CHIEF JUDGE LIPPMAN: With the continued aid of
10 your Legal Aid attorney, I think things, God willing, will
11 turn around.

12 MR. LIN: That's why we need help for the
13 representative of the Legal Aid Society, and I wish that in
14 the future he can also help me to get back my insurance
15 proceeds.

16 CHIEF JUDGE LIPPMAN: Thank you so much for your
17 testimony. Thank you to your Legal Aid attorney.

18 And I call the last of the client witness,
19 Milagros Garcia, a client of the Legal Aid Society of
20 Rockland County accompanied by her attorney Alexander
21 Bursztein.

22 MS. GARCIA: Good morning everyone.

23 CHIEF JUDGE LIPPMAN: Good morning.

24 MS. GARCIA: My name is Millie Garcia. I live in
25 the Ba Mar Community, a manufactured home park located on

1 the shores of the Hudson River in Stoney Point, Rockland
2 County, New York.

3 I have two children; My daughter Yanil is 13, and
4 my son Lewis who is 9. We have lived in our mobile home for
5 more than five years. Rockland County is a very expensive
6 place to live. For many families of modest means such as
7 ours and many other families living at Ba Mar, owning a
8 manufactured home is the only way we can afford to live in a
9 place of our own.

10 Ba Mar is located right on the Hudson River.
11 Hurricane Sandy devastated our community, destroying or
12 damaging most homes in the park. Our home was flooded and
13 we lost all our furnishings and most of our personal
14 property. Because of the damage, all the utilities,
15 including water, were turned off right after the storm to
16 all the homes at Ba Mar. We had no choice but to evacuate
17 to a shelter.

18 We were lucky in that the Stony Point Center, an
19 interfaith conference and retreat center of the Presbyterian
20 Church located less than three miles from Ba Mar, offered to
21 house all the Ba Mar families that needed shelter
22 immediately after the storm.

23 Although we had a place to stay, we were desperate
24 to go home. After the initial shock, it quickly became
25 obvious that we needed to get help to repair our homes and

1 return there. An attorney from the Legal Aid Society of
2 Rockland County, Alex Bursztein, came to see us at the Stony
3 Point Center five days after Sandy. A representative from
4 the Mental Health Association who came to the Center to help
5 us deal with the issues created by the storm and removal
6 from our homes quickly realized that the legal help would be
7 essential for many of us. The Mental Health Association
8 invited their community partner, the Legal Aid Society, to
9 meet with us.

10 An attorney from the Legal Aid Society immediately
11 began gathering information about our rights as disaster
12 victims. He advised us about FEMA assistance. He
13 participated in our meetings with FEMA and the Rockland
14 County Office of Community Development, advocated on our
15 behalf with those agencies and helped with the process of
16 applying for FEMA housing assistance and for funds to fix
17 our homes. The FEMA process was pretty confusing,
18 especially when it came to our right to continue staying at
19 the Stony Point Center after it became clear that the Center
20 would be reimbursed by FEMA for its expenses in housing and
21 feeding us. Our lawyer helped to clear up some of that
22 confusion.

23 The Civil Legal Services attorney also helped us
24 with the owners of the mobile park home. At the first
25 meeting with the owners in early November, they told us that

1 we would have to pay the lot rent even though we were unable
2 to live in our homes. The owners threatened to bring
3 evictions against those who did not immediately pay the lot
4 rent for November. Our attorney negotiated an agreement
5 with the owners that the rent for November would be waived
6 for all residents of the park. As a member of the Steering
7 Committee of the homeowners' group we formed this year, Ba
8 Mar Community Organization, I also know that he was able to
9 prevent evictions of those owners who were being evicted for
10 nonpayment of the lot rent, even though their homes were
11 destroyed by Sandy and they are still unable to live in them
12 to this day.

13 Almost a year has passed since Sandy.
14 Unfortunately, our situation is far from settled. According
15 to the new flood maps released by FEMA, many homes at Ba
16 Mar, including ours, must be elevated. The cost of
17 elevating individual homes is around \$12,000. We were
18 promised that our homes would be raised with Sandy disaster
19 relief funding as soon as possible after that funding was
20 given to Rockland County. Unfortunately, despite the fact
21 that millions of dollars in disaster relief funding was
22 awarded months ago, the work on our homes has not begun.
23 And we also still don't know for sure what the State of New
24 York intends to do with the Ba Mar site. At various times we
25 were told that the state might decide to close our

1 community, a result we are desperate to avoid.

2 Our attorney has continued to meet with us
3 regularly ever since the storm. We will need the help of
4 the Legal Aid Society of Rockland County to continue our
5 fight to stay in our homes and to have our homes properly
6 repaired.

7 Thank you for working to make sure that Civil
8 Legal Services is there to help those in need.

9 Mr. Alex tried to help us and tried to do the best that he
10 can do to help us. Mr. Bursztein has continued with me ever
11 since the storm. We will need the help of the Legal Aid
12 Society to continued to fight for us in our homes, and we
13 have homes to repair.

14 Thank you for working to make sure that the Legal
15 Aid Society of Rockland County is there to help us. We
16 really need it. We don't know what we can do without
17 Mr. Bursztein and Legal Aid to help people that ask.

18 CHIEF JUDGE LIPPMAN: Thank you, Milagros.
19 Without your Legal Aid attorney, what would you have done?

20 MS. GARCIA: God bless you. God bless you. We
21 don't know what to do. We don't know how to say thanks to
22 Legal Aid and Mr. Alex. Thank you so much.

23 CHIEF JUDGE LIPPMAN: Thank you so much. Thank
24 you all. Thank you, Alex.

25 All of you have demonstrated the need for Civil

1 Legal Services in the state for funding for Civil Legal
2 Services so that normal people who have problems that come
3 up every day fighting for -- to have meaning in your lives,
4 need to find every kind of assistance. And all of you made
5 this argument better than anybody else could so thank you
6 all. Appreciate you coming.

7 MS. GARCIA: God bless you. Thank you.

8 CHIEF JUDGE LIPPMAN: Thank you.

9 (Whereupon, Senior Court Reporter Carol Drucker
10 began recording the following proceedings:)

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1 CHIEF JUDGE LIPPMAN: Now, Catherine Lyle,
2 foreclosure counselor for Margert Community Corporation.

3 (Whereupon, there was a pause in the
4 proceedings.)

5 CHIEF JUDGE LIPPMAN: This is now Catherine.

6 MS. LYLE: Good afternoon.

7 CHIEF JUDGE LIPPMAN: Good afternoon, Catherine.
8 You have a tough act to follow.

9 MS. LYLE: Yes, I do.

10 CHIEF JUDGE LIPPMAN: We look forward to your
11 testimony.

12 MS. LYLE: Okay.

13 Thank you, Honorable Judge Lippman, for this
14 opportunity to testify on the value and importance of the
15 work of Civil Legal Services programs in New York State.

16 My name is Catherine Marie Lyle, and I am a
17 Certified Housing Counselor at Margert Community
18 Corporation, an agency approved to provide housing
19 counseling services by the US Department of Housing and
20 Urban Development, the New York State Homes and Community
21 Renewal Neighborhood Preservation Program and the New York
22 City Department of Housing Preservation and Development.

23 CHIEF JUDGE LIPPMAN: Catherine, tell us what
24 your day is like as a housing counselor. What do you do?

25 MS. LYLE: I wear many hats as a housing

1 counselor. I focus on how to prevent foreclosure, so I deal
2 with a lot of homeowners who were affected by Hurricane
3 Sandy. I deal with homeowners that are concerned what is
4 going to happen next. I work with homeowners to assist them
5 with staying in their home through modification.

6 CHIEF JUDGE LIPPMAN: How do they come to you,
7 Catherine?

8 MS. LYLE: How do they get to me? By referrals,
9 through their services that refer to them to us.

10 CHIEF JUDGE LIPPMAN: Then what happens? What is
11 your first encounter with them?

12 MS. LYLE: My first encounter is overwhelming.
13 It is a two hour process. They have a lot of questions a
14 lot of times. They come to us with not fully understanding
15 or have an understanding of what to expect going forward.
16 They are not sure of where they are in their situation as
17 far as whether it pertains to their mortgage. They are very
18 confused with the summons and complaints. They have a lot
19 of the questions.

20 CHIEF JUDGE LIPPMAN: Your clients are people who
21 are just faced with the most important necessities in their
22 lives at that time, a roof over their heads.

23 MS. LYLE: I'm sorry; I didn't hear the last
24 part.

25 CHIEF JUDGE LIPPMAN: I say, Your clients are

1 people who are faced with the most important necessities in
2 life, a roof over their heads.

3 MS. LYLE: Correct.

4 They are faced with decisions whether or not to
5 pay the electric bill or to pay on their mortgage. It is a
6 really bad situation after the housing problem that took
7 place.

8 CHIEF JUDGE LIPPMAN: Combined with Sandy --

9 MS. LYLE: Exactly, so a lot of homeowners that
10 were put in mortgages that they can't afford to start
11 with -- they cannot make the mortgage payment due, and to
12 add to that, the devastation of Hurricane Sandy --

13 CHIEF JUDGE LIPPMAN: Do you know where the
14 funding comes from for your organization? Where do you get
15 your funding?

16 MS. LYLE: From the State, government funding.

17 CHIEF JUDGE LIPPMAN: So that funding is critical
18 for you to continue --

19 MS. LYLE: Yes.

20 CHIEF JUDGE LIPPMAN: -- for you to help people?

21 MS. LYLE: Yes.

22 We use legal services to assist our homeowners.
23 The majority do not have the understanding of what to do
24 exactly.

25 The key point is I inform and educate which is

1 something that a lot of homeowners -- they don't fully
2 understand. They don't understand the process, and I think
3 education is the process, so they can make better decisions,
4 and we are here to guide them to the resources to allow them
5 to make a better decisions.

6 CHIEF JUDGE LIPPMAN: And state funding allows
7 you to do that?

8 MS. LYLE: Correct.

9 CHIEF JUDGE LIPPMAN: Any questions for
10 Catherine?

11 HONORABLE JUDGE PRUDENTI: How many foreclosure
12 clients do you work with in your corporation?

13 MS. LYLE: There is one other counselor. I am
14 the only foreclosure counselor in my agency, and we are
15 located in Far Rockaway, so we were affected by the storm.

16 HONORABLE JUDGE PRUDENTI: You are overwhelmed?

17 MS. LYLE: Very much so, but I definitely am
18 happy to say that I am in a position to inform and work with
19 these homeowners that are in our community. I can help
20 people and guide them on the right track with legal
21 services. That definitely helps us when it comes to giving
22 them information and informing them of what options are
23 relevant to them.

24 During Superstorm Sandy communication was out, so
25 that was a big barrier that we had to overcome, so we did go

1 out, of course. They knew of us in the community. We were
2 able to set up a trailer about five feet from our office
3 building, so we were able to get out information. We were
4 able to put a sign out informing them that assistance is
5 here, come out. I tried my best to try to reach the
6 community. We purchased lap tops in the office and pulled
7 up contact information and tried to contact the individuals
8 that we knew were affected by the storm.

9 HONORABLE JUDGE PRUDENTI: Thank you.

10 CHIEF JUDGE LIPPMAN: Any other questions?

11 PRESIDENT SCHRAVER: No.

12 HONORABLE JUSTICE ENG: No.

13 CHIEF JUDGE LIPPMAN: Thank you for your
14 testimony.

15 MS. LYLE: Thank you.

16 Have a great day.

17 CHIEF JUDGE LIPPMAN: You too.

18 Thanks for coming in.

19 (Whereupon, Senior Court Reporter Carrie Belmonte
20 began recording the follow proceedings:)

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1 CHIEF JUDGE LIPPMAN: Pro bono civil and legal
2 services, we have three people who are testifying in this.
3 Martha Krisel, who is the Second Vice President and Access
4 to Justice Chair of the Nassau County Bar Association and
5 Chief Deputy Counsel Attorney for Special Projects; Miriam
6 Buhl. Miriam Buhl is the pro bono counsel for Weil, Gotshal
7 & Manges. And Seymour James, Esquire, who is the Immediate
8 Past President that we know so well from the New York State
9 Bar Association and Attorney in Charge of the Criminal
10 Practice Division of the Legal Aid Society. Welcome all of
11 you.

12 Do you have an order you want to proceed?

13 MS. KRISEL: In that order.

14 CHIEF JUDGE LIPPMAN: Martha, you are up.

15 MS. KRISEL: This is red. I guess you can hear
16 me.

17 Good morning everybody, Chief Judge Lippman,
18 Presiding Justice Eng, Chief Administrative Judge Prudenti
19 and New York State Bar Association President Schraver and
20 all of my colleagues today. My name is Martha Krisel. I
21 graduated from SUNY Buffalo School of Law in 1980. I have
22 been practicing law full time ever since. I began my career
23 as an attorney for New York City's Legal Aid Society where I
24 worked from 1981 to 89, with a one-year hiatus at Cambridge
25 and Somerville Legal Services. Although I grew up about ten

1 blocks from here, I have never been in this courthouse
2 before and I'm excited you have invited me.

3 CHIEF JUDGE LIPPMAN: We glad to give you the
4 opportunity to be in this beautiful courthouse.

5 MS. KRISSEL: Absolutely beautiful.

6 CHIEF JUDGE LIPPMAN: Feel free to not read
7 testimony but tell us really about what you all do which I
8 think is so central to this hearing.

9 MS. KRISSEL: Basically what I do, I run these -- I
10 wear these two hats that I believe are extremely compatible.
11 I am directly employed by the Office of the Nassau County
12 Attorney and very active in my local bar association.

13 The reason we were able to effectively step in for
14 Sandy relief on day one is because we had a pattern already
15 in place that had to do with mortgage foreclosure clinics.
16 And we had been doing those monthly since May of 2009. And
17 in that way, we had our triumvirate ready, set up, where we
18 work with volunteer lawyers, the bar association, the
19 not-for-profits and, of course, the government. So we hit
20 the ground running. Not only were we able to immediately
21 convene clinics at our bar association pretty much on a
22 weekly basis, but we decided to go out in the community.

23 And earlier you heard testimony from the town
24 supervisor who had gone to college with new Dean Salkin.
25 Cory Kline, Corp. Counsel in Long Beach, was one of my law

1 students. When I sought to have a law school intervene, I
2 was able to text him in response to Justice Eng's question
3 with regard to no communication. I had a cell phone number.
4 I texted him, said we are doing clinics and we'll come to
5 you and that's exactly what we did. So we were in city hall
6 almost immediately.

7 CHIEF JUDGE LIPPMAN: Really is a partnership
8 right?

9 MS. KRISSEL: It really is. I cannot explain the
10 relationships from day one when we began the mortgage
11 foreclosure clinics. The reason we can do them so
12 successfully is because I married my Nassau County housing
13 agency with HUD certified housing counselors with the
14 volunteer lawyers, because although I thought at the
15 beginning of the mortgage foreclosure exploration, I thought
16 that we were going to have these wonderful challenges, but
17 really the homeowners wanted to know how long can I stay in
18 my house if I cannot get a modification. And the housing
19 counselors were the name of the game because they put the
20 pencil to the paper and said if we can get you a
21 modification to X, can you afford it, because remember there
22 is still insurance and there is still taxes.

23 Similarly with Sandy, really what people wanted to
24 know was not so much the reason that FEMA funding was
25 available but they wanted to know when can I get the FEMA

1 funding, when is this going to kick in, when is the check
2 going to come. And what we quickly learned is the private
3 insurance was the starting point. And without that
4 resolution, FEMA was not able to take a position on what
5 they could or couldn't pay other than for the emergency
6 housing.

7 And it's upsetting to me to have sat through the
8 testimony that just preceded us and talk about those delays
9 because there was FEMA money available to put people into
10 hotels. And then the harder thing, of course, was to get
11 the FEMA claims to be responded to and, of course, that
12 predicated itself on the insurance.

13 CHIEF JUDGE LIPPMAN: But the bottom line is that
14 lawyers are important, aren't they?

15 MS. KRISSEL: Absolutely. Absolutely. Not only
16 the agency attorneys that did such huge work through my
17 office, through corp counsel in New York City, but the
18 volunteer lawyers.

19 And I think the most important point that I could
20 make about the lawyers is that immediately after any type of
21 an emergency there is a tremendous amount of help. We were
22 flooded with phone calls. Everybody wanted to do something.
23 Our sister and brother bar associations throughout the
24 state. Everybody wanted to help. But the truth of the
25 matter is -- and the pro bono firms. Everybody was

1 available with training.

2 But the truth is that even after the emergency
3 occurs and, yes, you put in the claims and you do the
4 initial leg work, it's really legal services that are here
5 to stay, because when the claims are denied our great
6 consultation clinicians cannot handle that litigation.

7 So it's the lawyers and it's the tenacity and the
8 stay with all --

9 CHIEF JUDGE LIPPMAN: I wanted to emphasize, too,
10 people think of lawyers, they think of people bringing these
11 big lawsuits or, you know, all kinds of things lawyers do,
12 but you are really talking about lawyers that affect the
13 necessities of life, People's basic needs. This isn't about
14 bringing some class action or, you know, someone who was in
15 an accident. This is about the very necessity.

16 MS. KRISSEL: That's exactly right. This is about
17 an 80-year-old woman in Oceanside who never had a drop of
18 water in her home in the 45 years that she lived there that
19 had seven feet of water in the first floor of her home and
20 she couldn't find her deed and she couldn't find anything.
21 And basically the lawyers were the ones that came in on the
22 day-to-day, on the constructive evictions, on the failure to
23 pay on the denial of the claims, the basic, basic
24 landlord/tenant issues, the government benefit issues.

25 And just the one thing I want to just say very

1 quickly, there is an interplay between these agencies, the
2 private insurance with FEMA, with other sorts of New York
3 State relief with the SBA loans. They all were the moving
4 parts, and they had to work together. And it took very,
5 very skilled legal services attorneys to focus on parsing
6 out what to do first, how to preserve rights and navigate
7 through the system. That's exactly correct.

8 CHIEF JUDGE LIPPMAN: Thank you. And, Miriam --
9 thank you very much.

10 And Miriam Buhl, what about being pro bono counsel
11 in a big New York City.

12 MS. BUHL: I was going to say not that there is
13 anything wrong with good class action now and then,
14 reference to Steven Banks sitting right behind me.

15 CHIEF JUDGE LIPPMAN: We have to get their home
16 out of foreclosure.

17 MS. BUHL: Right. My name is Miriam Buhl, pro
18 bono counsel at the Law Firm Weil, Gotshal & Manges. Weil
19 Gotshal & Manges was and continues to be extremely active in
20 providing legal assistance to those affected by Superstorm
21 Sandy. The work has taken a number of forms from full
22 representation of the affected individuals and businesses to
23 training lawyers from other firms and organizations on
24 disaster relief legal topics.

25 CHIEF JUDGE LIPPMAN: People think of big firms as
cbb

1 being these large, money-making organizations. How does a
2 firm like Weil provide this kind of service when basically
3 it's a money-making entity? What's the defining -- why does
4 the large firm do this?

5 MS. BUHL: Well, happily, it's an ethical
6 obligation we all sign onto when we are all sworn in.

7 CHIEF JUDGE LIPPMAN: Lawyers are about servicing
8 others and not just making money.

9 MS. BUHL: Essentially our job is to help people
10 whether or not you get paid. I firmly believe that. I
11 think we all do. But obviously it's something really
12 important to us in the community as well.

13 Certainly in the last ten years, we've seen a huge
14 growth in the division of pro bono legal services and this,
15 this moment after Sandy, was a perfect example of how the
16 pro bono forces would come into play but only conditional
17 upon the facilitation of our colleagues in the legal
18 services community.

19 CHIEF JUDGE LIPPMAN: I think people fail to
20 understand this really is talking about -- it is a
21 partnership. And you have the largest firms in this or most
22 successful firms in the city, state and country joining
23 forces with providers. And unless all the parts of the
24 legal community do their share, we are not going to solve
25 this problem. And you can provide it, right?

1 MS. BUHL: Absolutely. We were partnering with
2 the bar associations, with the City Bar, Pro Bono Net, to
3 develop an online FEMA appeal tool so anybody anywhere could
4 use this. And we used a lot of the items we gleaned from
5 our work after Hurricane Katrina.

6 We also work with Legal Aid Society to take a
7 number of the denials that were just mentioned, the FEMA
8 denials, and appealed. Done at least 40 of those matters.
9 Plus the class action regarding the hotel residents who are
10 currently faced with another eviction.

11 So we are very proud of our work with all of our
12 legal services colleagues in this regard. We could not do
13 any of this without them. But their work not only
14 fundamentally supplies these basic needs you have been
15 hearing about all morning but also unhatched those otherwise
16 untapped reserves of tens of thousands of pro bono hours,
17 human resources and we have attorneys.

18 Weil is an international law firm. We have
19 attorneys all over the United States doing FEMA appeals.
20 They are not location specific. So this is something that's
21 so important that we rely on. Without our -- without solid
22 state funding for our legal services colleagues, there would
23 be no pro bono the way it is.

24 CHIEF JUDGE LIPPMAN: Particularly I take to heart
25 your testimony because I don't think people realize, given

1 how big the large firms are and how they work hand and glove
2 with the providers and that neither can do this. There
3 isn't enough money in the world to fund totally the need for
4 public funding and it is so much a part of two pillars of
5 this of the public funding for legal services and the
6 volunteer pro bono efforts of the bar, whether it be the
7 largest and most successful law firms in our state or the
8 medium-sized firm or the individual practitioner. We need
9 everybody to join together.

10 So while these hearings certainly seek to quantify
11 the public funding needed, we very much recognize that this
12 is a joint effort with the bar and that's why President
13 Schrauer is so supportive. The state bar supports these
14 hearings. This is all of us together.

15 And in that regard we can be -- go to the third
16 speaker of the morning who has not only been the former
17 president of the state fund, immediate past president and
18 sort of wears two hats, one of the state bar or former state
19 capacity and the other as a vital player in the Legal Aid
20 Society of this city. So Honorable Seymour James, you are
21 on.

22 MR. JAMES: Thank you very much, Chief Judge
23 Lippman, Chief Administrative Judge Prudenti, Presiding
24 Justice Eng, President Schrauer. It's really a pleasure to
25 be here today to discuss the efforts that are made by all

1 segments of the legal community in the aftermath of Sandy.
2 It was really what both Miriam and Martha have said. It was
3 really a joint effort.

4 Immediately after the storm we at the State Bar
5 called upon volunteers across the state to provide
6 additional pro bono assistance to those who were in dire
7 need of these services. And the response is fantastic, you
8 know. We did a training which had over 2,000 participants.
9 But once we had that initial training, there's certainly
10 need for further followup and they need supervision and
11 initial training on the details of how to handle these cases
12 and those are the services that were provided by the legal
13 services which are funded by the government.

14 Without those institutions, the hundreds of
15 thousands of hours that are pro bono that are given each
16 year would not have the value that they do because it's
17 these institutions which work with the pro bono volunteers
18 to provide them with the knowledge about how to handle these
19 cases and also supervise them during the course of their
20 representation.

21 You know, I can give you -- the examples are cited
22 in the testimony so I don't necessarily want to read them
23 but the Legal Aid Society was able to service over 5,300
24 households throughout New York City as a result of their
25 efforts. And the pro bono efforts support --

1 CHIEF JUDGE LIPPMAN: Explain a little bit how the
2 Legal Aid Society works with, you know, the pro bono
3 community like Miriam's efforts apply. How do you interface
4 with each other? How does that work?

5 MR. JAMES: Well, we actually have a very active
6 pro bono practice. We have a director of pro bono and
7 that -- that attorney who works with the firms, the pro bono
8 coordinators at the firms like Miriam to get individuals who
9 are interested in providing pro bono services and assign
10 them to work with individual lawyers and the offices
11 throughout the Society. And those lawyers come to the
12 office, work with the attorneys. They also may handle
13 matters in their own office. Doesn't require them to be out
14 in the field. But in this instance they actually were going
15 out into the community to provide assistance to the clients
16 in the communities who were in need after Sandy in Red Hook,
17 Far Rockaway, Coney Island and then subsequently New York
18 City handling FEMA appeals and insurance denials.

19 CHIEF JUDGE LIPPMAN: So this really -- again, I
20 think this panel is a distinguished panel, but I really
21 think it says it all in relation to what we're trying to do
22 here that this isn't one piece of a puzzle in isolation.
23 And, Seymour, as you know from your services as president,
24 there are so many pieces to this that must fit together and
25 I think in my view and in the other panel but to me public

1 funding is kind of the pillar in which it all plays around.
2 We need our basic providers to be able to perform their
3 function. People who do this 24 hours a day, literally
4 seven days a week. And that's the platform which we then
5 build this pro bono volunteerism.

6 And I think, you know, Miriam said it well when
7 she says this is what lawyers do, this is what lawyers are
8 about. And I think sometimes it's, I think, unfair
9 stereotyping of lawyers and being very interested in the
10 bottom line. Look, lawyers want to make a living like
11 everybody else, but I think the spirit of volunteerism of
12 service of recognizing why we do what we do every day, it's
13 not about earning money. It's about helping others. It's
14 servicing others.

15 And that's the basic core value that we are also
16 trying to get across to students in law school that's why we
17 have the 50 hours requirement that people, that students,
18 get in their DNA that have what the three of you do that
19 this is what we do. We serve others. This is what being a
20 lawyer is all about.

21 So this is a panel that will be very instructive
22 in that regard about how we're a community working together
23 to meet the basic needs and to meet our ethical and moral
24 responsibilities which is to serve justice and serve people
25 and to help people. And that is done so well with the

1 judiciary's obligation, of course, for equal justice.

2 Any questions?

3 HON. MR. SCHRAVER: I would like to make a related
4 point and that is that Seymour described briefly under his
5 leadership we had regular conference calls with bar
6 associations throughout the metropolitan area both to offer
7 services that the State Bar could help with and also so that
8 they could talk to each other, learn from each other. But
9 the local bar associations and the pro bono lawyers that
10 they could mobilize had to work hand in hand with the legal
11 services providers and what that really does is to leverage
12 the dollars that are provided to the legal service providers
13 and those funds will go a lot further in that way so it's a
14 critical partnership as you described it.

15 CHIEF JUDGE LIPPMAN: Great point.

16 Anything else Judge Eng, Judge Prudenti?

17 HON. JUDGE PRUDENTI: One thing. I think it's so
18 apparent from the attorneys that are on this panel that you
19 are all trying to create, you know, culture of service, as
20 to instill from your earliest days in law school all the way
21 out through the practice that you are attorneys in practice.
22 But from my perspective the question I have -- maybe
23 Mr. James is the best to answer this question, my concern,
24 and I think probably Presiding Justice Eng shares that
25 concern. In the Second Judicial Department we are a

1 department that is urban, that is rural and that is
2 suburban. Do we have enough Civil Legal Services providers
3 in the Second Department?

4 MR. JAMES: Well, I don't believe there are enough
5 civil legal providers in any department to be quite frank.
6 But I do know that there is probably a higher concentration
7 of legal service providers in New York City. We know in
8 Suffolk, which has the larger rural area, there is a -- I
9 guess a third of available legal services providers and
10 there probably needs to be a great emphasis on providing
11 funds for legal services in Suffolk County.

12 HON. JUDGE PRUDENTI: Thank you. I totally agree
13 with the panel. It's such a coordinated effort. But I
14 think the Civil Legal Services provides such a key part of
15 the effort as your testimony demonstrated when you said
16 that, you know, that they were able to bring all the pro
17 bono groups together to provide training and to work
18 together to provide services where services were so much
19 needed so thank you.

20 CHIEF JUDGE LIPPMAN: I also add that, you know,
21 there really is a different dynamic in terms of the
22 providers in different parts of our very diverse state and
23 certainly some of the rural areas further upstate, even
24 beyond all the way out on the Island, that you have provided
25 to the people that work for the providers that are also

1 members of the working bar because they don't have great
2 resources. They do it on a shoe string. The lawyers are
3 not paid very well.

4 And so I think we have to focus on the fact there
5 are different needs around the state and different providers
6 have very different functions. For instance, when are you
7 are geographically spread out over a great area, you kind of
8 get a volunteer, either volunteer or the providers
9 themselves, to get services to people. It is not so easy.

10 HON. JUSTICE ENG: Thank you. Thank you, Chief
11 Judge Lippman. I do want to commend everyone at the table.
12 I am really very, very impressed by the representation that
13 is here at the table. We have our public sector. We have
14 our institutional provider, and we have our large firm. And
15 yet every everyone is motivated by the same, of course,
16 interest and that is to provide these necessary services,
17 follow the oaths that we've taken as lawyers. And I am so
18 impressed by hearing your will to provide these services
19 despite these tremendous adversities.

20 I was very, very moved by the presentation made
21 just before yours by the clients Mr. Lin. He struck a
22 particularly responsive cord. He comes from a Cantonese
23 speaking background, as I do, and some of what he said --
24 and you saw him being as emotional as he was -- was conveyed
25 by him in his words more so than in his written text here

1 regarding the anguish that he had in dealing with the
2 situation involving his home, involving the wall that he
3 faced regarding trying to get relief from FEMA and from the
4 insurance companies.

5 And I can now understand that the reward that you
6 have, the satisfaction that you have in providing these
7 services, that reward is being able to be of assistance to
8 those who are of need.

9 And I do, of course, echo the comments made here
10 by the panel regarding the thanks that we all offer and the
11 assistance, the assistance that we can give you in
12 continuing to provide these services in a meaningful and
13 coherent fashion and marginal resources, precious resources
14 we have here in seeing this through. Thank you.

15 CHIEF JUDGE LIPPMAN: Thank you, Justice Eng. I
16 thank this wonderful panel.

17 I will ask now our final speakers who were the two
18 disaster relief experts, Michael Weinstein, Chief Program
19 Officer for the Robin Hood Foundation, and David H.K. Nguyen
20 Director, Disaster Legal Services Program, Young Lawyers
21 Division, American Bar Association.

22 Feel free to tell us your testimony or read it.
23 We'll start with you, Michael. Tell us about your role as
24 the chief program officer with Robin Hood Foundation and how
25 it plays into disaster relief.

1 MR. WEINSTEIN: First, good morning. Thank you
2 for inviting me to address you, Chief Judge and
3 distinguished panelists. I am chief officer of the Robin
4 Hood Foundation. We make grants of about \$150 million a
5 year to fight poverty in the five boroughs and toward that
6 effort we run the gamut. We fund pre-K programs, K through
7 12 programs, job training, domestic violence shelters for
8 abused women, micro-lending programs, health programs. We
9 do anything that works.

10 We have to concede that we impose rigorous
11 evaluation of what we do and how we do it, and because of
12 that evaluation system we spend a considerable amount of
13 money each year on legal services, Civil Legal Services. So
14 let me say a word about that and then draw the connection to
15 Hurricane Sandy.

16 Alone and in partnership with an organization that
17 spun off from us called Single Stop U.S.A., which in itself
18 is a national organization, we provide free lawyers to
19 represent poor New Yorkers in civil disputes. We spend
20 about \$8 million a year to help about 15,000 city residents
21 handle their civil legal matters.

22 CHIEF JUDGE LIPPMAN: Bring the microphone a
23 little closer to you. We can hear you but we'll hear you
24 better.

25 MR. WEINSTEIN: It's a rare occasion people ask me
cbb

1 to speak louder.

2 CHIEF JUDGE LIPPMAN: Go ahead.

3 MR. WEINSTEIN: To repeat just the last part,
4 Robin Hood spends about \$8 million a year providing free
5 legal help to poor New Yorkers who have legal disputes to
6 resolve. We reach about 15,000 residents with legal help
7 and most of the cases involve housing, housing, housing,
8 housing, access to government programs, Medicaid, food
9 stamps, disability, SSI, SSD. You name it. Housing
10 vouchers and immigration vouchers.

11 Our commitment to Civil Legal Services for the
12 poor predated Hurricane Sandy, and that commitment continues
13 well after Sandy. I will make two quick summary points.

14 CHIEF JUDGE LIPPMAN: Go ahead.

15 MR. WEINSTEIN: We spent \$8 million on legal
16 services. We wouldn't spend it if the return -- if the
17 increased living standards of poor New Yorkers weren't
18 raised by many times that. In general, we would estimate if
19 we are spending \$8 million we expect collective living
20 standards of poor New Yorkers to rise by \$8 million.

21 CHIEF JUDGE LIPPMAN: Let me say, Michael, that
22 very much supports our own studies, a little different
23 framework but same idea, that says that for every dollar
24 that the Task Force invests in Civil Legal Services \$6 is
25 returned to the state. And I think it's because of the

1 ripple effect of those investments.

2 MR. WEINSTEIN: Let me make one distinction. When
3 I talk about benefits, I'm talking about benefits to poor
4 New Yorkers. I am not about tax payers.

5 CHIEF JUDGE LIPPMAN: Right.

6 MR. WEINSTEIN: So anything returned to taxpayers
7 is not something we counted because our donors don't give us
8 money to save taxpayers.

9 CHIEF JUDGE LIPPMAN: It's a good investment.

10 MR. WEINSTEIN: Absolutely. It's not important to
11 dismiss it. It is not our mission. That's more your
12 mission, and appropriately so.

13 CHIEF JUDGE LIPPMAN: On top of each mission on
14 top of each other so look at investment.

15 MR. WEINSTEIN: If I was looking at this as an
16 academic economist in my former life, yes, I would add those
17 taxpayer savings in. I want to make sure you understand the
18 magnitude of this impact as much as that effect.

19 Hurricane Sandy struck. You don't need any
20 graphic description from me. Along with the material
21 destruction, Sandy also triggered legal disputes over
22 federal benefits. Again, access to federal programs, city
23 and state programs, insurance claims, housing, employment
24 whatever. Robin Hood raised -- depends how you count it in,
25 the final count is something not to be done for some months

1 but we raised about \$80 million to address the needs of the
2 victims of Sandy. It's unusual for us because not all
3 victims of Sandy were poor, but we didn't make that
4 distinction. We created a separate fund to help Sandy
5 victims, too. We weren't running into our normal
6 restrictions on whom we can help.

7 Toward that effort, about eight and a half million
8 dollars of the money we raised were used for legal services,
9 Civil Legal Services. We helped about 8,000 families in the
10 tri-state area and, again, for Sandy relief. We operated
11 outside the confines of the five boroughs. Most of that
12 legal assistance went to people with disputes with FEMA and
13 denials of payment by private insurers.

14 Let me make a quick point. We are not bleeding
15 heart liberals on behalf of the very poor. Some very nice,
16 some of them not so nice. Like the rest of us. When we say
17 we give money so people can challenge FEMA or challenge
18 private insurers, we are giving them their day in court. We
19 don't know if the claim against FEMA is right, wrong or
20 indifferent. We don't make that judgment. What we do is
21 make the judgment it is crucially important poor New Yorkers
22 have the same access to the legal system or as much access
23 that we can provide so they can fight their claims and get a
24 fair ruling in a courtroom.

25 So when you hear us paying lawyers to represent

1 mothers in custody battles over their children or helping
2 renters in disputes with their landlords and fighting
3 eviction notices, it's not because we make judgment an
4 eviction notice is wrong or the parent seeking custody is
5 correct. What we are doing is giving the parent and renters
6 their day in court, giving them their fair due. And that's
7 what our money is spent doing.

8 And Robin Hood supports many of the Civil Legal
9 Services programs in New York City that also receive
10 Judiciary Civil Legal Services funding. These legal
11 services organizations, primarily for us Legal Aid Society,
12 Legal Services New York City, help desperate families access
13 public-benefit programs. The service organizations also
14 trained staff at Robin Hood's grantees to connect eligible
15 residents to public benefits.

16 So, again, very much in the business of making
17 sure that poor New Yorkers get what they are eligible for.
18 Taxpayers tax program, they say they want to help poor New
19 Yorkers, we make sure that the gate is closed.

20 Civil Legal Services organizations provided
21 disaster counseling at shelters for homeless and displaced
22 New Yorkers, disaster centers and community-based
23 organizations, many of which are ongoing grantees,
24 organizations that work through mobile offices and citywide
25 disaster relief hotlines. They focussed efforts on the

1 neediest neighborhoods, including those in Far Rockaway,
2 Coney Island, Red Hook, Staten Island and the Lower East
3 Side, and focussed on core needs: Issues with FEMA and
4 Disaster Unemployment Insurance claims; assisting with the
5 replacement of medications and access to health care;
6 obtaining food stamps and public assistance; providing civil
7 legal aid in landlord-tenant, public housing, federal
8 Section 8 and homeowner/foreclosure matters; assisting with
9 loans and other small business matters; helping with school
10 transfers and transportation issues; and providing legal
11 assistance with family law and immigration matters. Robin
12 Hood assisted these all-important efforts, including by
13 funding a mobile unit run by Legal Aid to provide assistance
14 to families in the hardest-to-serve regions like those in
15 the Far Rockaway.

16 Were it not for Legal Aid legal services, Bronx
17 Defenders, and a number of other legal services
18 organizations, I don't know how we would have gotten any of
19 this help to the poor victims of Sandy and generally poor
20 New Yorkers even before and after Sandy. I don't know any
21 other place we would have turned. They have been an
22 invaluable partner, have been since my first day at Robin
23 Hood, which goes back about ten years ago.

24 Sandy's impact endures. Flooding has left tens of
25 thousands of New Yorkers without homes. Those who have

1 homes face hugely expensive repairs. Many of the
2 communities that were hardest hit were isolated and
3 struggling prior to the disaster. Despite the arrival of
4 billions of dollars in public and private emergency aid,
5 these communities continue to struggle. The residents of
6 these beleaguered communities, especially the elderly,
7 disabled and undocumented individuals, small business owners
8 and renters, need trained individuals to advocate on their
9 behalf. But effective advocacy requires something more than
10 trained individuals. It requires better coordinated efforts
11 among the civil legal organizations than they have so far
12 achieved. Such coordination, if achieved, would magnify the
13 impact of the philanthropic investments and, therefore,
14 better justify the philanthropic investments made by Robin
15 Hood and other private funders.

16 We found that out brutally when this came to Sandy
17 when just about all the help mechanisms had to be created as
18 if we were starting fresh. Let's make sure that doesn't
19 happen the next time.

20 Such coordination, if achieved, would magnify the
21 impact of the philanthropic investments like ours. I don't
22 proclaim any disinterest. Our money goes a lot further if
23 the Civil Legal Services we were provided were better
24 coordinated with our money.

25 More support is needed. Much more. As part of

1 the philanthropy community, Robin Hood knows that Civil
2 Legal Services organizations need public funding. I applaud
3 the work of the Chief Judge over the last three years to
4 hold public hearings on Civil Legal Services to assess the
5 extent and nature of the current unmet civil legal needs of
6 low-income New Yorkers throughout the state and identify the
7 level of resources necessary to meet that need. The
8 extensive reports including the Chief Judge's Task Force's
9 findings on the continuing unmet need based on the hearing
10 testimony, provided both orally and in writing, and your
11 recommendations for additional funding are impressive. In
12 addition, as an economist, I appreciate that the Task Force
13 engaged in a substantial study, research and analysis
14 leading to non-monetary recommendations that provide a
15 multi-faceted strategy for helping to close the justice gap,
16 as well as recommendations for funding. Robin Hood does its
17 own fair share of accommodations and cost analysis.
18 Advocacy is not something Robin Hood does a lot of, small
19 amount of, 501(c)(3), and so public advocacy has been
20 triggered by yours and other related efforts as welcome
21 justice. We can do, as we said, a limited amount.

22 Hurricane Sandy showed us all that without the
23 Civil Legal Services community much of the relief provided
24 to impacted families would never have existed. Civil Legal
25 Services form a safety net that ought to be strengthened and

1 expanded. Increased support for these agencies is essential
2 if those New Yorkers without resources are to be accorded
3 equal justice under law.

4 Let me conclude by pointing to one glaring
5 commonality of Robin Hood's Sandy and non-Sandy legal
6 efforts: Scarcity. For the poor, legal needs far outstrip
7 legal services. They did so before Sandy. They do so now.
8 As a funder of before and after Sandy, we at Robin Hood know
9 that Legal Aid turns down most of those who seek help solely
10 because the organization simply lacks staff. Like its
11 shaping of Single Stop sites, Robin Hood runs 80 of them
12 across the city, each which offers free lawyers to poor New
13 Yorkers who come in with civil legal problems. Robin Hood
14 continues to work on new models by which to help the poor in
15 civil disputes. Most recently we have been working with
16 Robert Katzmann, chief judge of the U.S. Court of Appeals
17 for the Second Circuit, to develop an Immigrant Justice
18 Corps. The idea is to give fellowships to recent law school
19 graduates and lawyers who have recently retired to expand
20 available legal services for needy clients.

21 Going forward, Robin Hood hopes to partner with
22 public and private organizations throughout New York to
23 better help our neediest neighbors get the legal help they
24 deserve and that, I should add, is also cost effective.

25 CHIEF JUDGE LIPPMAN: Thank you. Thank you for

1 the efforts of Robin Hood. All of the pieces of the puzzle
2 fit together. And thank you for emphasizing the critical
3 role of providers. And I think the bottom line is exactly,
4 as you say, provide for Sandy. They just are underfunded
5 and don't have the resources they need to do their job. But
6 the efforts of Robin Hood and what you have been doing
7 greatly help obviously the public funding you have been
8 trying to get, to some degree successful at, quickly but the
9 bottom line is much more needs to be done.

10 MR. WEINSTEIN: Indeed.

11 CHIEF JUDGE LIPPMAN: Again, we thank you for
12 Robin Hood's efforts and Sandy has highlighted for all of us
13 the need for legal services and the need for providers to be
14 strengthened in their efforts.

15 David, you, too, will be asked to speak loudly.

16 MR. NGUYEN: Thank you.

17 CHIEF JUDGE LIPPMAN: It's very sensitive,
18 temperamental. Just hit it.

19 MR. NGUYEN: Maybe I will have to speak loudly.
20 Hopefully everybody can hear me.

21 MR. WEINSTEIN: I think it decided I was enough.

22 CHIEF JUDGE LIPPMAN: Give it a little tap.

23 MR. NGUYEN: There we go. I won't touch it
24 anymore.

25 Your Honors and Mr. President, thank you for

1 having me. Distinguished members of the Task Force, your
2 Honor, Chief Judge Lippman, I go back to your comment
3 earlier on how public funds are so important and
4 commissioned. As we do that, as I sit here and testify
5 today for Civil Legal Services of New York. My program
6 collaborates with FEMA. Our funding is quite questionable.
7 That being said, we continue to serve disaster survivors
8 around the country. As I go through my testimony, feel free
9 to interrupt me if you have any questions.

10 The ability for low income disaster survivors to
11 effectively recover from a disaster often depends on access
12 to legal services. Many disaster survivors are not prepared
13 to deal with the varying legal issues that confront them
14 after a disaster strikes and cannot afford a lawyer.
15 Because of limited resources for Civil Legal Services and
16 the extraordinary impact of disasters upon individuals and
17 families and legal needs, pro bono legal assistance can and
18 must work with providers and all organizations that service
19 the poor to temporarily fill the gap during times of crisis
20 to provide reprieve and much needed help during such a
21 vulnerable period.

22 In today's testimony, I plan to stress the
23 importance of Civil Legal Services at the initial and
24 long-term phases, give an overview of the American Bar
25 Association Young Lawyers Division Disaster Legal Services

1 Program and highlight the needs of our disaster survivors.

2 CHIEF JUDGE LIPPMAN: How do you get funding from
3 your program? Where does it come from?

4 MR. NGUYEN: Our funding, your Honor, is through
5 FEMA. FEMA provides funding not only through our program
6 but funding through those in which we collaborate.

7 CHIEF JUDGE LIPPMAN: So the present difficulties
8 are what is causing the problems in terms of money.

9 MR. NGUYEN: Funding as far as problematic
10 funding. So actually I was just -- as I'm sitting back
11 there communicating with my staff liaison from FEMA -- and
12 they are furloughed. So some staff members are in the
13 office, some aren't, and their duties have been greatly
14 reduced to working on disaster declarations that are coming
15 in and working on current disaster response, especially
16 those in Colorado currently. But, otherwise, everything
17 else as far as preparedness, as far as programming in order
18 for other organizations has been suspended.

19 CHIEF JUDGE LIPPMAN: Continue, David.

20 MR. NGUYEN: I can also elaborate more on the
21 funding, but through our collaboration with New York State
22 Bar Association and our response, funding is available to
23 the organizations that collaborate with our program.

24 As director of the Disaster Legal Services
25 Program, I toured the area of destruction by Hurricane Sandy
cbb

1 twice, once in early winter 2012 and second in January of
2 2013, including participating in New York State Bar
3 Association training for its volunteer attorneys. I met
4 with FEMA officials, civil legal service attorneys, law
5 schools, volunteers and survivors. These experiences
6 allowed our team and program to better prepare and respond
7 to the legal needs of survivors in future disasters in the
8 North Atlantic region and across the country. I'm not a
9 climatologist. We heard from Dr. Jacob before. We are
10 experiencing more traumatic disasters often in communities
11 not used to or prepared for disaster response and recovery.
12 As a result, our team is busy year-round not only responding
13 to disasters but also working with others to prepare and
14 ensure that those most affected and vulnerable are able to
15 seek this much needed legal assistance.

16 Not only survivors are seeking much needed
17 assistance after a disaster strikes and within the year and
18 often the years following, but many have complex legal
19 issues that will last for many years. Civil Legal Services
20 agencies are the entities left to provide this long-term
21 legal assistance. For example, Southeast Louisiana Legal
22 Services was one of the entities providing legal assistance
23 in the wake of Hurricane Katrina and the following disasters
24 that hit the Gulf region in 2005. Southeast Louisiana had
25 about 80 new clients in 2012-2013, eight years after

1 Katrina, who were seeking legal assistance to recoup
2 rebuilding funds for their damaged homes. The
3 underrepresented low-income disaster survivors in the Gulf
4 region are seeking assistance from SLLS for issues
5 indirectly linked to the disaster, such as succession or
6 probate matters, unpaid property tax bills, homes sold at
7 tax sales as a result and fines, demolition and
8 expropriation by the city for blighted properties. As one
9 can expect, unfortunately, the funds that have supported
10 these efforts to support these low-income clients have dried
11 up and they now only have one attorney on an Equal Justice
12 Grant to support these kinds of cases.

13 From past experiences, there is no doubt we need
14 to continue Civil Legal Services resulting from the impact
15 of Hurricane Sandy. Civil Legal Services agencies in New
16 York already responded to these needs compounding their
17 current case load. As I have seen in years past and prior
18 disasters, the long-term needs of disaster survivors are met
19 by Civil Legal Services agencies and it's unfortunate our
20 program is not built and does not have the abilities to
21 provide these long-term pro bono services. Civil Legal
22 Services meet this need.

23 Disaster Legal Services -- let me describe quickly
24 for you our program, how it operates. We are a partnership
25 program between the American Bar Association, Young Lawyers

1 Division and FEMA. This program has been in place since the
2 1970s. It evolved over the years to emphasize and enhance
3 collaboration among legal service providers and the
4 emergency management community to deliver more and better
5 pro bono services to those most in need. We now have a
6 robust partnership with the legal services corporation that
7 enables the expansion of resources able to survivors.
8 Virtually from the time that the Disaster Legal Services
9 Program is instituted, Legal Services Corporation recipients
10 in the disaster area are working with us ensure survivors
11 are receiving legal help from the entity that can provide
12 the expertise with their legal issue. Let me stress we are
13 not the only ones providing legal services in the wake of
14 disaster. If we were to collaborate with everyone across
15 the community and across the region --

16 CHIEF JUDGE LIPPMAN: Do you think the federal
17 funding we have in New York for legal services in general
18 is hard pressed and drying up? Do you think the future of
19 those efforts are going to be really based in the states
20 rather than funding that is dependent on the federal
21 government?

22 MR. NGUYEN: Your Honor, if you look at other
23 municipalities through FEMA, FEMA doesn't fund much disaster
24 relief services. It really very much is --

25 CHIEF JUDGE LIPPMAN: So it's locally based?

1 MR. NGUYEN: It is locally based and state based.

2 CHIEF JUDGE LIPPMAN: Cooperating with the local
3 or state bar?

4 MR. NGUYEN: That is correct. Our program -- what
5 we strive to do, we started to do, is connect the state
6 legal services agencies through the federal agency that
7 deals with disaster response.

8 CHIEF JUDGE LIPPMAN: So are you a conduit of FEMA
9 to the state bar?

10 MR. NGUYEN: That is correct. Yeah. We serve
11 more as a facilitator, you know, as the program that serves
12 as a conduit and provides very minimal funding but so much
13 of the burden is left on the state and local communities.

14 CHIEF JUDGE LIPPMAN: All right.

15 MR. NGUYEN: When disaster strikes, FEMA makes an
16 assessment whether or not individual assistance is needed
17 and, therefore, our program can provide a wide range of
18 resources available to survive this. Our team works with
19 local organizations, state and local bar associations, legal
20 service agencies and law firms to host and organize and
21 maintain a toll free hotline. Volunteer attorneys, for
22 example, those that work with New York State Bar Association
23 are recruited to take cases and respond to a variety of
24 legal issues. The top three legal questions that our
25 program gets are of FEMA benefits and appeals,

1 landlord/tenant and housing issues and insurance claims.
2 Although these are the top three, we also see a variety of
3 other legal issues. For example, family law, bankruptcy and
4 employment. Survivors may not understand that disasters can
5 cause a variety of legal problems that are not as obvious as
6 others. And more often than not, most questions are
7 bureaucratic in nature; needing to know how to obtain lost
8 identification or how to navigate city, state or federal
9 assistance.

10 Our volunteer attorneys, as many folks have been
11 here today, are private and practiced lawyers but also
12 included government, public interest and nonpracticing but
13 licensed attorneys. Volunteers see the impact of the
14 disaster and want to offer their time and expertise to those
15 hit hard immediately after disaster; however, we find these
16 volunteers also have their own practice and families and,
17 therefore, the volunteer numbers begin to decrease as the
18 disaster totally becomes a memory in most people's mind.

19 Depending on the degree of destruction and the
20 density of population impacted, we also collaborate with
21 other legal aid organizations to provide face-to-face legal
22 assistance in the FEMA Disaster Recovery Centers. Here in
23 New York we collaborate with New York State Bar Justice
24 Center as well as the New York Legal Aid Assistance Group to
25 provide that assistance in those Disaster Recovery Centers.

1 In the fiscal year ending August 31, 2013, the
2 Disaster Legal Services Program responded to over 6,400
3 disaster survivors in nine different states in nine
4 different disasters. In -- since 2007, we responded to 112
5 disasters in 37 states, and we have tracked over 100,000 --
6 103,000 calls in response to Hurricane Sandy.

7 Not only did we respond to New York but also New
8 Jersey, Connecticut and Maryland. Here in New York we
9 collaborated with New York State Bar Association to host and
10 maintain a toll free hotline. Here in New York it was up
11 fairly quickly. New York State Bar is housed in Albany.
12 However, New Jersey, the office is in New Brunswick, was hit
13 quite hard and they had difficulty getting that hotline up.

14 Your Honor, I think your Honor's question earlier
15 to Mr. Jacob was how quickly should legal service be
16 implemented between us and FEMA. We believe it should be up
17 right at the impact of the disaster. Dr. Jacob is correct.
18 Being prepared and preparation is important, but once a
19 disaster hits, you know, there are folks who have legal
20 questions and to prevent scamming and folks who are out
21 there trying to prey on our most vulnerable, we believe
22 legal services should be up and running immediately in order
23 to provide those much needed services.

24 Unfortunately, our toll free hotline and legal
25 assistance through FEMA ended on April 30th, 2013, far too

1 early for a disaster of Sandy's magnitude and density of the
2 population affected in the North Atlantic. We didn't end
3 our program because of the need but only because of the lack
4 of volunteers. Although the State of New York invoked the
5 Katrina Rule, the provision of legal services after a major
6 disaster, to allow any U.S.-licensed attorney to assist with
7 the legal response of Hurricane Sandy, the New York State
8 Bar Association towards the end had difficulties recruiting
9 volunteers to continue providing pro bono legal assistance.
10 Often times our hotlines closed because of the lack of
11 interest. In this case it was just not able to take
12 additional calls because of the lack volunteers. The State
13 Bar had a total 101 volunteers who helped throughout this
14 period. In the beginning, there were 63 regular volunteers.
15 Halfway through, 54, and towards the end the number dropped
16 to 23.

17 By the way, President Lauren Hern (phonetic) Ava
18 Valtino (phonetic) are wonderful to work with up there. We
19 had the pleasure of working with them. Send them my
20 personal thanks.

21 Although the state bar was still receiving 26
22 calls that final week, it had difficulty placing those cases
23 with attorneys. As a result, the State Bar referred clients
24 to civil legal service agencies who were already helping
25 survivors impacted in their area. Our program may cease,

1 but Civil Legal Services continue to meet needs, even when
2 funding is scarce. Without much needed legal services for
3 the low income, not only will this vulnerable population
4 struggle to recover but they will continue to be unprepared
5 for future disasters. Our program would not be able to
6 effectively respond to the legal needs of disaster survivors
7 without the collaboration and commitment of the Civil Legal
8 Services agencies and organizations. And, moreover, this
9 long-term legal needs of the survivors would never be
10 addressed without the help from our Civil Legal Services.

11 Thank you very much. Let me know if you have any
12 questions.

13 CHIEF JUDGE LIPPMAN: Thank you, David. I think
14 you highlight the importance of the providers, the
15 importance of the synergies, whether it be the bar
16 associations or so many others who contribute to dealing
17 with the task. But Sandy, I think, a key hearing was held
18 by design in Second Department because it is really the
19 impact of the storm. I think you have highlighted in the
20 program in a natural disaster and extreme situation but
21 really the need for legal services goes so beyond that and I
22 think it particularly illustrated in these kind of
23 situations where other effort pick up. As I indicated,
24 David, you can kind of see a crisis doesn't get -- the basic
25 need for legal services is so evident and what we heard

1 today is the efforts of New York City to deal with this
2 problem, the expert's testimony of the climate change
3 expert, Dr. Jacob, local officials out on the island, what
4 they had to deal with, the really heartwarming stories of
5 clients who were so helped by legal service providers,
6 community organizations, the pro bono efforts of the bar in
7 so many different regards and I think the -- obviously the
8 disaster relief in particular that Robin Hood has provided
9 with wonderful assistance and the disaster legal services
10 has been so helpful.

11 But what it all goes to is this basic need for
12 people dealing with really the necessities of life that are
13 only essentially when you have a natural disaster like Sandy
14 and the partnerships that are involved, the collaborations
15 that are involved, everybody plays a role in helping those
16 poor people of limited means.

17 And in Sandy, you know, I think it's been
18 demonstrated over and over again we didn't stop when there
19 was extreme situation, say gee you have no home, you are
20 standing on the street but gee, do you have an income or
21 what is the level of it. That covers all matters of human
22 need and so many players helped to deal with that
23 catastrophe but we will sort of put all of this together
24 with the other testimony from the two other hearings we held
25 and the last one this week up in Buffalo, Fourth Judicial

1 Department, and again try and factor it into the legislative
2 request that we are going to make this year to the
3 legislature and to the other recommendations that the Task
4 Force will make, a nonmonetary recommendation, to improve
5 the delivery of legal services in the state.

6 So we thank all of you who have testified. We
7 thank the audience. It really has been a pleasure and we
8 are all, I think, in different ways trying to address this
9 basic issue of access to justice where everyone deserves --
10 it has been said over and over again, everybody deserves
11 their day in court. And if we can't do that, if we can't
12 have equal justice, equal access to justice, then it really
13 threatens the underpinnings of our justice system and our
14 society, so we thank you all and appreciate your being here.
15 Thanks so much.

16 (Hearing concluded.)
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APPENDIX 10:

**Transcript of the Fourth Department Hearing
Held on October 3, 2013**

STATE OF NEW YORK
FOURTH DEPARTMENT HEARING
THE CHIEF JUDGE'S HEARINGS ON CIVIL LEGAL SERVICES

October 3, 2013

SUNY Buffalo Law School
North Campus
John Lord O'Brian Hall
Letro Courtroom
Buffalo, New York 14260

B E F O R E:

HONORABLE JONATHAN LIPPMAN,
Chief Judge of the State of New York.

HONORABLE HENRY J. SCUDDER,
Presiding Justice, Appellate Division, Fourth Department.

HONORABLE LAWRENCE K. MARKS,
First Deputy Chief Administrative Judge.

VINCENT E. DOYLE, III,
Past President, New York State Bar Association.

1 JUSTICE LIPPMAN: Good afternoon. It's great to
2 see all of you at this terrific law school. Before I make
3 an opening statement and introduce our lead witness, I do
4 want to thank the dean for hosting us at the law school in
5 this beautiful courtroom at this beautiful law school.
6 We're very appreciative of the opportunity of being here
7 in this setting, being in Buffalo, and being at this great
8 law school.

9 Let me start by saying that this is the fourth
10 year of our hearings on civil legal services. We hold
11 hearings in each of the four judicial departments each
12 year. And what this is about is the leadership of the
13 Judiciary and the profession coming together to try to
14 understand the extent of the justice gap in our state,
15 that is the gap between the finite legal resources
16 available and the tremendous need for legal services in
17 our state.

18 On the panel with me representing the State Bar
19 Association is Vincent Doyle, Jr., the former president of
20 the State Bar and someone who I've known for many, many
21 years and greatly respect and admire. Lawrence Marks, who
22 is the First Deputy Chief Administrative Judge of the
23 Unified Court System, who I have had the pleasure of
24 working with also for many -- I'm very young. I don't
25 know why all of my -- all these years with all these

1 people. But it's good to have Judge Marks with us. And
2 of course, Judge Henry Scudder, the Presiding Justice of
3 the Appellate Division, Fourth Department -- who is much
4 taller than me, but I look taller than him sitting back,
5 this is very good -- who is a delight to work with and
6 presides over this great department, and I'm so pleased to
7 be with PJ Scudder.

8 I also want to thank the Task Force to Enhance
9 Civil Legal Services in our state. The members who are
10 here today, Helaine Barnett, who is the chairman.
11 Helaine, good to see you. Steve Banks, who I know is
12 here. Bob Convissar. Bob. There he is. Fern Fisher, I
13 don't think made it. Or did she? No. Sheila Gaddis is
14 here. I see her. And the Honorable George Lowe who has
15 been such a tremendous leader in this area.

16 I want to thank the Task Force for all of their
17 work, and I want everyone here to know that these hearings
18 come out of a crisis in civil legal services in our state
19 and in our country. There are people fighting for the
20 necessities of life, the roof over their head, their
21 physical safety, the wellbeing of their families, their
22 livelihoods, and just cannot obtain the legal services
23 that they need. At best in New York State we're meeting
24 20 percent of the civil legal service needs of our people,
25 and in a bad economy the situation becomes even worse when

1 so many people are going to fall off the cliff literally
2 if they don't get legal help.

3 And on the criminal side of our justice system
4 there is the case of *Gidion versus Wainwright*, and we
5 celebrate this year the fiftieth anniversary of that case
6 which guaranteed the right to representation for criminal
7 defendants, and it is just the opposite in civil cases.
8 And with all of the issues in criminal representation,
9 there is that constitutional law that requires
10 representation. In civil cases we have nothing of the
11 sort. There certainly has been a discussion of civil
12 *Gidion*, and that day may come at some point where people
13 have a right to representation, but that is not the case
14 now, and because of that we have tried very hard to
15 provide public funding for civil legal services in our
16 state and to encourage pro bono work by the Bar, voluntary
17 pro bono work, to such a critical part in this effort.

18 We know in the judiciary profession, that if we
19 don't take the lead in this area, no one else will, and
20 that's why these hearings are taking place. This is all
21 about equal justice. If we don't have equal justice in
22 our state, we might as well close the courthouse doors.
23 There's no reason for us to exist if we do not foster
24 equal justice in our state, in Buffalo, and around the
25 country.

1 We are proud of the template that we have
2 established in New York, which is pursuant to a joint
3 resolution of the legislature we hold public hearings each
4 year and pursuant to their request report back on what we
5 think the needs are for civil legal services in our state.
6 We have been successful. We put those moneys in the
7 judiciary budget. Last year we were able to get
8 55 million dollars for public funding for civil legal
9 services, but I have to tell you it is the tip of the
10 iceberg in terms of the need. The need is so great, and
11 the resources are so limited.

12 We are proud of our Bar in New York who
13 contributes over two and a half million hours of pro bono
14 work. We are proud of our law students who are now
15 required to do fifty hours of pro bono work before they're
16 going to be admitted to the Bar so that they understand
17 the core values of our profession and embrace the idea of
18 service to others. This is what being a lawyer is about,
19 and this is what we're trying to make sure that all law
20 students understand. And we're also, on the other end of
21 the spectrum, trying to get our older lawyers, the baby
22 boomers who are now nearing retirement, to make sure that
23 they understand that they can continue the meaningful work
24 by doing pro bono work for the poor and the disadvantaged
25 and people of limited means.

1 All of this is to promote access to justice.
2 Access to justice is so critical to what we do. Everyone
3 deserves their day in court. That is what this is all
4 about, and every society is judged by how it treats its
5 most vulnerable citizens, and we should be judged by that,
6 and that is why it is so important that we all work with
7 all of our energy to close this justice gap.

8 So what's happening today is this is the fourth
9 hearing of the different departments that we have done
10 around the state. We will take the results of today's
11 hearing and the other hearings and try to figure out what
12 public funding is required for our state this year. We
13 will put those moneys in the judiciary budget, and then we
14 will advocate for those funds.

15 So I'm so pleased you are all here. I'm so
16 pleased that we have the very distinguished witnesses
17 scheduled to testify today, and the first panel includes
18 the Buffalo Law School dean, and he's going to talk about
19 the student pro bono efforts. And I would introduce first
20 my friend Dean Makau Mutua who has been such a positive
21 force in our state in terms of justice for all and equal
22 justice and has been such a great leader of this terrific
23 law school, and I am so delighted to have been able to
24 work with him on so many issues together in the cause of
25 equal justice. He has recently been appointed by the

1 governor to the Moreland Commission. He is a great asset
2 to the legal education community and to this terrific law
3 school.

4 And with him on this panel is Emily Dinsmore
5 from the SUNY Buffalo Law School. She's a candidate for
6 JD in May 2014, and Kerisha Hawthorne, who is also at the
7 law school and is a candidate for her JD in May of 2014.
8 Dean, it's a delight to have you. I'm so pleased. This
9 is the second time that the dean is testifying before this
10 panel and on these hearings. Was it last year, Dean, or
11 two years ago?

12 DEAN MAKAU: It was two years ago.

13 JUSTICE LIPPMAN: Two years ago. And we're so
14 pleased that you're here. Thank you so much for being
15 here.

16 DEAN MAKAU: Thank you so much, Judge Lippman,
17 and thank you so much to the distinguished panelists who
18 have joined you on this occasion. We are honored and
19 pleased and even humbled to appear before you to speak
20 about access to civil legal services.

21 Judge Lippman, I want to honor your service to
22 the state and to your unrivalled commitment to the poor.
23 You have become a leader in this area, and I think even
24 other states in the nation are looking to you for guidance
25 for the kinds of things that you are doing here. I also

1 want to thank you for coming again to our law school. I
2 remember it was just last May when you gave a very
3 inspiring speech at our commencement to our community, and
4 the words of wisdom that you left with us are still with
5 us today. So I want to thank you very much, and I want to
6 thank you again for asking me to appear for the second
7 time before you to offer my views on this question and
8 that the perspective, not just of myself, but the
9 perspective of a law school dean with respect to the kind
10 of education that we hope to provide to our students so
11 that they can become lawyers of conscience.

12 Judge and the panel, equal access to justice
13 underpins our democracy. I think it's clear to me and to
14 all of us that access to justice is the key for the notion
15 of equality before the law, without which there can be no
16 democracy. An important component of that really is
17 devotion to serving the poor as lawyers. And an iconic
18 American once said that injustice anywhere is a threat to
19 justice everywhere. That was the Reverend Martin Luther
20 King.

21 I am continually impressed by the commitment of
22 our students, faculty, and staff to serve our community.
23 Working closely with the legal community to serve the
24 neediest clients in this community, to help victims of
25 domestic violence, to secure health care and other basic

1 benefits for the elderly, to ensure that low income
2 families have access to affordable housing, to provide
3 mediation services to those who could not afford them, to
4 counsel unrepresented debtors regarding their rights as
5 consumers, and to help them through the legal process and
6 to act on behalf of nonprofit environmental groups to
7 protect the environment and ecological resources, and
8 these are just a few of the things we have been able to do
9 at SUNY Buffalo Law School to increase access to justice
10 in our Fourth Department.

11 I just want to say that together with your
12 efforts, Chief Judge, we established consistent and
13 reliable funding for civil legal services, and the work of
14 the Task Force to Expand Access to Civil Legal Services in
15 New York, to offer innovative, alternative resources to
16 deliver civil legal services. This state's law schools
17 and students are continuing to expand the work they have
18 done for decades in partnership with the legal community,
19 striving to bridge what is called the justice gap.

20 I believe that to ensure equal access to justice
21 to all, law schools like SUNY Buffalo Law School must
22 educate future members of the legal profession that it is
23 incumbent upon us as legal educators and to pass on to
24 future lawyers as members of the Bar that they have an
25 obligation to engage in lifelong pro bono legal service.

1 I want to commend the Task Force to Expand Access to Legal
2 Services for convening this May, the second conference in
3 two years focused on candid conversations among law school
4 deans, administrators, professors, and partners and law
5 students to proactively think about ways in which we can
6 best educate our students to instill in them the core
7 value of the legal profession, which is pro bono service
8 to the community. The long-term success of that work will
9 depend on focused efforts, not only within law schools
10 like mine but on partnerships with our colleagues, legal
11 services providers, pro bono coordinators at law firms,
12 members of the Bar, Bar examiners, Bar Association
13 leaders, and judges.

14 At this year's conference, topical work groups
15 looked at a number of issues, and I just wanted to list
16 those very quickly. One, they looked at new models of
17 post-graduate programs with law school involvement like
18 incubators and community practices that provide
19 opportunities for recent graduates to be part of practices
20 that serve low-income residents. Two, we looked at
21 curriculum reform efforts, including practical skills
22 training, clinical options, redesigned core first and
23 second-year courses that specifically address access to
24 justice. Three, implementation strategies and best
25 practices for the fifty-hour pro bono service Bar

1 admission requirement that, Chief Judge, you so wisely
2 promulgated. Four, how service providers, both legal and
3 social, and law school students and faculty clinics
4 spearheaded relief efforts to aid victims of Hurricane
5 Sandy that are now models of collaboration and how these
6 models can be fostered and sustained within our state.
7 And, lastly, how changing technology can help us close the
8 justice gap.

9 The conference report will share the exciting
10 results as part of the Task Force's annual report on these
11 hearings and help highlight the continuing pressing need
12 for increased access to civil legal services. Chief Judge
13 Lippman, you will receive recommendations on these models,
14 best practices, and proposals for new or revised rules and
15 policies that will facilitate efforts to close the justice
16 gap flowing from the work of the conference participants
17 and follow-up efforts thereto.

18 Meeting for the first time at this year's
19 conference was also the Statewide Law School Access to
20 Justice Council. This council is comprised of
21 representatives appointed by the deans from each of the
22 state's fifteen law schools. The council will work to
23 enhance communication and collaboration among law schools,
24 the legal services providers, and the Bar to maximize our
25 efforts and resources to deliver legal services to those

1 in need. Among other issues, the council is studying the
2 feasibility of an online clearinghouse that would serve as
3 a central location for law schools, providers, and Bar
4 Associations to post pro bono opportunities for students
5 to improve efficiencies and collaborations for all of us
6 and to better serve those in need of legal services.

7 It is anticipated that technological innovations
8 can reach individuals who otherwise would not have access
9 to law schools' assistance programs, legal service
10 providers, or a courthouse to obtain critically-needed
11 civil legal assistance.

12 The deleterious consequences resulting from the
13 contraction of our economy continue to impact our most
14 vulnerable citizens. In metropolitan centers, individuals
15 seeking legal assistance often have a number of legal
16 service providers, Bar Association programs, and clinics
17 and service programs at local law schools to approach, but
18 in rural communities far away from the cities there are
19 fewer options. It is likewise vital to remind ourselves
20 that the existence of local service providers is not a
21 guarantee that legal assistance will be available. In far
22 too many cases, those in need are turned away simply
23 because there are not enough hours in a week or in a day,
24 you know, for the committed and dedicated, you know,
25 professionals, students, and lawyers who will provide free

1 legal services.

2 The newly-enacted requirement for law students
3 to perform fifty hours of supervised pro bono service as a
4 prerequisite to Bar admission is certain to both help with
5 the justice gap and to imbue our young lawyers with this
6 important civic responsibility by implicitly allowing them
7 to undertake that as a core value of the profession once
8 they are admitted into the Bar. The fact that nearly
9 40 percent of lawyers who are members of the New York
10 State Bar Association report that they are also solo
11 practitioners or are members of a firm with ten lawyers or
12 less underscores the critical role of pro bono service in
13 training our students. Individuals who engage in a solo
14 practice or in a practice that is a small firm are often
15 the community's first responders for people facing acute
16 legal difficulties. Likewise, our law schools are
17 responding by expanding our clinical and experiential
18 learning opportunities and programs to both provide some
19 direct service to otherwise unserved clients and to give
20 students the skills and training they need to provide
21 effective legal representation to those in need.

22 The hands-on training at SUNY Buffalo Law School
23 we give our students in experiential learning programs
24 that we offer through clinics, externships, and practicum
25 combine the study of law with supervised practical work

1 where students deliver services to people facing legal
2 challenges that could have life-altering consequences.
3 Our service learning opportunities assist people of all
4 ages, from children to the elderly, who are in need of
5 legal counsel and cannot afford to retain an attorney.
6 Our clinics and practicum are staffed by faculty members
7 who train our young lawyers to handle the panoply of
8 issues that they preserve -- to preserve or regain their
9 rights in matters relating to family relations, health
10 care, financial issues, criminal matters, environmental
11 injustices, affordable housing, among others. In
12 addition, we have clinics that focus on environmental and
13 economic policies and issues that directly affect daily
14 life in our communities. We also have clinics that are
15 run by and staffed by our students and faculty where our
16 students are trained by local legal service providers in
17 our community. And I just want to name a few of those
18 providers, some of whom I believe are in the audience.
19 The Western New York Law Center, the Legal Services for
20 the Elderly, Disabled, or Disadvantaged of Western New
21 York, the Erie County Bar Association's Volunteer Lawyers
22 Project, the Legal Aid and Neighborhood Legal Services.
23 These groups and organizations work with clients under
24 attorney supervision. Together this work on behalf of our
25 law faculty and students fulfills a fundamental goal of

1 our profession, to serve the public.

2 While we have had a strong history of public
3 service among the majority of our students, the new pro
4 bono Bar admission requirement ensures that each and every
5 student will be inculcated with the ethic of public
6 service at the outset of their professional lives. And I
7 believe personally as I have told you, Chief Judge, on a
8 number of occasions, I believe personally that this
9 initiative is one of the most important initiatives in our
10 state which will surely help bridge the justice gap.

11 The decisions that have been issued by the
12 United States Supreme Court at the conclusion of this
13 2012-2013 term in my view reinforce the importance of
14 instilling in our students a social conscience. Many of
15 the court's recent rulings implicate civil legal rights
16 that will have real-life consequences for our citizens.
17 Alexander Hamilton once told us that the first duty of
18 society is justice.

19 As the dean of this law school, I will continue
20 our work to ensure that our most vulnerable neighbors have
21 access to justice. I believe that every lawyer must
22 really live and work at the intersection of power and
23 powerlessness and in that exercise practice law with a
24 social conscience. That is what we teach our students
25 here, Chief Judge Lippman, that is our ethic of our circle

1 now, and that is why we are so proud to partner with you
2 in pushing for more funding and more support for these
3 services.

4 I applaud you, and I applaud the work of the
5 legislature and the executive branches in responding to
6 your call for more funding to support these activities. I
7 don't think that it would be possible for us to uphold our
8 democracy, as I have said before, without access to legal
9 service for the poor. I want to thank you and thank the
10 panel for listening to me. Thank you so much.

11 JUSTICE LIPPMAN: Thank you, Dean, for your
12 eloquent remarks. In every way they're inspiring, and you
13 make this law school really a place all about justice and
14 equal justice. I would ask you just a couple of brief
15 questions, Dean. How is the economy -- you know, we read
16 a couple of days ago in the New York Law Journal about the
17 difficulties that law schools have these days in terms of
18 enrollment and the limited number of jobs when the
19 students come out. How does it affect our efforts or your
20 efforts, really, in terms of inculcating -- which I think
21 is the right word -- the students with that spirit of
22 service, this idea that lawyers are supposed to serve
23 others? How does the difficult economy play into that
24 with the limited number of jobs when they come out? Has
25 it made it more difficult or --

1 MR. MUTUA: Thank you, Chief Judge Lippman.
2 Just to give you a sense of the impact of the crisis on
3 law schools, in the last five years the number of
4 applications to law schools have dropped from 100,000 to
5 50,000. In the meantime, the number of law schools have
6 remained the same, 200. So law schools have to compete
7 for half as fewer students as there were just five years
8 ago.

9 But I believe that every challenge is an
10 opportunity. It's a time for us to re-examine why we
11 exist as law schools and to think about the core values of
12 our profession. In that regard, I think that the kind of
13 student who is applying to law schools today has examined
14 why they are coming to law school. And, you know, I just
15 want to admit that the changes in the marketplace in terms
16 of why people want to go into law school, how much they
17 pay, the number of applications, has caused -- those
18 questions have forced law schools to re-examine themselves
19 and to look at the kind of product that they deliver to
20 students.

21 I cannot remember a time of more soul searching
22 for law professors and for law school deans than today.
23 The consequence of it, Chief Judge, is that, you know, we
24 are rethinking how we educate and why we educate. And so
25 one of the things that I just want to emphasize here is

1 that virtually every law school dean that I know is
2 talking about how do you deliver a legal education that
3 produces lawyers who are profession ready. And profession
4 ready is not simply lawyers who are going to go off to
5 practice law in big corporate firms in New York City. It
6 is lawyers who are going to go and became solo
7 practitioners in Batavia and rural America.

8 We cannot, as law schools, continue to tell
9 students that at the end of a legal education that there
10 is a six-figure salary waiting for them. I think that
11 would be irresponsible. I think we have to educate
12 lawyers who are going to serve the public, and in the
13 course of serving the public, you know, attain a good
14 lifestyle. You know, and so what I have been pushing for
15 and I think what my faculty and this law school has been
16 interested in doing this, but in responding to these
17 challenges is to find opportunities through which we can
18 imbue our students with a more caring legal attitude.

19 JUSTICE LIPPMAN: Isn't it an ironic thing that
20 we have these troubles and the law students have more
21 trouble finding jobs and yet we have this tremendous need
22 that's out there to service the poor and people of limited
23 means? And it's this kind of -- you and I were talking --
24 this kind of disconnect that seems so at variance with
25 this so-obvious goal that we should all have for law

1 schools, that people who serve the public, you can earn a
2 good living while you're doing it, that's fine, but to
3 serve the public, and yet we have this strange dichotomy
4 today where so few jobs, the law school decline is down,
5 and yet this need is greater than ever.

6 DEAN MAKAU: Yes. I agree with that. Actually,
7 it's ironic that you think that whenever there are more
8 social problems in society lawyers are a greater need. It
9 is surprising to me that the reverse appears to have been
10 true for the last five years, that lawyers are less needed
11 in a more complex and more trying environment. But I
12 think that's a personal perspective. I think I agree with
13 you, Chief Judge Lippman, that if we give our students the
14 perception and the expectation that once they graduate and
15 the only place to work is in Boston and New York City and
16 Washington, DC, and San Francisco and so on, we will be a
17 failure. You know, we have to give them the tools and the
18 perspectives to understand that you can really earn a good
19 living in rural America, including poor neighborhoods in
20 this country and including in rural areas. You can do
21 both, and you can succeed.

22 And I think, you know, my two students here who
23 are among the best will, you know, have an education of
24 the values. And so, yes, I think that the need is even
25 greater. I think the crisis in legal education, as

1 difficult as it has been for us, is fortuitous because it
2 has made us rethink what we do and why we do it. And I am
3 glad to say that I am glad to see that the Bar itself is
4 partnering with us giving us advice.

5 Mr. Doyle, I have been speaking, you know, over
6 the past several years on how to respond to these
7 challenges are good opportunities for our students to make
8 sure that they are better prepared, and the bench as well
9 has been very, very helpful towards.

10 JUSTICE LIPPMAN: I agree with that, and I think
11 it's all about partnerships. I think that we're all, what
12 we have -- not that we shouldn't have understood it
13 before, but certainly we all understand that the
14 profession, the Academy and the Judiciary, are very much
15 in this together and have that same goal which revolves
16 around serving people and access to justice, and I think
17 that partnership is instrumental. It's critical to really
18 being able to address the challenges that, you know, that
19 you have talked about today and I think are so inherent in
20 today's society and the economy that we live in in all
21 parts of our state. And you're right, not just, you know,
22 the few big firms in the big cities downstate, and there's
23 a problem which is statewide and not reserved to any one
24 community.

25 Do any of the other panelists have any questions

1 for the dean? Vince?

2 MR. DOYLE: If I could. Dean, I just want to
3 take a personal moment to express to you how proud I am of
4 my law school. As you know, I'm a proud graduate of
5 Buffalo Law School, and I'm so proud for what you're doing
6 and what the law school is doing, hosting us here today,
7 the conference that you talked about, and the other
8 efforts that you talked about, all of the law school's
9 efforts for many, many years on access to justice.

10 It was indeed, Dean, I can tell you, a value
11 instilled in me here at Buffalo Law School, and one that I
12 have carried through my career, and I think all the other
13 graduates of Buffalo Law School that are here would say
14 the same thing. It is something that should be instilled
15 early and will pay fruits later in the life and career of
16 that lawyer, which is why I think the pro bono initiative
17 of the Chief Judge for the law school applicants, the
18 admission applicants, makes so much sense, because we do
19 need to instill this core value of the profession.

20 And, Dean, I couldn't agree with you more that
21 the discussion that's occurred over the last few years
22 about whether law schools make their law graduates
23 practice ready is really misguided. Law schools need to
24 make people profession ready, ready for the profession and
25 instilled with and prepared for the core values that this

1 profession requires, including access to justice and a
2 devotion to access to justice.

3 The question I wanted to ask you, and maybe also
4 when your two students speak they can address it as well,
5 I wanted to ask this. The fifty-hour requirement, we know
6 that one of the thing law school graduates and seniors are
7 concerned with are finding jobs and being marketable,
8 being able to get out and start the profession with a job.
9 Does a fifty-hour requirement in your experience, is that
10 something that has been viewed as a hindrance to them in
11 those efforts or something rather that expands their
12 opportunity, expands their experience, their ability and
13 their opportunities to find jobs? How have the students
14 that you have spoken to found the requirement?

15 DEAN MAKAU: Well, I think it is too early to
16 say definitively, you know, the trend that is taking
17 place. What I can tell you is that the returns are
18 extremely positive. I can tell you that for a fact. I
19 can tell you that our students have embraced the
20 fifty-hour requirement with enthusiasm. They recognize
21 the importance of the requirement, not simply as a pathway
22 for admission to the Bar but for what it does for them in
23 terms of giving them a leg up in the marketplace.

24 Actually, Chief Judge, you know, I wanted -- the
25 panel recommended the fifty-hour rule, and one of the

1 things that I told my fellow panelists, you know, was that
2 perhaps fifty hours was too short. Now, I don't want to
3 be attacked for saying that but --

4 JUSTICE LIPPMAN: At the dean's suggestion,
5 we're doubling it to a hundred.

6 DEAN MAKAU: You know, but my sense was that we
7 could deal with a little more hours. Because I think, you
8 know, we essentially spend the first two years of law
9 school curriculum teaching blackletter law for the most
10 part. I tell you no secret when I say that, you know, law
11 schools are putting more emphasis on the ability of
12 students to write and write better in plain English, to be
13 able to stand up and articulate arguments in a similar
14 courtroom experience. And I think, you know, the kind of
15 clinical opportunities that our students get in the
16 fifty-hour, you know, setting, you know, gives them all
17 these -- all these, you know, tools and teaches them how
18 to start to behave and understand, you know, the word of
19 law as it operates.

20 You know, too often I felt that legal educators
21 did not put a lot of emphasis or enough emphasis on legal
22 skills, you know, and especially by creating for students,
23 you know, opportunities such as the ones we are talking
24 about here. So, you know, I think it's one of the best
25 things to happen in all of legal education, this

1 fifty-hour rule. As I said, I think perhaps it should be
2 extended to more hours, and I would even ask, you know,
3 the Bar itself, the Bar itself, to consider adopting
4 something similar.

5 You know, I know that many members of the Bar
6 Association provide valuable legal services to the poor,
7 pro bono legal services, which is very, very important.
8 But perhaps, you know, Mr. Doyle, that is something that
9 the Bar would take up to see what could be done to
10 enhance, you know, what is already being done. Because as
11 the Chief Judge said, and I think you believe this as
12 well, there is too much, you know, need and not enough
13 opportunities for people to get the service, you know,
14 they need. You know, and I don't think that extending,
15 you know, the requirements for pro bono service to the Bar
16 would interfere in any negative way with the profession.
17 I think it would strengthen it.

18 JUSTICE LIPPMAN: I think that's an issue that
19 Vince and I have had many discussions about and is
20 something that deserves to be on the table, and certainly
21 the organized Bar has been terrific. But, you know, we
22 are talking about all those issues and how to inspire,
23 ensure that the organized Bar does absolutely the maximum
24 that they can do because, as you say, the need is so great
25 and there aren't enough -- there isn't enough public

1 funding in the world, and there isn't enough volunteer
2 services to truly close the gap. So we need to do
3 everything together, and the State Bar has certainly been
4 a partner in this effort, and this is an ongoing dialogue
5 that we're having about how we do that. So thank you
6 again for your eloquent testimony. And, Dean, we are
7 going to hear from our two prized students?

8 DEAN MAKAU: Yes. We are going to hear from our
9 two prized students. Let me just once again thank all of
10 you and, you know, thank Mr. Doyle for the kind words that
11 he has said about our law school. Thank you so much.

12 JUSTICE LIPPMAN: And let me say this, Dean. I
13 mean this sincerely, that you honor us by your presence
14 here, by allowing us to be here, and by your presence and
15 by your leadership in this whole part of the state,
16 statewide and in this particular law school, which is a
17 great place. And we're going to be getting a graphic
18 demonstration of why it's such a great place by
19 speaking -- to hearing from our two students.

20 DEAN MAKAU: Thank you.

21 KERISHA HAWTHORNE: Good morning. I extend
22 sincere appreciation to Chief Judge Lippman and members of
23 the hearing panel for conducting these hearings to discuss
24 unmet civil legal needs. My name is Kerisha Hawthorne,
25 and it is an honor to have this important hearing at our

1 law school, where I'm a proud member of the student body
2 and an active participant in serving those in need. Today
3 I want to share with you my experiences advocated for
4 low-income individuals through the law school clinical
5 program and my thoughts on the Bar admissions requirement
6 of fifty hours pro bono service.

7 Before I delve into my experiences advocating
8 for low-income individuals through the law school's
9 program, I would like to give you some background. I came
10 to law school wanting to bridge the gap between the legal
11 system and low-income individuals. Growing up in a
12 low-income community, I did not know much about the legal
13 system or the legal profession until I entered college at
14 SUNY Geneseo. In fact, it was this lack of knowledge
15 about the profession that steered my desire to enter the
16 legal field.

17 Throughout college I was very involved in
18 various service opportunities and spent my summer before
19 law school working with the New York State Division of
20 Human Rights. So going into law school, I knew that a
21 career in public interest law would be a good fit for me
22 because I enjoyed advocating for disadvantaged
23 individuals, and I wanted to make the legal system more
24 accessible to people coming from similar communities as
25 me.

1 However, as I made my way through my first year
2 of law school, I began losing sight of that goal. I got
3 caught up in the first year frenzy of wanting a large firm
4 career. The flurry of on-campus interviews and networking
5 events with large firms and the pressures of paying back
6 my loans made large firms with large paychecks appealing.
7 And in fact, the summer after my first year I did end up
8 in a large firm. It was a great experience, but a part of
9 me knew it wasn't the right fit.

10 In my second year of law school, I participated
11 in the Healthy Homes Legal Practicum through our law
12 school's Clinical Legal Education Program, and it was this
13 experience that reminded me why I came to law school. It
14 reminded me that I wanted to use my degree to advocate for
15 disadvantaged individuals, specifically low-income
16 communities. The Healthy Homes Legal Practicum is a
17 four-credit course with a service loan -- sorry, service
18 learning field placement designed to give students the
19 opportunity to advocate for Buffalo residents who are most
20 impacted by unhealthy housing.

21 In addition to educating me about various
22 housing hazards and the importance of environmental
23 justice, the practicum gave me the opportunity to advocate
24 for low-income individuals through my field service hours
25 at the Neighborhood Legal Services. At the Neighborhood

1 Legal Services, I worked with clients facing various
2 housing hazards such as lead paint chips, mold, rat
3 infestation, lack of heat, and more. I conducted client
4 interviews, provided referrals, and drafted legal
5 documents for clients with no other access to legal help.

6 My experience at the Neighborhood Legal Services
7 and in the Healthy Home Legal Practicum gave me an
8 opportunity to make a difference while in law school. I
9 was able to get out of the classroom and do real world
10 work. I was able to be a part of something that was
11 bigger than me and my desire to get a law school diploma.
12 This opportunity has truly enhanced my law school
13 experience and allowed me to use my legal education in a
14 meaningful way.

15 Through the Healthy Homes Legal Practicum I was
16 able to complete my fifty hours pro bono requirement. The
17 fifty-hour pro bono requirement is a great initiative to
18 encourage service among law students and to provide legal
19 assistance to low-income individuals. In law school it is
20 very easy to forget the people in our community who depend
21 on public interest attorneys and the pro bono work -- and
22 pro bono work to have their legal needs met. However,
23 initiatives like the fifty hours pro bono requirement and
24 the law school's clinical education program are great ways
25 to service communities in need and to encourage pro bono

1 work among law students.

2 One truism guides much of life, and it's
3 actually a philosophy of mine. To whom much is given,
4 much is expected. This committee and its work have my
5 utmost respect. I thank you for holding these hearings
6 and working to increase access to justice for
7 disadvantaged individuals.

8 JUSTICE LIPPMAN: Thank you, Kerisha, for that
9 testimony, and let me say to you that you have our utmost
10 respect. And thank you so much for that testimony that I
11 know I and the panel find very moving in terms of -- and
12 very reassuring in terms of the future of our profession
13 and the quality of our law students here at UB and around
14 the state. So thank you so much for coming and
15 testifying.

16 And, Emily, we're now looking forward to hearing
17 from you.

18 EMILY DINSMORE: Thank you for inviting me to
19 this hearing. Access to civil legal services is a key
20 component of our justice system, and I'm honored to have
21 the opportunity to share my experiences with you.

22 SUNY Buffalo Law School, in line with its public
23 interest tradition, has provided many opportunities for
24 students to meet and exceed the pro bono requirement.
25 Through our clinic, practicum, and externship programs, my

1 classmates have worked in a variety of agencies, courts,
2 and law departments across Western New York and beyond.

3 This past spring, I participated in the
4 mediation clinic. Under the guidance of our professor,
5 Steven Sugarman, five other students and I were able to
6 observe many mediations and court-mandated settlement
7 conferences. In addition to our observations, we were
8 able to co-mediate several small claims disputes, and I
9 co-mediated two custody disputes as well.

10 This experience was especially meaningful for me
11 because I group up with a clinical program, so to speak.
12 My mother, Suzanne Tomkins, is a clinical professor here
13 at SUNY Buffalo Law School, and I have spent countless
14 hours stuffing envelopes, staffing tables, and running
15 supplies for various events over the years. As such, I
16 grew up with the understanding that my duty as a citizen
17 and community member is to help those in need.

18 Even with that background, I didn't always fully
19 grasp the influence my mother's work was having. Now,
20 however, I see that this school's clinics really have a
21 twofold impact on the community. First, and perhaps most
22 obviously, students in the program directly help people in
23 need. I agree with Albert Einstein that in matters of
24 truth and justice there is no difference between large and
25 small problems, for issues concerning the treatment of

1 people are all the same.

2 In my work in small claims court, I saw the
3 palpable difference between persons represented by counsel
4 and those proceeding pro se. Even in a court with limited
5 scope and relatively relaxed procedure, pro se litigants
6 were at a distinct disadvantage. Forms, procedure, and
7 even vocabulary provide potentially insurmountable
8 hurdles. When we were able to successfully mediate,
9 however, the litigants were able to obtain justice as they
10 defined it and move on with their lives, whether or not
11 they were represented by counsel.

12 As much as we as students help the community,
13 though, our direct efforts while we're in law school are
14 only one part of the puzzle. The true impact we will have
15 is that we will not stop providing pro bono services when
16 we graduate. I have spoken to many of my mother's former
17 students, and each of them has left her clinic with the
18 same message she gave her daughters, that those of us with
19 the ability to help others must do so.

20 As a member of the first class subject to the
21 pro bono requirement, my individual efforts may be but a
22 drop in the bucket. I take comfort, however, in knowing
23 that as each successive group of graduates becomes imbued
24 in the value of service, more and more members of the Bar
25 will share this commitment. Individually we can only do

1 so much. But if lawyers as a group carry on a tradition
2 of service, we can make a true difference in providing
3 access to civil legal services.

4 In closing, I would like to state that I'm
5 proud to be part of this law school whose administration,
6 led by Dean Mutua, has supported its clinical program and
7 provided its students with so many opportunities to make
8 strides in the community, and I'm proud to be part of this
9 state that has adopted a pro bono requirement advocated by
10 Chief Judge Lippman and the other members of this panel.
11 Thank you again for allowing me to speak before you today.

12 JUSTICE LIPPMAN: Thank you, Emily. And let me
13 say to you, too, that we are very proud of you, and we
14 have no doubt that the students at UB will continue to do
15 their pro bono work when they go out into the profession,
16 and we thank you so much for being here. I can't tell you
17 how moving I found both of your testimonies. And I think
18 you get it, you know, at this point in your life what it
19 means to be a lawyer. And, again, thank you so much. And
20 thank you, Dean, as always for your terrific testimony and
21 for bringing these two terrific students with you. And
22 UB, again, you really demonstrate what a great place it
23 is. Thank you so much.

24 DEAN MUTUA: Thank you.

25 JUSTICE LIPPMAN: Before I introduce our next

1 panel, I do want to introduce to you Judge Ralph Boniello,
2 Supreme Court Judge from Niagara County who is here with
3 us today, the incoming president of the Supreme Court
4 Justices Association. And, Justice Boniello, we're
5 delighted you're here with us today at the law school.

6 JUSTICE BONIELLO: Thank you.

7 JUSTICE LIPPMAN: Let me introduce now the next
8 panel, which is our local officials panel. We have the
9 Honorable Mark Poloncarz, who is the county executive of
10 Erie County, and Catherine M. Mackay, the director of the
11 Cattaraugus County Department of the Aging, New York
12 Connects.

13 Mr. County Executive, you honor us by your
14 presence. We're so pleased to have you with us. And,
15 Catherine, we're delighted to have you here. Do you want
16 to begin, Mr. County Executive?

17 COUNTY EXECUTIVE POLONCARZ: Sure. Thank you.
18 And to state, may it please this august body?

19 JUSTICE LIPPMAN: It pleases us.

20 COUNTY EXECUTIVE POLONCARZ: I'm Mark Poloncarz,
21 the Erie County Executive as well as a practicing attorney
22 in the State of New York and other courts throughout this
23 region. I wish to thank the Honorable Jonathan Lippman
24 for conducting his fourth annual series of public hearings
25 to evaluate the continuing unmet civil legal services

1 needs in all parts of the state, including Erie County,
2 and to assess the level of resources necessary to meet
3 those needs. I want to thank you for securing
4 unprecedented funding for legal service and for your new
5 pro bono requirement for newly-admitted attorneys, which
6 I'm sure they're very pleased are in existence. These new
7 resources will go a long way in providing low-income
8 persons with the representation that is surely needed in
9 civil matters.

10 Now, prior to being elected as Erie County's
11 Comptroller in November of 2005, I practiced law for a
12 number of firms in Buffalo, the last was Kavinoky Cook,
13 LLP. During my practice I saw firsthand those with low
14 income or little resources struggle through the myriad of
15 legal hurdles here in Erie County, including representing
16 a number of pro bono very low income individuals in
17 bankruptcy and landlord/tenant law matters.

18 Erie County is a vibrant county made of a major
19 urban core, significant suburban towns, and a vast rural
20 expanse. The County's 2012 population is estimated to be
21 919,086 residents, and the legal system in Erie County is
22 vast including 34 town and village courts, three city
23 courts -- over 15 judges -- six Family Court judges, plus
24 nine support magistrates and six court attorney referees,
25 five County Court judges, one Surrogate's Court, and of

1 course 24 Supreme Court judges.

2 Like much of New York State, Erie County is not
3 without its problems. Unfortunately, the City of Buffalo
4 is rated the eleventh most dangerous city in America.
5 Buffalo was ranked the third poorest city in America with
6 populations over 250,000, and has the third highest rate
7 of child poverty nationwide. But, as most people know,
8 poverty in Erie County is not just centered in our urban
9 core.

10 In fact, one quarter of Erie County's population
11 receives some form of public assistance. Our own data
12 that we have from the Department of Social Service.
13 Between 2007 and 2011, the percentage of persons below the
14 poverty level in Erie County was 29.9 percent compared to
15 14.5 percent for New York State. Medicaid enrollees in
16 Erie County from 2008 to 2013 steadily grew at a rate of
17 more than 4 percent annually to a point where 22 percent
18 of Erie County residents are presently on Medicaid. And
19 unfortunately, even more distressing, 30 percent of the
20 children that live in Erie County, their health care is
21 provided by Medicaid. As you know, Medicaid is a
22 means-based program. You cannot get Medicaid unless you
23 are at or below the poverty level. And as we have seen,
24 DSS statistics reveal that poverty is not limited to any
25 one area of Erie County. It is throughout the entire

1 county.

2 Now, New York State places a huge financial
3 burden on counties to cover the cost of Medicaid and the
4 delivery of programs like temporary assistance for needy
5 families, supplemental nutrition assistance programs, and
6 other public assistance programs. Over the years, state
7 unfunded mandated programs and services that are to be
8 delivered by the counties has grown. At the same time,
9 now counties have to operate within a 2 percent tax cap,
10 which leaves local officials in the difficult position of
11 being required to provide more services with little way to
12 pay for them or to decrease the amount of services that
13 are available.

14 It is under these circumstances, while I applaud
15 and encourage legal services to be provided to low-income
16 individuals, unfortunately Erie County is not in a
17 position to take on any additional mandates at this time,
18 but that does not state that Erie County does not play a
19 key role in providing legal services for those in this
20 community.

21 Through the Department of Social Services, Erie
22 County provides an attorney in Article 81 cases for those
23 who do not have a suitable relative or friend that can act
24 as law guardian. An attorney will be provided at reduced
25 costs for petitioners in child support matters when the

1 petitioner utilizes the Support Collections Unit. In
2 addition, Erie County provides Legal Advocacy for the
3 Disabled, otherwise known as LAD. The LAD unit is
4 dedicated solely to assisting low-income persons with the
5 Social Security Administration's disability application
6 process. LAD receives referrals from within the
7 Department of Social Services and from many county and
8 community agencies. If a case is open, a paralegal,
9 overseen by an attorney, works in conjunction with the
10 applicant and the Social Security Administration assisting
11 in all steps of the application and appeals process. LAD
12 re-reviews all submitted applications at every level of
13 the decision-making process in order to determine the
14 merits of the claims in addition regarding future appeals.

15 In Erie County, unlike many other counties,
16 because of our size we are also very lucky to have several
17 private agencies and hundreds of private practice
18 attorneys that provide no cost or low cost services to
19 low-income people and those in need. Whether a person
20 finds their home is being foreclosed upon in bankruptcy,
21 Small Claims Courts, or a landlord/tenant problem or
22 divorce, there are resources available here in Erie County
23 throughout the entire county, urban, suburban, and rural.
24 A self-help center has been placed in the Supreme Court
25 building, and both the State Bar and the Erie County Bar

1 Association have many online resources.

2 There is are also brick and mortar resources
3 such as Neighborhood Legal Services, Inc., NLS. NLS is a
4 not-for-profit agency with three offices throughout
5 Western New York. NLS provides free legal services in the
6 areas of domestic violence, disability, housing, public
7 benefits, and other areas to persons with low income and
8 persons with disabilities.

9 Another wonderful organization is Legal Services
10 for the Elderly, Disabled, and Disadvantaged of Western
11 New York. It is their mission to provide free legal
12 services for the elderly, disabled, and low-income
13 persons. Their primary goal is to use the legal system to
14 assure that their clients may live independently and with
15 dignity.

16 Here in Erie, we also have the Volunteer Lawyers
17 Project, whose mission is to provide free quality legal
18 service for low-income persons and small or not-for-profit
19 groups and to involve volunteers to do those. The VLP
20 recruits, trains, and coordinates the works of over 800
21 volunteer attorneys in our area in the areas of
22 unemployment benefits, bankruptcy, estates,
23 landlord/tenant, foreclosure, immigration, as well as
24 several other areas. And I should testify, based on
25 having done some of that work myself when I practiced law,

1 they do good work on behalf of the people of this
2 community.

3 The Western New York Law Center is another legal
4 service organization funded by the Office of Court
5 Administration that plays an important role in providing
6 services to Erie County residents. It provides
7 representation to home owners whose homes are being
8 foreclosed on and runs a consumer clinic for residents who
9 have legal problems with debt collectors. The Western New
10 York law Center, through the Attorney Emeritus Program,
11 also provides counsel to the Buffalo Erie Niagara Land
12 Improvement Corporation, which is a land bank that was
13 recently started here in Erie County and Buffalo and
14 Western New York which was passed by Governor Cuomo, and
15 this helps deal with the significant issues of vacant
16 properties and foreclosed homes all across Erie County.

17 However, even with those great services
18 available, I know there still is a great need to assist
19 those that do not know where to turn when their legal
20 services issues arise, who to trust or even communicate
21 with because of language barriers. Future partnerships
22 should be forged with law libraries and law schools to
23 provide additional resources. As we know, Erie County is
24 the home to the State University of New York at Buffalo
25 Law School. We are also partnering with the Say Yes to

1 Education Foundation to provide legal services with the
2 private Bar, people in the City of Buffalo to assist them
3 with problems that unfortunately will directly impact
4 their children and to ensure that those children graduate
5 with an education from the City of Buffalo School
6 District, and I certainly hope that program can be
7 expanded here in the City of Buffalo.

8 Access to qualified and effective attorneys
9 means the ability to access justice. Low income
10 individuals, regardless of where they live, should have
11 the right to quality, civil legal services just as much as
12 those who can afford it. Justice should be blind to
13 income and economic status as well as to guilt or
14 innocence.

15 Once again, I applaud the work of your panel,
16 Judge Lippman, and this committee for locating new funding
17 sources and creating ideas and solutions and solving
18 problems in this community.

19 JUSTICE LIPPMAN: Thank you, Mr. Poloncarz. You
20 know, I ask you. I think it's very interesting. It's
21 obvious that this is a community that sticks together and
22 tries to do what's best for the overall general good.
23 And, you know, in relation to -- particularly as a
24 practicing attorney, in relation to providing legal
25 services, you know, in this terrible economy, which is

1 still not what it should be, people really, I use the
2 expression, can fall off the cliff very easily without the
3 help of legal services. What happens, as the county
4 executive of really an important place in this state, what
5 happens when people who don't get legal services go into
6 social services, worse, you know, incarceration, family
7 breakups, how does that affect the health of the
8 community? Because what we say is this, is the best
9 investment that the public, New York State, could make is
10 providing legal services for the poor, because in the end
11 it's an investment that's paid back many times over. Do
12 you agree with that? When people don't have legal
13 services and bad things happen, what happens to your
14 budget, your bottom line, and the health and wellbeing of
15 the community that you represent?

16 COUNTY EXECUTIVE POLONCARZ: Well, Your Honor, I
17 fully agree with that. I think we have seen the result of
18 that since the economic crisis of 2008, which almost
19 brought down the entire economic system of the United
20 States and the world. Our case loads in social services
21 and across the board, whether it's child protective
22 services or probation, they're increasing. Unfortunately,
23 when you have problems in the home on the economic front,
24 whether it be with regards to a loss of job or a health
25 care issue or an individual can't pay for their health

1 care services and unfortunately they fall into foreclosure
2 and other means, it impacts the entire family.

3 I saw that myself as a practicing attorney,
4 especially in the areas of bankruptcy. I primarily
5 practiced in corporate and finance law, but I did have a
6 bankruptcy background, and I had a number of cases from
7 individuals who fell into bankruptcy primarily because of
8 issues they couldn't control, loss of a job or a major
9 health care issue where they could not afford to pay the
10 bills associated with it, and unfortunately it resulted in
11 individuals falling into social services, divorces that
12 would inevitably result because of the problems that
13 started in the home due to financial issues grew to other
14 issues which of course create major problems and backlogs
15 for the courts.

16 It is fair to say that if an individual does not
17 have the ability to represent themselves or have a
18 representative for them in any type of legal matter that
19 it invariably is going to have an impact elsewhere, and
20 often then the people of the community has to pay for it
21 when these people seek public assistance.

22 JUSTICE LIPPMAN: Thank you. Thanks. Thank you
23 so much. Catherine, you are on.

24 CATHERINE MACKAY: Thank you very much. Before
25 I start my remarks, I want to make two apologies. One is

1 that I am going to be reading certain remarks here today.
2 Any of those of you in the room that know me know that I
3 am an off-the-cuff kind of girl.

4 JUSTICE LIPPMAN: You should feel free to do
5 other -- you can just tell us or read it as you are, your
6 pleasure.

7 CATHERINE MACKAY: I am afraid -- I have some
8 really important things in here that I'm afraid I'll
9 forget if I don't do that. So at the risk of sounding
10 rote, I'm going to read some of those remarks, but I want
11 you to know that they are very heartfelt.

12 My second apology is to all of you lovely folks
13 behind me for having to stare at the back of my head. I
14 hardly ever comb my hair, and I don't know what kind of a
15 horrible mess is back there, but I apologize for being so
16 rude.

17 Again, my name is Cathy Mackay. I'm the
18 director of the Cattaraugus County Department of the
19 Aging, New York Connects. We're an aging and disability
20 resource center, and I extend my regards from the
21 Cattaraugus County administrator and the legislators who
22 are very happy to have me here today while they stay back
23 home and work on their budget. It's always a fun time of
24 year.

25 I am also both pleased and honored to share not

1 only my personal testimony but my strong desire to further
2 advocate for the legal needs of the poor, isolated, and
3 frail elderly across the rural communities of New York
4 State. I heard you say you have 900,000 something people?

5 COUNTY EXECUTIVE POLONCARZ: 919,000.

6 CATHERINE MACKAY: I was listening. We have a
7 little over 80,000. So Cattaraugus County is rural and
8 small. And of those 80,000, I have 18,000 who are sixty
9 years of age or older. So I have a very aging population
10 in my county, and I have a lot of people coming through my
11 door every day. I have been doing this a long time, and I
12 can honestly say I have never seen a greater need for
13 legal assistance than I do today.

14 Every year I'm required through the State Office
15 for the Aging as well as federal regulations tied to the
16 Older American's Act funding that I receive to present a
17 public hearing, and this is my annual report. I just
18 thought you might get sick of looking at me, so I brought
19 a visual aid. And in this annual report this year, the
20 forum typically gives me an opportunity to do a few
21 things, to review current trends, to examine data, to
22 showcase my achievements -- or I should say my staff's
23 achievements for the year -- to collect feedback from the
24 community, and perhaps most importantly to take a cold
25 hard look at the numbers, the funding or lack thereof,

1 what I did with those dollars, and what unmet needs still
2 exist.

3 In this year's report I went over five-year
4 trends with my legislators, and we looked at areas with
5 unusual activity or heightened steady growth. This year I
6 highlighted for the first time the legal need. Legal
7 referrals went up an unprecedented 60 percent in one year.
8 And you heard that right, that is 60 percent in one year.
9 And trust me, there are going to be more and more senior
10 citizens walking through my door every day. Why? Because
11 they're isolated. They live an hour and a half from
12 Buffalo. Even if they do still drive or have access to
13 transportation, that transportation doesn't typically
14 include a trip to Buffalo.

15 If it weren't for Legal Services for the Elderly
16 and Disabled or Southern Tier Legal, LawNY, they would
17 have no affordable accessible legal representation in the
18 remote areas of Cattaraugus County. But it's not like
19 their issues are life threatening. They are only issues
20 like, oh, access to health care, elder abuse and fraud,
21 housing and weatherization, income and benefits, long-term
22 care planning. You know, just those issues that provide
23 them with stability, personal safety, quality of life,
24 those things that allow them to remain living in the
25 community in their own homes in the least restrictive

1 setting in the most cost effective way.

2 When I was forced to make some drastic cuts in
3 my budget the past few years, I was encouraged to cut
4 legal funding. That's part of my IIIB moneys, and it
5 seemed to me that people didn't understand the importance
6 of that funding. So what I did was I showed my local
7 lawmakers the data. I showed them how the marriage of
8 legal services and long-term care planning, much like
9 those more concrete services that I provide like a warm
10 home-delivered meal or a home health aide or a personal
11 care attendant, divert those costly tax dollars, those tax
12 dollars that would go to a more costly institutionalized
13 setting due to unwarranted early admittance and allow for
14 the opportunity of lower-income older adults to remain in
15 their own homes, paying taxes, shopping locally, using
16 their limited resources for their own informal support
17 systems.

18 So to make a long story short, I didn't have to
19 cut my funding. In fact, I was able to increase it, but
20 only because I had that wonderful support from my local
21 lawmakers who gave me more of a match than I was required.
22 The Federal Older Americans Act, Title IIIB moneys, never
23 increase. I don't even know if I'm going to have them
24 after the first of the year. I have to get more and more
25 creative to continue to meet these growing needs.

1 The OCA money allowed me this past year to help
2 so many more seniors. I had a woman who almost lost the
3 majority of her meager Social Security benefit due to an
4 error at the Social Security Administration. And I'm not
5 putting them down, but these things happen. She was
6 recently helped through the long arduous process by the
7 Legal Services for the Elderly and Disabled. She came
8 into my office just this last week to thank us again, to
9 sit in my office, and she wept tears of joy for literally,
10 what she said, saving her life and her livelihood.

11 We actually had a local write up on a case where
12 Legal Services for the Elderly and Disabled assisted in
13 getting money back to a Cattaraugus County senior citizen
14 from a telephone scam. And I just want to give you a
15 little bit of a detail of that. This past year, it was
16 just a little over a year ago, it was actually my
17 sheriff's office called me to say there's another scam out
18 there. And we try to, you know, get the news out. We're
19 rural, so if you don't read the Olean Times Herald, you
20 know, we try to get it out in other ways. But it was --
21 it seemed to be going on in our area, and people were
22 getting phone calls. So I did a press release. I posted
23 it in the paper. Now, this was Labor Day weekend, so we
24 were off on Monday. I was barbecuing or doing something
25 fun, I'm sure. But Tuesday morning I came in to work, and

1 at eight a.m. there was a woman there who had read the
2 article that weekend and who had actually just sent some
3 money out in the mail.

4 Just to give you a short recap, a man had called
5 her a few times and smooth talked her into using her
6 credit card to obtain a cash advance to send him three
7 separate money orders for 500 dollars each. And he was
8 very good. We weren't talking about you're going to get a
9 million dollars, you have to wire money offshore to
10 wherever, I'm from this country far, far away and I need
11 your help. It wasn't one of those things. This woman was
12 bright. She was very humiliated to come into the office,
13 because she thought something like this could not happen
14 to her. What we did was what we normally do. We worked
15 with the local police force. We tried to get research
16 done. We tried to do what we could do, but I thought we
17 needed to make a referral, so we made a referral to legal
18 services for the elderly.

19 And Sarah Galvan, who I believe is in this
20 courtroom today -- who was able to help because of the OCA
21 grant money, may I add -- started to do some research.
22 And together with my supervisor of services they completed
23 paperwork, they got things together, they got copies of
24 the money orders and the scanning tracking numbers. I
25 believe it was Sarah who was able to contact the U.S.

1 Postal Service because this money was going to an Andrea
2 Johnson in Philadelphia, PA. Philadelphia, where a lot of
3 times, you know, you get money from winning something.
4 And to make a long story short, it appeared that the first
5 class mail which was 1,500 dollars in money orders had not
6 yet been delivered. The postal carrier who had the
7 envelope in his bag was found and instructed to bring the
8 envelope back to the post office and not to deliver it.
9 That day it was en route. That kind of thing just doesn't
10 happen. You usually don't get your money back, and I
11 can't tell Sarah how grateful I am for her. It was a
12 dream come true. I will tell you folks, don't ever try to
13 stop the delivery of the U.S. Postal mail. That is a
14 difficult thing to try to do.

15 But honestly, seriously, if it weren't for the
16 OCA grant, Sarah wouldn't be able the take so many of
17 those consumer-related cases that we had this year which
18 then freed Bill Berry up to be able to take on those
19 cases. And like I said, I have more and more people
20 walking through my door every day. So believe me when I
21 say I'm not trying to be overly dramatic. These legal
22 services really do save lives in rural communities.

23 What would I do without Legal Services for the
24 Elderly and Disabled or Southern Tier Legal? I really
25 have no idea. We recite the pledge every time we meet in

1 our legislative chambers, and every time when I mouth
2 those words, and justice for all, I am keenly aware of
3 what important work happens in my office every day. I'm
4 also keenly aware that it could easily go away if I don't
5 continue to advocate for this fundamental right, the right
6 to an attorney.

7 The Supreme Court, as I know you mentioned
8 earlier, ruled that people accused of a crime deserve the
9 right to an attorney whether they can afford one or not.
10 Well, most of the seniors walking through my door needing
11 help or some sort of justice, most of those folks aren't
12 criminals. The fact that they need to be a criminal in
13 order to get an attorney, well that is just criminal.

14 I'm so grateful for those attorneys that work
15 for little to nothing to make things right for the
16 isolated, frail, elderly of my community. Those attorneys
17 that go above and beyond making home visits, putting in
18 extra unbillable hours, they truly are heroes. And this
19 year I made sure my whole community knew it. Not just by
20 presenting those numbers and those facts in my annual
21 report but also by giving out the Star award. This is a
22 prestigious award. I give it out at my annual public
23 hearing. And if you saw the names on this plaque, you
24 would see a lot of -- well, we have senators and we have
25 mayors. We have officials and dignitaries. And their

1 names aren't on here because they're powerful, important,
2 and influential people -- although they are -- it's
3 because while they were in that place of influence they
4 went above and beyond and did something outside of the
5 normal scope. That's why this year's winner was William
6 Berry. And I don't say this so that, you know, I can, you
7 know, embarrass him in front of his colleagues, but he
8 drives all the way out to East Jahunga and goes well far
9 beyond what he -- I expect of him or what our contract
10 calls for to assist those folks that just don't have
11 assistance in any other way. And he is a hero to me. I
12 am sure that there are many other heroes in this room, and
13 I just want to personally thank you all of you for
14 everything that you do for us.

15 JUSTICE LIPPMAN: Thank you.

16 CATHERINE MACKAY: Thank you for giving me the
17 time.

18 JUSTICE LIPPMAN: Thank you. Thank you for
19 being here. I have one question. It's more of a
20 rhetorical question. So the money that we get from the
21 state legislature to give out these grants, they affect
22 real human beings? I mean, this isn't just about, you
23 know, giving money? This is very direct to the people in
24 need?

25 CATHERINE MACKAY: They most certainly do. And

1 like I said in my remarks, I think it's my job as well as
2 others in this room to prove that these are tangible
3 services that truly save lives, that truly --

4 JUSTICE LIPPMAN: Exactly.

5 CATHERINE MACKAY: We know it comes down to the
6 bottom dollar. If I can prove that somehow I am averting
7 a more costly, less wanted end for some of these frail,
8 vulnerable, rural adults, then that's how I'm going to be
9 a champion, and that's how I'm going to make sure that I
10 keep getting the funding that I need.

11 JUSTICE LIPPMAN: Anybody else? Thank you,
12 County Executive Poloncarz. Thank you Cathy Mackay. We
13 appreciate it greatly. We're really pleased that you are
14 both here.

15 COUNTY EXECUTIVE POLONCARZ: Have a good day.

16 JUSTICE LIPPMAN: Thank you so much. The next
17 panel will be clients who have been benefitted from legal
18 services, and I'm going to ask Diane Butler, a client to
19 the Legal Assistance of Western New York accompanied by
20 David Pels; Ursula Anderson, a client of Legal Services
21 for the Elderly, Disabled, or Disadvantaged of Western New
22 York accompanied by William Berry; and Richard Hesse,
23 client of the Legal Aid Bureau of Buffalo accompanied by
24 Mark J. Connors to come up.

25 MARK CONNORS: Where would you like us to sit?

1 JUSTICE LIPPMAN: It doesn't matter as long as
2 there's a mic nearby. Okay. So you should all feel free
3 to either read your statements or just tell us, you know,
4 how legal services benefitted you and your particular
5 circumstance. Let's start with Diane Butler.

6 DIANE BUTLER: Good morning.

7 JUSTICE LIPPMAN: Good morning.

8 DIANE BUTLER: My name is Diane Butler. I'm the
9 mother of three daughters ages twenty-eight and twenty-six
10 and eleven. And I have five grandchildren. Until 2012 I
11 had a small house cleaning business. I'm also a survivor
12 of domestic violence. Most recently, I became a survivor
13 of breast cancer.

14 For approximately five years after my youngest
15 child was born, her father engaged in acts of domestic
16 violence against me. He was controlling and violent. It
17 never occurred to me that a person of my limited income
18 could get a lawyer to help me get out of this situation.
19 Then in May of 2009 he was arrested and sentenced to six
20 months of jail time for aggravated unlicensed operation of
21 a vehicle. I thought that this was my opportunity. He
22 was out of my home, and I told him I did not want him to
23 return. He began to write to me several times a week
24 telling me I'll never let you go, you're mine, that's the
25 way it is, I kill anybody that touches you, believe that.

1 I received telephone calls from the jail, a
2 counselor telling me that I had an angry man on my hands
3 and he wants to control the situation and he can't. By
4 good fortune, I was directed to the Domestic Violence
5 Program. An advocate there met with me and assisted me in
6 filing petitions with Family Court seeking custody and an
7 order of protection. The advocate would also refer me to
8 the LawNY office in Bath. There was a way for me to get
9 legal representation, even for someone who was low income
10 like me.

11 That began what has become a four-year
12 relationship with the LawNY office in Bath. I did not
13 want to be in the same room as my former partner, even if
14 it was a courtroom. Having an attorney by my side made
15 the process less stressful and helped me navigate through
16 the complex Family Court process to obtain what I was
17 seeking from the court, safety for myself and my daughter
18 and safe contact for my daughter with her father because
19 she wanted contact with him. My attorney helped me to get
20 a two-year stay-away order of protection, full custody of
21 my daughter with supervised visitation with her father.

22 My need for a lawyer did not end there. The
23 following year when my abuser's mother filed a petition in
24 Family Court seeking grandparent visitation, LawNY again
25 represented me. Although I agreed to her having some

1 visitation with my daughter, because that is what my
2 daughter wanted, my lawyer helped me be assured that she
3 would be safe during visitations by getting a provision
4 prohibiting her grandmother from allowing any unsupervised
5 contact with my daughter and her father.

6 For a number of years I had a nagging concern of
7 what would happen to my little girl if I wasn't around to
8 take care of her. Anybody can be hit by a car crossing
9 the street at any time. The father was not an option as
10 far as I was concerned. He rarely exercised the
11 supervised visitation that he was entitled to. He could
12 not provide the safe and appropriate care for her.

13 My daughter's father took himself out of the
14 picture in the fall of 2011 when he was arrested for
15 firing a rifle at state troopers. By the following year
16 he was convicted of counts of attempted murder and
17 sentenced to forty years to life in prison. It was also
18 in early 2012 that I received the diagnosis of breast
19 cancer, again the fear of who will take care of my
20 daughter if something happens.

21 By now I knew where to turn, and that was the
22 New York Law helped me to get a pro bono counsel to help
23 set up a legal guardianship for my daughter if something
24 happened. As I faced a mastectomy and chemotherapy, I
25 believe that knowing a plan for my daughter's care in

1 place just helped me be a lot less anxious and better able
2 to fight the cancer that I had to fight.

3 As a result of my cancer, I was no longer able
4 to work. I had no choice but to seek public assistance
5 for myself and my daughter. Although I had provided proof
6 of my medical condition that had been granted a work
7 exemption from the public assistance workforce, the
8 Department of Social Services threatened to cut off my
9 assistance unless I attended employment-related group
10 training sessions. Because I was on chemo, I was
11 receiving -- because of the chemo I was receiving, my
12 immune system was compromised making it a health risk to
13 be in a crowd of any kind. When I told this to my
14 caseworker, she rudely dismissed the fact that I was
15 seriously ill.

16 It was not until apparently LawNY intervened on
17 my behalf that I was allowed to keep my benefits without
18 risking my health. When I confided to the paralegals that
19 I was feeling particularly stressed because my Social
20 Security application had been denied twice already, she
21 informed me that -- it had been denied twice. She told me
22 the LawNY had an attorney that could help me. LawNY
23 agreed to represent me at my Social Security hearing. My
24 attorney at LawNY was able to convince the administrative
25 law justice, the judge assigned to my case, to issue a

1 favorable decision without even holding a hearing based
2 just upon the medical evidence we provided. It took
3 fifteen months.

4 While I was undergoing chemotherapy, my
5 daughter's father, who was then in jail awaiting trial,
6 thought it would be a good idea to drag me back into
7 Family Court in two separate proceedings. First he filed
8 seeking visitation with my daughter in jail. Dealing with
9 this while I was so ill was very difficult.

10 Again LawNY represented me. His attorney argued
11 for a visitation schedule that required my daughter to
12 spend hours in a waiting room in jail and argued that his
13 mother should be allowed to supervise the visits. If
14 either of these conditions had been put in place, I would
15 have been extremely stressed during those visitations. My
16 attorney successfully argued on my behalf for a more
17 restrictive visitation supervised by one of my own
18 daughters, her sister. This I can live with. I'm sure
19 you get that, why. The second petition he filed from jail
20 was a petition seeking to reduce his child support
21 obligations. I had to laugh when I received that. I have
22 yet to get paid a dime of support to me. The LawNY
23 represented me. At that point I was not up to facing a
24 court proceeding, and perhaps the greatest benefit of
25 having representation was that my attorney got permission

1 from the support magistrate for me not to attend the
2 proceedings. Because he was incarcerated, his obligation
3 for support was terminated but I was granted a judgment
4 for over 6,000 dollars plus interest. Given the length of
5 his prison sentence, I don't expect to receive that dime
6 ever, the first time from them, but it's there for her.
7 You never know.

8 I'm just one low-income person, and as you can
9 see I have needed a lot of legal representation. I filled
10 a whole paper and a big file for these guys. And over the
11 course of four -- the last four years I have had a lawyer
12 represent me in half a dozen Family Court proceedings. A
13 lawyer has helped me obtain my Social Security benefits.
14 There are a lot of people like me. I know that most of
15 them face a lot of legal problems. I'm afraid that many
16 of them do not have the legal representation that I have
17 received.

18 I know about -- if time permits, I would like to
19 tell you one of the darkest moments of my life and how my
20 connections with the legal services eventually put a
21 positive spin on this terrible story I just told you. I
22 told you earlier that with the help of LawNY I got an
23 order of protection against my daughter's father. Well,
24 several months after the order was issued I was shocked to
25 discover that he had moved himself and his girlfriend into

1 my home while my daughter and I were away. Initially I
2 was in shock and afraid to confront him. However, after
3 spending a few days with relatives, they took action and
4 made a criminal complaint stating that my order of
5 protection was being violated. To my horror, I was
6 arrested for allegedly violating the order of protection
7 that required him to stay away from me. You see, he had
8 told them that I allowed him and her to move in. The cops
9 he had told that to. Right, I let him and his girlfriend
10 move in. I didn't. Despite the absurdity of that claim,
11 I was arrested and charged with violating an order issued
12 to protect me. LawNY was not able to represent me. They
13 only do civil representation, but they took my calls over
14 the year that these charges were over my head and gave me
15 the encouragement to continue to refuse to take the plea
16 bargain they were offering.

17 Now for the positive spin. You may know that in
18 the last legislative session a bill was passed that
19 prohibits charging a protected party with violating the
20 order of protection issued to protect them. Before the
21 bill was passed, the domestic violence advocates who
22 lobbied for this bill asked the LawNY if they knew anyone
23 that had been affected by this issue who would be willing
24 to have their story told to the legislature as part of
25 their lobbying efforts. LawNY contacted me. Sure, I

1 would share my story if it could help prevent other
2 victims of domestic violence from being victimized by the
3 system as I was. I don't know if my story helped convince
4 some of the legislators to vote for the bill or not. I
5 would like to thank it did. You can't imagine how
6 empowering it is for a domestic violence victim like me to
7 feel that I had played a part in making this system safer
8 for victims in the future. Thank you for the opportunity
9 to speak.

10 JUSTICE LIPPMAN: Thank you for coming in and
11 telling us your story, and I think it speaks for itself,
12 and I gather without legal assistance you would have no
13 way to deal with all of this.

14 DIANE BUTLER: Or my daughter. I can't even
15 tell you. I have no idea.

16 JUSTICE LIPPMAN: And your description about the
17 legislative bill and the situation that you went through
18 is really something very, very interesting, and we
19 appreciate, again, you coming in. Anything, Judge
20 Scudder?

21 JUSTICE SCUDDER: I would just like to take the
22 opportunity to thank David Pels and the rest of the people
23 on behalf of New York that do a great job that we get to
24 chat awhile. It's been a time, but you really do. And
25 that's really about all we have in an area like that. So

1 I don't know what it would be like without that, because
2 just there's nothing else. So I thank you again.

3 DAVID PELS: Thank you.

4 JUSTICE LIPPMAN: Thank you.

5 DIANE BUTLER: I second.

6 JUSTICE LIPPMAN: The importance of the work
7 done by legal services provided in areas all around the
8 state just like in Bath where people really couldn't exist
9 without having that assistance. I'm going to call now on
10 Ursula Anderson to tell your story.

11 DR. URSULA ANDERSON: Thank you.

12 JUSTICE LIPPMAN: Thank you for being here.

13 DR. URSULA ANDERSON: I'm sorry?

14 JUSTICE LIPPMAN: Thank you for being here.

15 DR. URSULA ANDERSON: Thank you. Well, as a
16 human being and as a physician of sixty years' experience,
17 I wish to thank the Honorable Jonathan Lippman and your
18 group here for this opportunity to speak to the plight of
19 many of the elderly, disabled, and disadvantaged who are
20 in need of legal assistance but who are either unable to
21 pay for it or don't know about state-funded legal services
22 or both. Their needs all too often revolve around
23 retaining and maintaining their homes and property which
24 they have worked hard for all their lives as well as other
25 situations that threaten their survival and wellbeing.

1 But first, I wish to pay tribute to the
2 tremendous and helpful service provided by Legal Services
3 for the Elderly, Disabled, and Disadvantaged located here
4 in Buffalo and for dear Bill Berry who helped me so so
5 much.

6 Three years ago I applied for a loan from a
7 federally-funded agency in order to repair the roof on the
8 home I had worked hard for all my life which is located in
9 an isolated and rural area of New York. They disallowed
10 the contractor I wanted and sent a contractor of their
11 choosing who was seldom seen and who used unskilled
12 workers. On one occasion, after stripping the old
13 shingles, they left the roof uncovered over a rainy
14 holiday weekend which resulted in flooding in my kitchen.
15 The contractor could not be reached. And when I called
16 the consultant at the loan office on the first work day
17 following the incident, I was rudely given to understand I
18 was just an ungrateful old woman and a nuisance, and the
19 ceiling was never repaired by them.

20 But worse was to happen. Six months later, in
21 the dead of winter, the entire roof failed leading to
22 flooding in my home. The living room ceiling collapsed,
23 panelling fell off the walls, and some of my furniture and
24 belongings were ruined. As a result, I contracted
25 pneumonia which led to congestive heart failure and

1 ultimately to a heart attack which almost took my life.
2 At the time, countless calls to the loan agency and
3 contractor went unanswered.

4 After inquiring about the cost of legal help, I
5 realized I couldn't afford it, which in hindsight makes me
6 think how helpful a list of pro bono attorneys would be to
7 others who find themselves in similar situations despite
8 their previous record of giving their service to others
9 through different professions like my own, which is
10 medicine. However, by some miracle the County of
11 Cattaraugus County Office of the Aging, whose director is
12 here, suggested that I meet with their legal consultant
13 from Legal Services for the Elderly, and this I did. He
14 and his staff have been attentive and helpful and gave me
15 peace of heart and mind and a chance to recover physically
16 that I otherwise would not have had. Nevertheless, even
17 with their input and assistance, the stonewalling
18 continued. It took another year before the loan agency
19 agreed to fund repairs, because they claimed they were not
20 responsible because I had signed off on the job.

21 Now, in this regard what really happened is an
22 example of how the elderly and disabled, both of which I
23 am, are cheated. It was Friday afternoon, just after the
24 so-called job was finished when the loan agency consultant
25 came to see me with a form for me to sign. I asked to see

1 it, and he said it wasn't necessary but my signature was
2 required for without it no one would be paid.

3 Well, pediatricians and psychiatrists of my
4 advantage, of which I am both, are known for their kind
5 hearts and excessive pro bono services. This is why so
6 many of us find ourselves short of money in our old age
7 and feel humbled at having to ask for help after a
8 lifetime of service to others. However, being within this
9 tradition of kind hearts and a little stupidity and not
10 wishing anyone not to be paid, I signed that form and
11 later learned it stated I had personally inspected the job
12 and found it to be satisfactory.

13 Given my obvious disability, climbing a ladder
14 is impossible. And combined with having no knowledge of
15 roofing, it is clearly ridiculous and cynical to have
16 expected me to sign off on such a job. Clearly he
17 deceived me. Incidentally, he walked around the outside
18 of the house where he could see nothing other than the
19 edges of the shingles because, as he said, his arthritis
20 prevented him from getting on a ladder.

21 Now, to add insult to all of this injury, a lien
22 was place on my home for this loan from hell. Putting all
23 of this into the frame of my own experience, it amounts to
24 nothing less than personal abuse and physical harm, plus
25 contempt for the honorable intent of federal and state

1 loan agencies that fund these programs.

2 Overall, four issues emerged to be addressed.
3 Correction number one, correction of the prevailing
4 mindset that perceives the elderly, disabled, and
5 disadvantaged, particularly older women who live alone, as
6 targets to be exploited for financial gain. Secondly, the
7 lack of oversight of local, federal, and state agencies
8 that administer financial aid really needs to be
9 addressed. Thirdly, the extensive need for legal
10 resources, both pro bono and funded for those being
11 exploited is quite obvious. And there should be,
12 fourthly, defined penalties for those who do the
13 exploiting.

14 Now, time doesn't allow me to address the
15 specifics of these items. But as you may or may not know,
16 I am a long-time and internationally-known researcher in
17 medicine and health services and so on. I am more than
18 willing to contribute my expertise to contribute to those
19 who will be involved in defining solutions. And, again, I
20 thank you very much for this opportunity to be with you
21 and to share.

22 JUSTICE LIPPMAN: Thank you for coming in. I
23 greatly appreciate it. And the bottom line, and I think
24 people have to understand, even a person of great
25 learning, someone who has had great experience in life,

1 isn't necessarily able to deal with legal problems when
2 they come up. You learned yourself of a different kind.

3 DR. URSULA ANDERSON: At call they're all human
4 beings who need each other. And I would be very happy to
5 address the issues that you addressed, because in this
6 city, 45 years ago in Buffalo, New York, which I left and
7 came back to eventually, I established a precedence for
8 programs for mothers and children that had not been
9 addressed previously. I was almost run out of town for
10 changing the status quo. But these programs that I had
11 initiated and pioneered have become accepted worldwide,
12 and I have been a consultant to the World Health
13 Organization on stuff that I really started right here in
14 Buffalo. Of course I have lived all over the world since
15 then and have been all over the world since then, but I
16 would like maybe sometime to talk with you, because it's
17 not easy to be a pioneer. You have to really have your
18 feet stuck in that mud and convince people one way or the
19 other.

20 JUSTICE LIPPMAN: But the bottom line is, for
21 pioneers, for human beings, sometimes they need a helping
22 hand, and sometimes you need a lawyer.

23 DR. URSULA ANDERSON: I'll say amen to all of
24 that.

25 JUSTICE LIPPMAN: Very good.

1 DR. URSULA ANDERSON: Thank you.

2 JUSTICE LIPPMAN: Thank you. Appreciate it.
3 Richard Hesse. Richard, do you want to tell us your
4 story?

5 RICHARD HESSE: Yeah. It was about 2010 I
6 started having financial problems because my wife got hurt
7 on the job and I got diagnosed with lymphoma, and we fell
8 behind on our bills and our taxes. Well, I went to
9 several lawyers trying to find help, and I called the tax
10 department theirself, and they told me to send them a
11 thousand dollars and I could make payments. Well, it
12 wasn't very many weeks after that I got a letter of
13 foreclosure in the mail stating that they were going to
14 put my house up for sale. So I called a bunch of lawyers,
15 nonprofit lawyers, and none of them would help me because
16 most of them would only deal with foreclosures on houses
17 and bank foreclosures and others wanted a ton of money.
18 Well, if I had that kind of money I would have paid my own
19 taxes, you know. So I called Legal Aid, and they helped
20 me get through it. You know, in the meantime they were
21 working.

22 JUSTICE LIPPMAN: How did you know to call Legal
23 Aid?

24 RICHARD HESSE: How did I know? I just happened
25 to come across them in the phone book and gave them a try.

1 JUSTICE LIPPMAN: So blind, basically --

2 RICHARD HESSE: Yeah.

3 JUSTICE LIPPMAN: -- you basically contacted
4 them?

5 RICHARD HESSE: Right. They were the only ones
6 that would help me, because most of them said that because
7 I lived out in East Concord they didn't want to deal with
8 it. They didn't want to deal with taxes. So while I was
9 going through chemo and everything, Legal Aid started
10 doing what they did, and in the end they helped me save my
11 house and set up payments for the taxes. Without them, me
12 and my wife would have been homeless, and they were the
13 only ones who would help us.

14 JUSTICE LIPPMAN: You know, I think it's hard
15 for people to understand that, you know, when we talk
16 about legal services it comes in all different ways and to
17 all different people, and it's not just people who are
18 destitute and have no money whatsoever. It's normal
19 people leading normal lives who wind up having a problem
20 that they can't resolve, can't afford to resolve, and
21 don't have the expertise to resolve without the help of
22 legal services. And basically that was the situation that
23 you found yourself in.

24 RICHARD HESSE: Yeah. They didn't even
25 hesitate. They just got right on it.

1 JUSTICE LIPPMAN: They're good people. Okay. I
2 want to thank you all for demonstrating on a firsthand
3 basis what this is all about and putting a human face on
4 what we're talking about. So you really are the best
5 witnesses in so many ways. I really appreciate your being
6 here. Thank you so much.

7 DR. URSULA ANDERSON: You're welcome.

8 JUSTICE LIPPMAN: The next panel will be
9 business and community leaders, Dennis Walczyk, the chief
10 executive officer of Catholic Charities of Buffalo; Miguel
11 Santos, consumer advocate for the National Grid; and
12 Joseph Fruscione, vice president and commercial branch
13 manager of M&T Bank.

14 Dennis, do you want to start, be our leading
15 witness on this panel?

16 DENNIS WALCZYK: Good afternoon, everyone, and
17 welcome to beautiful, sunny Buffalo.

18 JUSTICE LIPPMAN: It is beautiful and sunny.
19 That's for sure. And all of you, again, feel free to
20 either read your statement or just tell us, you know, what
21 you want to say, whatever pleases you.

22 DENNIS WALCZYK: Chief Judge Lippman and
23 esteemed panelists, my name is Dennis Walczyk, and I have
24 been the CEO of Catholic Charities of Buffalo since 2003.
25 I am truly honored to be able to testify today about the

1 need for civil legal services in rural areas. Thank you
2 for this great opportunity.

3 My brief testimony will hopefully inform you
4 about the very special partnership role that providers of
5 civil legal services play with Catholic Charities in rural
6 communities and will urge you to continue to do everything
7 you can to expand the financial support for these programs
8 to ensure that people in rural areas have access to
9 justice.

10 Catholic Charities of Buffalo serves all eight
11 counties which form the Eighth Judicial District,
12 including Erie, Niagara, Orleans, Genesee, Wyoming,
13 Chautauqua, Cattaraugus, and Allegany. Our mission is to
14 empower all individuals and families to achieve and
15 maintain meaningful, helpful, and productive lives. Like
16 our legal services counterparts in the rural counties of
17 Western New York, we are advocates for those in need,
18 particularly those who are poor and most vulnerable.

19 As one of the largest and longest-serving
20 providers of human services in the region, Catholic
21 charities is uniquely qualified to understand and respond
22 to the needs of rural poverty in the western part of New
23 York State. We provide a myriad of services, including
24 adoption counseling and assistance, emergency financial
25 assistance, a full array of mental health counseling,

1 domestic violence services, immigrant and refugee
2 assistance, school intervention services, and senior
3 services. With a budget exceeding 37 million dollars, we
4 served over 134,000 clients in Western New York during
5 2012.

6 The rural areas of the Western New York region
7 are vast. There are many impoverished communities which
8 place a significant demand on Catholic Charities'
9 resources. The distances between villages and towns
10 presents special transportation and service delivery
11 issues for poor and disabled people throughout the region.
12 When traveling throughout the region, the signs of poverty
13 can be both very obvious and very well hidden. Resources
14 are scarce, and access to them is often very difficult for
15 poor people in rural areas.

16 Each day throughout this vast region our
17 outstanding case managers and social workers assist people
18 with a variety of complicated issues and emergent needs.
19 During 2012, in the six primarily rural counties of
20 Allegany, Cattaraugus, Chautauqua, Genesee, Orleans, and
21 Wyoming, Catholic Charities provided emergency financial
22 assistance to 7,490 individuals. We provided counseling
23 services to 947, kinship care services to 140, and have
24 continued intervention services to 276 perpetrators of
25 domestic violence who are referred to us by the judicial

1 system. Overall we served over 27,000 clients in the
2 western counties outside of Erie last year.

3 When programming expertise is in short supply,
4 we run the risk that these critical needs will go
5 unattended. In responding to the needs in rural areas, we
6 rely heavily on partnerships with many other human service
7 providers throughout the region in order to be able to
8 provide the broadest possible and most holistic support of
9 the individuals and families that require our assistance.
10 Each human services agency partner fills a niche which
11 compliments or enhances the services which we provide, and
12 especially our partnership with the legal services
13 providers enhances the overall quality of life with these
14 individuals and families in very critical ways.

15 We are increasingly aware of the growing need
16 for trained legal services attorneys and paralegals to
17 assist people when social workers and case managers are
18 faced with legal issues beyond their expertise. Legal
19 matters relating to housing, domestic violence, public
20 benefits, homelessness, health insurance, family law,
21 child support, unemployment insurance, mortgage
22 foreclosure, disability benefits, disability rights,
23 access to health care, employment discrimination, wage and
24 hour claims, and numerous other issues are brought to our
25 attention every day.

1 We rely on legal services providers to accept
2 our referrals regarding these matters and to meet the
3 legal needs of our clientele. We also rely on their
4 community legal education materials and training to inform
5 our staff and clients about the rights of low-income
6 individuals. We know, however, that the legal services
7 providers in our region are understaffed in rural areas
8 and are in need of additional funding to support expanded
9 services in these critical -- critically underserved rural
10 areas.

11 I come here today as a representative of a major
12 regional Western New York provider of human services with
13 a longstanding history of serving rural areas. It is in
14 this capacity that I urge you to do everything possible to
15 expand the funding for legal services providers so that we
16 may all be more effective when serving the needs of the
17 poor in rural communities in Western New York. Without
18 support for legal services in rural areas, we simply
19 cannot be fully effective in our regional anti-poverty
20 strategies.

21 Once again, I want to thank you for the
22 opportunity to testify on these very important concerns
23 today.

24 JUSTICE LIPPMAN: Thank you, and thank you for
25 highlighting the rural areas of our state where the

1 providers are under such difficult circumstances as the
2 legal service providers in assisting organizations like
3 Catholic Charities, which does such wonderful work. And I
4 think that there's a failure to understand that covering
5 large areas geographically and that there are unique
6 challenges, and I think you really have highlighted the
7 good works that are done and the need for the providers to
8 be able to help organizations like yours. So thank you so
9 much. Mr. Santos?

10 MIGUEL SANTOS: Good afternoon, Chief Jonathan
11 Lippman and members of the panel. Thank you for the
12 opportunity to testify on the importance of legal services
13 in New York. My name is Miguel Santos. I work for
14 National Grid, a utility company in New York that provides
15 electric and gas. We are an electric and gas company that
16 connects customers to energy sources through its network.

17 As a consumer advocate, I would like to say that
18 I work with customers that no one know what is to do with.
19 I am many times the last assistance. This is why I work
20 weekly with various legal services as it pertains to
21 customer utility service to try to prevent utility service
22 termination.

23 The reason why I am here today is to speak on
24 the importance of to provide legal services to poor -- to
25 the poor, especially in our rural communities. The rural

1 community is a very different environment. People tend to
2 forget that New York State, in particular Upstate New
3 York, is an agricultural state. New York State is the
4 second largest apple-producing state in the country. New
5 York also produces much dairy products such as milk,
6 cheese, and yogurt. New York State also produces large
7 quantities of corn and grapes for Welch's and to produce
8 large quantities of New York State wines, which many of us
9 enjoy.

10 Who would have known that our Erie County Fair
11 is the second largest county fair in the country? I give
12 this information to remind ourselves that New York State
13 has large areas of rural communities. Take a drive into
14 our rural communities throughout Upstate New York, and you
15 can see poverty from Amsterdam to Geneva and all over
16 Upstate New York.

17 Social services for impoverished rural residents
18 are sorely lacking. Rural residents are a strong breed of
19 people. They deal with social problems head on and with
20 pride. They are a strong community, but there comes a
21 time where folks just don't know how to work out their
22 problems. Rural communities do not have access to as many
23 social agencies as you can find in the urban areas. These
24 hardworking people are not accustomed to rely on social
25 programs. They want to work out their own problems, but

1 they need the assistance of a variety of social
2 organizations to help them resolve their issues.

3 Seniors, whose children had to leave the area
4 because of lack of jobs, find themselves without the
5 family network to help them along. Seniors don't know how
6 to access services they need for health coverage and
7 financial assistance.

8 People are suffering in silence when others take
9 advantage of those who appear weak. I, as a consumer
10 advocate, meet on a regular basis with various civil
11 service legal aid services to discuss elder abuse and
12 homelessness in our counties. Although I am a consumer
13 advocate for the utility company, I find myself helping
14 endangered poor rural residents connect with local social
15 agencies to help them apply for food stamps since some
16 people are hungry and don't know that there are
17 assistance. Others suffer under domestic violence and
18 don't realize that there is help out there to stop the
19 violence. People don't know what legal services are --
20 that legal services are available or that they are a
21 afraid because they can't possibly afford a lawyer.

22 Legal services agencies help improve the quality
23 of life of those who are fortunate enough to find these
24 services. Legal services programs bring resources into
25 our community to help keep them safe and protect our most

1 vulnerable customers by assisting them to gain access to
2 social financial programs such as HEAP, direct voucher,
3 and other financial assistance offered by our government.
4 These types of assistance allow customers to remain in
5 their home, which we reduce homelessness. By providing
6 legal services, rural residents can remain in their homes
7 and fill the labor pool needed for the job market within
8 their communities. Many of these jobs provide us with the
9 food we enjoy each time we sit in our dining room table.

10 For those who lose their jobs or cannot keep up
11 with the expenses because they work part-time at minimum
12 wage, many cannot access the various assistance programs.
13 Some residents are denied unemployment benefits or
14 government assistance. This is where legal services
15 provide a vision of hope and make their magic work to
16 guide their clients through the process to gain the
17 assistance they need and sometimes are denied. Services
18 offered by legal services assist in preventing even larger
19 issues that can impact the entire community.

20 Supporting funding for the civil legal services
21 makes sense from an economic point of view as civil legal
22 services programs bring federal and other dollars into our
23 state. Legal services provide -- programs provide the
24 services that avoid such income disruption that help keep
25 our community intact. These types of services keep people

1 in their homes who then support the local economy.
2 Without services from Legal Aid, some rural communities
3 lose population in search of assistance programs to urban
4 environments. This creates a spiral effect that leads to
5 layoffs, foreclosures, community collapse which affects
6 the state economy since rural communities play a major
7 role in our state's standard of living. The housing stock
8 in many rural communities is growing worse since
9 homeowners and landowners cannot afford to maintain these
10 older old housing stock, let alone the heating and
11 electric units that help them through the winter.

12 Nonprofit community agencies, in particular
13 legal services programs, are part of the fabric that hold
14 our community together and in particular keep many of our
15 residents safe.

16 As I work with customers with their utilities, I
17 find myself working through other social ills, first by
18 referring customers to the few agencies that are available
19 in their communities. Much attention is given to the poor
20 urban environments as it should be, but let us remember
21 that the rural folks suffer sometimes even more because
22 they suffer in isolation. Lack of transportation to get
23 to social agencies is a major problem. For some,
24 traveling to our urban communities is very stressful since
25 they are not accustomed to urban car patterns and crowds

1 of people. Some rural folks do not have access or know
2 how to obtain free cellphones. Social agencies may have
3 difficulties at times making contact with rural agencies
4 with the rural community because many do not have phones
5 and transportation. Public transportation is not in
6 existence for many, many of the elderly and do not have --
7 and they do not have their children around to drive them
8 to agencies or even to the doctor when they are ill.

9 Sometimes people will ask me how does a consumer
10 advocate from a utility company get involved. Poor people
11 sometimes don't know how to make contact, and they contact
12 what limited phone listing they have, and sometimes it's
13 National Grid. National Grid then, phone representatives
14 contact me as a consumer advocate. They refer that
15 customer to me, and I speak to them. It may have nothing
16 to do with their utilities.

17 I will not allow, when I become aware of someone
18 suffering under domestic violence, I will not allow that
19 phone call to go by. If it doesn't have anything to do
20 with utilities, I will always follow up. I received
21 several years ago an award from the domestic violence in
22 Erie County because I had three cases, one right after the
23 other. The first, she died. She was murdered from her
24 partner. The second was a lady who suffered multiple
25 sclerosis. She lost her children in Niagara County. She

1 was placed in Erie County. She was living with a
2 boyfriend who abused her, not physically but mentally.
3 She -- the stress had an effect on her body that she could
4 not even feed herself. Her boyfriend left the apartment
5 one day, and she went into her neighbor's home. That
6 neighbor called National Grid who then referred the call
7 to me. The neighbor said, my neighbor -- she used this
8 word -- escaped her apartment. I got in contact with
9 legal services and other agencies who ultimately assisted
10 this lady in order to gain the energy to leave her
11 boyfriend.

12 When it comes to our rural communities, I became
13 aware of a lady, a senior woman. Her husband seventy
14 years old. She's sixty-five. When her husband became
15 seventy, he began to punch her in her stomach. She would
16 call me when he was napping to discuss her situation. I
17 in turn got different agencies together, legal services,
18 our local office for the aging, a local community-based
19 organization. Collectively we worked as a team, and
20 ultimately I don't know what was the end result, because
21 obviously for confidentiality and so forth. But one thing
22 that I do know is that because I know she was afraid
23 because she had no income. She never worked outside the
24 home. She was afraid to leave her husband. She's
25 probably still with him. But in the end I believe what

1 took place was that the local community-based organization
2 and the office for the aging and in particular her primary
3 physician are all aware of her situation. So if the
4 primary physician sees any scarring or bruises, then there
5 is something in place that can alert of any further
6 domestic violence. Many people in rural areas suffer in
7 isolation.

8 The impact legal services has in assisting
9 customers assisting social programs to help pay utility
10 bills and purchase food benefits, benefits the local
11 economy. Low-income families spend most of their money in
12 their communities and which affects the local merchants.
13 As a result, the majority of the benefits flow into our
14 local economies. Thank you very much for this
15 opportunity.

16 JUSTICE LIPPMAN: Thank you. And thank you for
17 explaining how I think the private sector contributes to
18 these partnerships that ultimately require the assistance
19 of legal services and that ultimately, as you say, make
20 communities work, and it's all an ensemble task that,
21 again, in the end provides desperately-needed legal
22 assistance. And thank you for your role in the private
23 sector and for making the connections that help people.

24 Now, Joseph Fruscione, we're ready for your
25 testimony, and you're the vice president and commercial

1 branch manager of M&T Bank?

2 JOSEPH FRUSCIONE: Yes, sir. Good afternoon,
3 Chief Judge Lippman and distinguished panelists. Thank
4 you for the opportunity to allow me to the testify on the
5 importance of civil legal services in New York and in
6 particular for our rural customers and how those services
7 benefit the local business community.

8 As you noted, my name is Joe Fruscione. I'm the
9 branch manager of the M&T Bank's One M&T Plaza Office in
10 downtown Buffalo. We previously had submitted our
11 testimony, Judge. What I would like to do is just hit
12 some of the highlights if that's okay with you?

13 JUSTICE LIPPMAN: Sure. Appreciate it.

14 JOSEPH FRUSCIONE: Terrific. M&T Bank is a
15 Buffalo New York based regional bank with retail locations
16 across the state. In the Buffalo region we have over 70
17 retail branches, a residential mortgage lending group, and
18 a commercial lending office. M&T has about 6,000
19 employees in the Buffalo region. In addition to
20 traditional bank services, M&T Bank has a charitable
21 foundation that supports various organizations. Even in
22 difficult economic times, M&T has maintained its active
23 role in supporting our communities.

24 M&T has long held the view that healthy
25 communities are the foundation of successful businesses.

1 This belief lies at the heart of M&T's community banking
2 philosophy. Over the past ten years the foundation has
3 made 147 million dollars of grants to nonprofit agencies
4 that are focused on improving the quality of life in our
5 communities and assisting the economic environment where a
6 customer's employees live. These can include such rural
7 communities as places like -- I made a note, I would like
8 to hit them all -- Springville, Rushford, Corfu,
9 Lyndonville, Olean, Fredonia. So outside the city of
10 Buffalo in some of these rural areas where we have offices
11 and we support those communities as well.

12 One such organization that we support is Legal
13 Services for the Elderly, Disabled, or Disadvantaged of
14 Western New York whom our foundation has supported for
15 over fifteen years. At M&T we recognize --

16 JUSTICE LIPPMAN: Let me ask you a question.

17 JOSEPH FRUSCIONE: Yes. Yes.

18 JUSTICE LIPPMAN: Why does it matter to you?
19 You know, I think that one of the great benefits of these
20 hearings is where people are really counterintuitive to
21 some as to why they would be advocating legal services.
22 Why does it matter to M&T Bank whether people get --
23 people in the community get legal services both on an
24 issue of what's right and on an issue of your bottom line?
25 How does it help you in both regards?

1 JOSEPH FRUSCIONE: Such an excellent question.
2 So one of the initiatives that we have undertaken
3 recently, we have trained our tellers in Buffalo and
4 Rochester, so the people on the front line, to spot signs
5 of elder abuse. And we see it so frequently. It's really
6 on the rise. So tellers now have magnets at their teller
7 stations on what to look for, key signs, and then numbers,
8 phone numbers to call to reach out so that we can help.
9 And I have personally done that. I have personally
10 spotted this where, you know, a young grandson appears is
11 taking advantage of a grandmother or grandfather, and I
12 will pull them aside and say does this transaction make
13 sense to you. And they're maybe not even that coherent,
14 and then we can just call and get them help. So it
15 touches us personally. And I think as a bank M&T
16 recognizes that there's more than taking in deposits and
17 making loans.

18 At the end of the day, sure we want to be
19 profitable, and we have been since 1856 since we opened up
20 our doors. But there's much more that goes into being,
21 you know, a good citizen. And so what's really neat about
22 M&T, and one reason I'm really proud to work at M&T now
23 for thirteen years, is part of our annual review process,
24 so when I sit down with my manager at the end of the year,
25 is community service. That's actually part of the annual

1 review process, and I think that says a lot about who M&T
2 is.

3 JUSTICE LIPPMAN: When people get legal
4 assistance and they remain viable members of the community
5 who have shopped in stores and go to your bank, that not
6 only helps you in terms of you like to see people thriving
7 and as say you want to be good citizens, but it also helps
8 your bottom line?

9 JOSEPH FRUSCIONE: It does.

10 JUSTICE LIPPMAN: And the people that just fall
11 into despair and go on social services or worse, it
12 doesn't help your business aside from not helping your
13 community.

14 JOSEPH FRUSCIONE: You're absolutely right.
15 Judge, that's more than fair. You're absolutely correct.
16 We like to see people get the assistance that they need so
17 that they can be informed, and that helps us.

18 JUSTICE LIPPMAN: And they can buy from a local
19 store and make deposits in a local bank.

20 JOSEPH FRUSCIONE: Absolutely. Absolutely.

21 JUSTICE LIPPMAN: You know, I think that, again,
22 people don't quite understand that this isn't just about
23 giving poor people a helping hand or people of limited
24 means to making our communities work. And all of you I
25 think in different ways are explaining that, that it's not

1 just, gee, it's the right thing to do and sure people need
2 a helping hand. It is, but the community works because
3 the local bank, the utilities, the Catholic Charities
4 organization, everyone sort of contributes to this
5 wellbeing. And I guess what we're trying to get across is
6 that a priority in our state, in addition to all the other
7 obvious things, housing, hospitals, education, that legal
8 services is very much up there in terms of what are the
9 highest priorities really in our society.

10 JOSEPH FRUSCIONE: Absolutely.

11 JUSTICE LIPPMAN: So we thank all of you for
12 coming in and for making that point, and I think that
13 that's what this panel is about. So thanks so much. I
14 appreciate it.

15 JOSEPH FRUSCIONE: Thank you. Thank you.

16 JUSTICE LIPPMAN: Before I call the next -- the
17 last panelist, I would note that Paula Feroletto, the
18 Administrative Judge for the Eighth Judicial District is
19 here, and is a great leader of our courts in this part of
20 the world. And, Paula, a delight to see you and also a
21 delight to see you accompanied by Michael Coccoma, who is
22 the Deputy Chief Administrative Judge in charge of courts
23 outside of New York City, and he will be our last witness
24 today. Thank you. Judge Coccoma is also a Supreme Court
25 Justice of the Supreme Court in the Sixth Judicial

1 District. Mike.

2 JUSTICE COCCOMA: Thank you. Good afternoon.

3 JUSTICE LIPPMAN: Good afternoon.

4 JUSTICE COCCOMA: Chief Judge Lippman, Judge
5 Scudder, Judge Marks, and President Doyle. First of
6 all --

7 JUSTICE LIPPMAN: I might add that Judge Coccoma
8 is the judge of all the courts outside New York City in
9 terms of overseeing their operations. He's got a very,
10 very big job, and he travels all -- it's no -- it's no
11 unique thing for him to be here in the Eighth Judicial
12 District. He gets around the state. So go ahead.

13 JUSTICE COCCOMA: Well, thank you. Thank you
14 very much. And as the last speaker said, I too have
15 submitted my remarks to you I believe late last week, and
16 you certainly have them. And although I would like to
17 read them into the record, I would be happy to entertain
18 any questions that you might have, and I thank you for the
19 invitation and the opportunity to appear and speak on
20 behalf of the Judiciary outside the City of New York.

21 May I begin where I ended my remarks in 2011
22 when I had the privilege of appearing before this panel
23 referencing a quote from the former United States Supreme
24 Court Justice Honorable Lewis Powell, in which he said to
25 the American Bar Association, equal justice under the law

1 is one of the ends for which our entire legal system
2 exists. It is fundamental that justice should be the same
3 in substance and availability without regard to economic
4 status. And his quote explains the reason for judicial
5 civil legal services funding and why it should continue.

6 I want you to know that in preparing my remarks
7 I have spoken with a number of legal providers currently
8 receiving this funding, and I made it a point to call and
9 reach out to them and even meet with some of them. I have
10 solicited reports from the administrative judges statewide
11 who work with me, and I have focused on the progress we
12 have made in judicial training of town and village
13 justices as well as the clerks of those courts, but my
14 remarks are also based upon my personal experiences as a
15 judge on the bench for over nineteen years in a rural
16 county, Oswego County for those of you who do not know
17 where I come from, including my thirteen years as a
18 multi-bench judge sitting in Family Court, County Court,
19 Surrogate Court, a Drug Treatment Court, and being an
20 acting JSC.

21 And I would like to focus my remarks on three
22 topics: first, what I believe the impact this funding is
23 having on rural counties; second, how we have progressed
24 in approving education and training to town and village
25 justices, especially in the area of summary proceedings;

1 and, finally, an update on the progress which has been
2 made in the drafting of simplified uniform forms across
3 the state for use in foreclosure proceedings,
4 landlord/tenant matters, consumer debt, and child support
5 matters.

6 With the continued economic problems facing our
7 state and this country, you have heard, as I know as you
8 traveled across the state and had these public hearings,
9 there's been a significant increase in the number of cases
10 in our courts relating to the quality of life issues --
11 housing, unemployment benefits, child support, divorce,
12 and domestic violence. In rural counties -- in rural
13 counties -- in rural counties, and I emphasize that
14 because I don't want the rural counties to be forgotten,
15 more must be done to fill the need for legal services and
16 access to those services in these areas.

17 In speaking with one legal provider, he informed
18 me that between 2000 and 2009, on average their agency
19 opened 800 cases annually, but now with the economic
20 crisis they are averaging 1,200 cases annually. Many
21 cases relate to evictions of tenants. Judiciary funding
22 that has been provided so far has permitted this agency to
23 hire additional landlord/tenant attorneys, one of whom is
24 placed directly in the local town court to meet with
25 families on court days and to provide legal assistance and

1 advice. We need to bring services to the people in the
2 rural counties.

3 And as was remarked by a number of my
4 predecessors who spoke here today, transportation is
5 probably one of the biggest hurdles. I saw it when I sat
6 as a drug court judge, getting people to the services. It
7 applies when it comes to legal services as well, not just
8 mental health services or drug treatment services.

9 Additional funding to the Legal Assistance of
10 Western New York has permitted the hiring of full-time
11 attorneys to supervise pro bono programs and also to
12 assist in tackling the increasing number of uncontested
13 matrimonials. This agency services fourteen counties, but
14 it only has offices located in six of those counties.

15 The Rural Law Center in Upstate New York near
16 Plattsburgh reports to me that this Judiciary funding has
17 enabled their agency to provide more services to families.
18 And by way of example, this agency -- I presume you know
19 Susan Patnode who is the executive director of that
20 agency. She explained to me a situation where their
21 agency was providing assistance to a woman in a rural
22 county who was purchasing her home on a land contract.
23 Having completed all the payments, she was having
24 difficulty in obtaining a deed from the record title
25 owner. But through agency cooperation, interagency

1 cooperation between the Rural Law Center and LawNY, they
2 located the landlord outside of the State of New York, and
3 with the assistance of pro bono attorneys in that other
4 state, they are working on a successful outcome in
5 securing a deed for their client. This is an example of
6 how the sharing of resources and the collaboration between
7 agencies has helped families in rural counties.

8 And while it remains a challenge to provide
9 legal services to rural counties, especially with the lack
10 of public or other transportation, this funding has at
11 least provided a breakthrough. Some providers have
12 utilized their funding to hire staff and attorneys to
13 train and coordinate pro bono programs with the local Bars
14 in the rural counties. For example, again, LawNY staff
15 coordinates the efforts of pro bono attorneys in Allegany,
16 Cattaraugus, Chautauqua, Chemung, Livingston, Ontario,
17 Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, and
18 Yates County.

19 The statistics which I know this panel received
20 from my colleague, the Honorable Fern Fisher, at your New
21 York City hearing demonstrate that the number of people
22 being served is currently increasing. However, statewide,
23 based upon the 2010 Federal Census, we believe 5,717,644
24 New Yorkers are eligible for free legal services, those
25 living at or below 200 percent of the federal poverty

1 level. We do not know the percentage of those eligible
2 individuals who are in need of legal services in any given
3 year; however, we do know that in 2012-13, with the
4 current funding statewide, we have been able to provide
5 legal services to 4.69 percent of eligible clients. We
6 are really just scratching the surface. However, in the
7 previous year, 2011-12, only 2.19 percent of the eligible
8 population received services statewide. Once again, this
9 underscores the need to get more services in place in the
10 individual counties so that those in need can access them.

11 Establishing clinics in rural counties where
12 attorneys have an opportunity to donate a defined amount
13 of time, pro bono is one method of service delivery which
14 is popular, and I urge funding be directed toward the
15 support of clinics in these communities, the promotion of
16 pro bono work, recruitment training, as well as support of
17 pro bono attorneys such as incentives and rewards for pro
18 bono attorneys. Also, better coordination among
19 stakeholders and the Judiciary to locate attorneys in the
20 counties willing to provide pro bono services who will
21 also reach more clients. As I am sure you understand, in
22 the rural counties, connecting the client to the service
23 is especially difficult due to the long distances clients
24 must travel to meet with the providers and the lack of
25 accessible transportation.

1 In the area of technology, judicial CLS funding
2 has provided support to some of these providers for the
3 implementation of word processing, e-mails, case notes,
4 and Westlaw and for other internet-based research in order
5 to better represent clients by case handlers at legal
6 service providers. At Northeast Legal Aid in the Capital
7 District, the funding has enabled support staff to use a
8 system known as Time, T-I-M-E, which is a case management
9 system to check eligibility and do intakes, enter case
10 notes and ticklers, maintain client data, run necessary
11 reports to better manage their work, keep time, and
12 generate time and attendance records, among other things.

13 There's still much which needs to be done in the
14 rural areas, relating to mobile home owner rights,
15 services for domestic violence victims, services for our
16 seniors, our veterans, and services in the area of
17 employment law, education law, and land sale contracts.
18 The challenge is how to provide civil legal services over
19 a large geographic expanse. And may I suggest the
20 acquisition of more mobile vans staffed with attorneys and
21 paralegals and law students as an idea worth pursuing.

22 The Task Force has recommended expanding the use
23 of telephone and video conferences in remote areas, and
24 that is certainly an idea worth pursuing. A pilot project
25 testing the use of video conferencing for some court

1 conferences involving attorneys or unrepresented
2 individuals who live in remote areas will also expand
3 access to justice.

4 A program well worth highlighting, and I know
5 Justice Scudder is familiar with this, is the pro bono
6 appeals program which is currently in place in the Third
7 Department and will be instituted -- I believe it's under
8 way now -- here in the Fourth Department. It's a good
9 example, again, of collaboration between the Bar and in
10 this case the New York State Bar, private attorneys
11 specializing in appeals, and the Rural Law Center.

12 Let me turn to our town and village courts.
13 Over the past two years we have retooled our education and
14 training programs through the Office of Justice Court
15 Support for town and village court justices, recognizing
16 that these are the courts that generally have first
17 contact with many of our poor in the rural counties. We
18 certainly realize that it is not only the judges who must
19 be aware and stay current in the area of summary
20 proceedings but the court clerks as well. These clerks
21 are the ones on the front lines dealing with
22 self-represented litigants, and they too must be able to
23 assist these people to a certain extent. We as judges and
24 lawyers concede that a court clerk must be cautious not to
25 give legal advice. A clerk does, however, need to be

1 aware of the procedural rules in regards to summary
2 proceedings to better assist the litigant, such as
3 directing litigants to the do-it-yourself forms available
4 on the OCA website. The Office of Justice Court Support
5 has expanded its court clerk training in all regards just
6 this past year.

7 In an effort to expand the reference materials
8 available to town and village justices, the Office of
9 Justice Court Support has reviewed the Justice Court
10 Manual on Summary Eviction Proceedings, which is published
11 by Legal Assistance of Western New York. The document has
12 proven to be a very comprehensive reference guide, and the
13 Office of Justice Court Support intends to work closely
14 with this organization in an effort to promulgate the
15 document statewide and to our town and village judges.

16 The Task Force to Expand Legal Services has
17 recommended more training and support materials for these
18 courts in all areas, but particularly in the area of
19 landlord and tenant cases. To assist in this endeavor,
20 the Task Force prepared a bench card for landlord and
21 tenant cases that was distributed to our judges in
22 September 2013.

23 The Office of Justice Court Support takes very
24 seriously the issue of ensuring that town and village
25 judges are well trained in the area of summary

1 proceedings, especially as it relates to cases where there
2 are unrepresented litigants. Every year during the taking
3 of the bench certification course, which newly-elected and
4 appointed non-attorney judges are required to take prior
5 to assuming office, judges are given instructions and
6 training materials as it relates to procedures relating to
7 summary proceedings. In 2014, new and expanded training
8 will be provided to all town and village justices, and
9 this course is already in the development stages.

10 And, finally, let me turn to the topic of forms
11 simplification. This is one of the issues unrepresented
12 litigants face. The complexity and the lack of uniformity
13 of our court forms makes its a daunting hurdle for these
14 people. Thus, we have devoted resources and set up
15 subcommittees to address the creation of uniform
16 simplified forms in the areas of landlord/tenant, consumer
17 debt, foreclosure, and child support matters. Our efforts
18 to revise the forms to plain language format and the
19 uniformity of both forms and procedures continues.

20 The development of uniform simplified forms is a
21 challenge because of the varied practices statewide. Our
22 subcommittees recognize this but are making progress in
23 revision. To date the following forms have been completed
24 by the subcommittees and approved by both Judge Fisher and
25 myself: the uniform landlord and tenant nonpayment answer

1 form and consumer debt answer form, a foreclosure
2 preliminary conference order form, and a child support
3 modification form.

4 In addition, a subcommittee has recommended that
5 the consumer debt procedure that exists in the City of New
6 York be adopted in the rest of the state. These would
7 include a notice of a pending case mailed by the court to
8 the defaulting defendants and statewide requirements for
9 obtaining a default judgment. It is also recommended that
10 all courts charge families similarly for name changes when
11 there are multiple children. Some courts charge one fee
12 per family while others charge for each child. Both
13 Judge Fisher and I ask that these forms and uniform forms
14 be approved for statewide implementation either by the
15 Chief Administrative Judge or the Administrative Board as
16 appropriate.

17 In conclusion, I encourage continued
18 collaborative effort between the Judiciary, local Bar
19 Associations, and Legal Aid providers. All of their
20 efforts to date deserve our praise and support as they are
21 helping thousands of New Yorkers, but unfortunately they
22 are not enough to avert the crisis which is upon us. I
23 recommend continued funding so that new ideas to stem the
24 tide of the overwhelming need for civil legal services
25 representation for our most needy citizens can be

1 provided.

2 As my time draws to a conclusion, I again thank
3 you for the opportunity to highlight some of my concerns
4 and that of my colleagues, the administrative judges from
5 around the state, and to give you an update on how we are
6 progressing in our efforts to provide equal justice. Only
7 the Bar and the Judiciary truly can understand and
8 appreciate how important it is that in our courts a level
9 playing field is provided for all who enter through the
10 courthouse doors. Thank you. And as I said, I would be
11 happy to entertain any questions.

12 JUSTICE LIPPMAN: Thank you, Judge Coccoma.
13 Thank you for emphasizing the good that's been done with
14 the funding that we get to promote the legal services
15 outside the city and the partnerships that go into making
16 that work. I think Judge Marks has a question.

17 JUDGE MARKS: Yeah. Judge Coccoma, with regard
18 to the town and village courts, it's true, isn't it, that
19 most of the judges in those courts are not lawyers?

20 JUSTICE COCCOMA: A large percentage. The
21 further away from the metropolitan areas, Syracuse,
22 Buffalo, you know, downstate, the further away you get
23 into the rural counties, most of the judges are
24 non-attorney judges. So the challenge for Justice Court
25 Support is the continual training of those judges.

1 JUDGE MARKS: Isn't it so developed then --
2 isn't it a particularly compelling situation when someone
3 walks into a town and village court without a lawyer that
4 the judge, him or herself has no formal legal training, is
5 that something that we should be particularly concerned
6 about?

7 JUSTICE COCCOMA: Yes, we should. And, you
8 know, I should add that the Office of Justice Court
9 Support, under our current director, Nancy Sunukjan, has
10 retooled the education training of town and village judges
11 and the clerks. We've actually reconstituted the panels,
12 the education training panels, gone over the entire
13 curriculum. We have put it online so these judges -- and
14 one of the complaints we have heard from these judges is
15 the ability to get to the training, the in-person training
16 that we are having. Now they can sit in their homes in
17 the evening, go online, and take the courses necessary,
18 including the testing that they are required to do in
19 order to satisfy their ethical obligations and their
20 training obligations.

21 But, yes, what you say, the fact that you have a
22 non-lawyer judge who is there without formal legal
23 training and pro se litigants or unrepresented litigants
24 who, you know, are overcome by the issues that bring them
25 into court is a double-edged prong.

1 JUSTICE LIPPMAN: Okay. Thank you, Judge
2 Coccoma.

3 MR. DOYLE: Judge, briefly. Judge Coccoma, I
4 know when the issue of the form simplification was first
5 raised I was on one of these panels and offered the State
6 Bar's assistance and help in that regard, and I again
7 offer it. We have twenty-seven substantive law sections,
8 including a Family Law section and a Real Property Law
9 section that are filled with experts in these areas. And
10 if at any point you or the group, the subcommittee that is
11 working on the forms, if you would like us to identify
12 people who would be willing voluntarily to give you any
13 insight, we're more than willing to do that for either the
14 ones you have developed now or going forward.

15 JUSTICE COCCOMA: Thank you for that offer,
16 President Doyle.

17 JUSTICE LIPPMAN: Okay. Thank you. And I want
18 to thank everyone for being here. I thank Judge Coccoma.
19 And I think the things that the judge emphasized are
20 really things that we have heard all day, starting with
21 the dean, Dean Mutua, and the law school students, local
22 officials, business community leaders, and the Judiciary
23 of how important legal services are to the lives of our
24 communities here in the Fourth Judicial Department and
25 around the state.

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So these hearings have really greatly helped us to try to look at the state of civil legal services in New York and to figure out, help us to try and figure out what funding is needed to, again, as we started today, to eliminate or at least greatly narrow the justice gap in our state. So thank you all for being here. This has been a tremendous assistance, and have a good day in this beautiful Buffalo weather. We were going to do the hearing in February, but we decided to do it now. Thank you.

(Whereupon the proceedings concluded.)

* * *

C E R T I F I C A T I O N

I certify that the foregoing pages are a correct transcription of the proceedings recorded by me in this matter.



JILL R. DRASZKIEWICZ
Official Court Reporter

APPENDIX 11:

**Written Statements Submitted at the Third Department
Hearing Held on September 17, 2013**

Written Statements Submitted at the
Third Department Hearing on September 17, 2013

Dean Penelope Andrews (*Dean and President, Albany Law School*)

Michael DeBenedetti (*Client of The Legal Project, accompanied by Tia Sullivan Hock*)

Hon. Thomas DiNapoli (*New York State Comptroller*)

Mark N. Eagan (*President and CEO, Albany-Colonie Regional Chamber*)

Denise V. Gonick (*President and CEO, MVP Health Care*)

Jason Keller (*Client of Legal Aid Society of Northeastern New York, accompanied by Laura Dwyer*)

Hon. Carmelo M. Laquidara (*Rensselaer City Court*)

Karen L. Murtagh (*Executive Director, Prisoners' Legal Services of New York*)

Michael O'Donnell (*Client of Legal Aid Society of Northeastern New York, accompanied by Kristie M. Cinelli*)

Laurie Schaible (*Client of Empire Justice Center, accompanied by Saima Akhtar*)

Arthur J. Siegel (*President of the Board, Court Appointed Special Advocates of New York State*)

Courtney Slade (*Veterans Justice Outreach Coordinator, Albany VA Medical Center*)

Joseph Sluszka (*Executive Director, Albany Housing Coalition Inc., Veterans Housing and Services*)

Hon. Margaret T. Walsh (*Family Court Judge, Albany County; Acting Supreme Court Justice, Third Judicial District*)

Hon. Thomas P. DiNapoli
New York State Comptroller



**STATE OF NEW YORK
OFFICE OF THE COMPTROLLER**

The Chief Judge's Hearing on Civil Legal Services

September 17, 2013

Appellate Division Third Department

Court of Appeals

20 Eagle Street

Albany

Testimony of New York State Comptroller Thomas P. DiNapoli

Chief Judge Lippman, Chief Administrative Judge Prudenti, Presiding Judge Peters, Bar Association President Schraver, and distinguished guests.

I am honored to be with you today at the Chief Judge's Hearing on Civil Legal Services in New York.

As Comptroller of the State of New York, I am the Chief Fiscal Officer of the State. My Office engages in continuous oversight of the State Budget and is responsible for auditing the payment, as well as the results, of monies spent.

New York State's enacted budget for State Fiscal Year 2013 –14 is projected to total \$96.4 billion, not including federally funded spending. This figure, known as the State Funds portion of the budget, represents all State taxes and non-tax revenues that are available for spending during the fiscal year in areas where federal funds are not available.

The State continues to face budgetary challenges. We have seen real progress in recent years, both in the State's short-term financial position and in the effort to move toward long-term structural balance. But projected outyear gaps remain significant, at \$1.7 billion in the next fiscal year and \$2.9 billion in each of the following two years.

**TESTIMONY OF NEW YORK STATE
COMPTROLLER THOMAS P. DINAPOLI**

The very difficult fiscal challenges that we have confronted during and after the Great Recession have had negative impacts on virtually every State program, including the one we address here today.

Still, even in the midst of continuing challenges, the current State Budget includes increases for many important programs. Even in tough times, we find ways to provide for essential services. For example, school aid is rising by 5.3 percent on a school-year basis, and Medicaid is rising by 3.3 percent this fiscal year. These are the two largest areas of the State budget, and we all agree they are very important.

So, too, are Civil Legal Services. And even in difficult times, we can and should find ways to support this essential program.

Traditionally, the primary source of funding for Civil Legal Services has been the Interest on Lawyer Account Fund.

As most of us here today are well aware, an extended period of low interest rates, among other factors, has reduced this funding stream dramatically. Planned expenditures from the IOLA fund this year are only \$7 million, compared to nearly \$32 million just a few years ago.

Chief Judge Lippman has come to the rescue year after year – this year targeting \$40 million in Judiciary Budget appropriations for support of Civil Legal Services and an additional \$15 million for IOLA, for a total of \$55 million.

Why is it important to fund Civil Legal Services?

The reality is that a vast number of low income New Yorkers cannot afford a lawyer. And without a lawyer, they cannot adequately navigate legal problems involving some very fundamental needs we often take for granted - including housing, family stability and personal safety in domestic relations, access to health care or education, or subsistence income and benefits.

Who are the people who need lawyers? They're our neighbors. They are victims of natural disasters like Superstorm Sandy and Hurricane Irene, who are trying to rebuild their homes. They're veterans, many of whom are disabled, returning to us from honorable service in Iraq and Afghanistan, trying to rebuild their lives. They're workers in urban, suburban and rural communities, many of whom earn not much more than minimum wage, and need lawyers to represent them in their daily struggles. And those who are unemployed need lawyers just as much as anyone else.

New York has been at the forefront of providing low-income legal services.

Civil legal assistance for the poor in the United States began in New York City in 1876 with the founding of the predecessor to the Legal Aid Society of New York. And under your leadership, Judge Lippman, we remain at the forefront. Since your selection as Chief Judge, you have been tireless in your efforts to shine a light on the legal needs of lower-income New Yorkers, and to provide them access to quality legal assistance.

While my role as Comptroller does not include recommending specific levels of expenditures, I have the responsibility to see that the taxpayers' dollars are used cost-effectively.

It is said that you often have to invest money to save money. I support Judge Lippman's efforts in this spirit – not just because they help lower-income New Yorkers, but because they are in the best financial interest of the State.

The economic consequences to the State of the lack of Civil Legal Services are significant. According to the Office of Court Administration, the lack of representation for low and moderate income New Yorkers places a huge burden on the courts.

In 2010, there were 2.3 million unrepresented litigants, whose lack of representation slowed judicial proceedings for all litigants, including businesses that suffer economic loss every day their legal disputes are not addressed.

In our state Supreme Court, the Office of Court Administration has established standards for timely disposition of cases, from the initial request for judicial intervention to disposition. For expedited cases, the standard is 23 months; for standard and complex cases the standard period is some months longer. Some cases are resolved more quickly than the standard period, while others can take months or years longer.

One of the hallmarks of a positive business environment is a judicial system that resolves disputes without undue delay. To the extent that we can ensure all litigants appropriate legal representation, we enhance both the fairness and timeliness of our state court system – for the benefit of all New Yorkers.

The lack of appropriate representation is a particular issue in certain kinds of cases. Statewide, 49% of New Yorkers are unrepresented at statutorily required settlement conferences in foreclosure cases.

Representation by counsel is still unavailable for borrowers in thousands of consumer credit cases filed in New York City; for too many parents in child support matters in rural, suburban, and urban areas; and for the overwhelming majority of tenants in eviction cases in all four Judicial Departments.

Providing civil legal services can help prevent the downstream societal and financial impacts that stem from problems such as domestic violence and homelessness.

For example, representation in domestic violence matters can cut down on costs associated with lost work days, hospitalization, treatment by physicians, emergency room visits, ambulance and paramedic services, physical therapy, and mental health treatment.

While New York was not hit by the housing market decline and the foreclosure crisis as hard as some other states were, both the State and the nation continue to suffer the repercussions of that decline and the resulting foreclosures.

Many economists tell us that the lingering weakness in housing markets is one reason our national economy is not growing as strongly as we would like.

Representation in foreclosure proceedings ensures that low income homeowners have a fair chance at retaining their homes, thereby stabilizing a still-troubled housing market. Representation of the custodial parent in child support proceedings not only allows parent and child to live with food, shelter and dignity, but protects taxpayers who otherwise would have to pick up the bill.

The evidence of the monetary return to the State of investment in legal services is plentiful. The United States Department of Commerce estimates that every dollar brought into the New York economy generates a multiplier effect of 1.48. Civil Legal Services help generate badly-needed SSI and other benefits. When these dollars come into the State, low-income families and individuals use the money to purchase necessities like food, rent, and clothing. These expenditures in turn support local businesses at the same time they assist those in need.

NERA Economic Consulting analyzed 2011 data provided by the New York State Interest on Lawyer Account Fund and estimates that in terms of benefits won, the total “flow of funds” brought into New York in 2011 alone is \$378 million. Expected future benefits may raise that figure by many additional millions of dollars.

This figure includes federal funds brought into the State in the form of direct federal benefits for individual clients such as: SSI (Supplemental Security Income), SSD (Social Security Disability Insurance), Medicaid, unemployment compensation, earned income tax credits and veterans benefits, much of which represents a return of our fair share of the federal taxes we pay.

Using the Department of Commerce multiplier, NERA concluded that the benefits received in 2011 yielded an overall positive impact on the State economy of \$561 million.

New York is not unique in this respect. Studies performed on behalf of Civil Legal Services providers in Massachusetts, Maryland and a number of other states conclude that such services generate substantial increases in federal revenue.

Since this is clearly a national phenomenon, one might reasonably ask, what is the federal government doing to expand access to these services? The answer is not what we would hope for.

The Legal Services Corporation is the single largest funder of civil legal aid for low-income Americans in the nation.

Established in 1974, LSC operates as an independent nonprofit corporation that provides grants for high-quality civil legal assistance to low-income Americans. It distributes more than 90% of its total funding to 134 independent nonprofit legal aid programs with more than 800 offices. Unfortunately, LSC grants amount to less than 27% of New York's legal services funding. And the trend is not good.

In Fiscal Year 2011, Congress gave the Corporation \$378.6 million for basic field grants. In 2012 that decreased to \$322 million. In 2013, it decreased to \$316 million. For Fiscal Year 2014, the U.S. Senate proposes increasing the field grants to \$400 million; but the House of Representatives wants to decrease them to \$272 million.

And what should we do to move forward, here in New York?

First, let's support the Chief Judge in his efforts. Second, let's continue to find non-monetary as well as monetary solutions, also a hallmark of Judge Lippman's tenure.

While we cannot achieve our objectives with volunteers alone, tapping into the spirit of volunteerism is a key component. It not only combines cost effectiveness with quality; it demonstrates the dedication of the legal profession to the furtherance of justice.

Pro Bono attorneys are indispensable in the effort to ensure access to justice for our most vulnerable and needy residents. My congratulations to the New York State Bar Association, and its members, for its robust pro bono response.

The Association promotes pro bono participation through a variety of recruitment and recognition programs, like the Empire State Counsel Program, reserved for Association members who, during the calendar year, contribute 50 hours or more of free legal services.

These services are provided directly to persons of limited financial means. They also go to organizations whose services are designed primarily to address the legal and other basic needs of persons of limited financial means, or to increasing the availability of legal services to vulnerable and/or low-income individuals.

Our seniors, retired or active attorneys, are leading the way. The Unified Court System's Attorney Emeritus Program works with the organized bar and legal services programs to place attorneys in good standing, who are at least 55 years old with a minimum of 10 years experience, with pro bono opportunities.

During the two-year registration period, Emeritus attorney volunteers commit to serving 60 hours of unpaid legal assistance under the auspices of a qualified legal service provider, bar association, or court sponsored volunteer lawyer program.

And you need not have years of experience to become part of the solution. On September 14th of last year, the Court of Appeals adopted a new rule requiring applicants for admission to the New York State bar to perform 50 hours of pro bono services.

What better way could there be to not only meet the needs of our low-income residents, but also to start off thousands of legal careers with a built-in sense of the spirit of volunteerism and giving back, something that may help define the entire careers of the newest members of the legal profession.

In conclusion, I believe we must support appropriate funding for Civil Legal Services because doing so is fair and equitable. Our failure to do so would exacerbate the already-too-large justice gap that exists between the well-off and the poor. But that is not the only reason.

There is an additional reason that is especially important from my perspective as Comptroller. The numbers show an investment in Civil Legal Services is a smart investment. The payback and benefit, in both qualitative and quantitative measures, is clear.

Thank you for this opportunity to testify.

Dean Penelope Andrews

Dean and President, Albany Law School

**Testimony of Penelope (Penny) Andrews
President & Dean
Albany Law School**

Thank you for the invitation to speak today. This is a topic that is personal and important to me – and one that I am very passionate about.

I am Penny Andrews, President and Dean of Albany Law School. I am here to speak on the role of law schools, and particularly Albany Law School, in serving those people in our communities who have little or no access to the justice system.

I am Albany Law School's 17th President & Dean and the first female President for the school since it opened in 1851. I have a B.A. and LL.B. degree from the University of Natal, Durban, South Africa and an LL.M. Degree from Columbia University School of Law.

Before joining Albany Law, I was the Associate Dean for Academic Affairs and Professor of Law at the City University of New York School of Law. Prior to joining CUNY, I was a Professor of Law and Director of International Studies at Valparaiso Law School, and a Chair of Law at LaTrobe University in Melbourne, Australia.

I was born and raised in South Africa and had the privilege of working with pioneering public interest lawyers during law school and after graduation. During my student years in the dark days of apartheid, I worked at a Legal Aid Clinic at the University of Natal. My first position after law school was at the Legal Resources Center, South Africa's premier public interest law firm. It was started by the late Arthur Chaskalson, who was one of President Mandela's lawyers during the infamous treason trial of the early 1960s, and who later became Chief Justice of South Africa.

I was also privileged to work for several years in Melbourne, Australia, where I worked with a community of lawyers who had spent their careers fighting for the rights of Australia's Aboriginal population.

I am proud to say that my teaching and advocacy have been dedicated to the cause of access to justice, and especially access to civil legal services. I have published extensively on topics centered on gender and racial equality, South African legal issues, Australian legal issues, and international justice.

Thank you for the opportunity to testify on the role of law schools in expanding access to civil legal services in New York State. I want to especially thank Chief Justice Lippman and this Task Force for their leadership to address this critical issue.

Testimony
The Task Force to Expand Access to Civil Legal Service in New York

We believe, at the core, that law schools, as significant institutions in our society, have a responsibility to instill a sense of service and commitment to justice in our students. As has been the historical tradition, it is essential that law schools continue to try to inspire in future generations of lawyers and leaders the belief that our legal system will only be credible when it serves the entire population, and not just a select group.

Albany Law School has always been committed to the project of access to justice, and, through our various academic and extra-curricular programs, we believe that we have and continue to play an important role in ensuring that the seminal values of the profession are pursued by our graduates. Albany Law School has a rich history of promoting justice for all, and that history is reflected in our curriculum, our faculty's scholarly work, the type of educational culture we have fostered for our students, and the kind of opportunities we offer and encourage and support our students to pursue.

I will outline below some of the specific details of the opportunities that we offer and the work that we are engaged in regarding the pursuit of access to justice. These include the work of our Clinic & Justice Center, our Pro Bono Program, our faculty research and scholarship, and the collaboration with our community partners. From these activities you will see our unequivocal commitment to providing access to civil legal services for all.

The Albany Law Clinic & Justice Center

As many of you know, clinical education is an important part of a law student's training. Every year at Albany Law, through the clinics, one-third of our students assist hundreds of individuals and families who might otherwise not have legal representation. In addition to providing this vital service, Albany Law students are learning to practice law with compassion and sensitivity to the needs of their clients. In this way they are able to represent people who are often economically and socially marginalized and who typically lead vastly different lives from those of our students.

In the **Civil Rights and Disabilities Law Clinic**, students represent individuals with disabilities who are struggling against systemic barriers that interfere with the enjoyment of their civil rights and independence.

In the **Family Violence Litigation Clinic & Immigration Project**, students argue cases in court on behalf of persons who have suffered violence at the hands of intimate partners or family members, including immigrant victims of such violence. Students learn about the particularized issues that pertain to domestic violence and the laws and procedures of the relevant adjudicatory bodies, including the family court and certain agencies of the immigration system, including the Department of Homeland Security, United States Citizenship and Immigration Service. But for the work of this clinic, many of these victims would have no representation, and some would otherwise likely be deported.

In Albany Law's **Health Law Clinic**, which has been in existence for over two decades, and serving some 180 clients a year, students assist individuals who experience legal problems stemming from HIV/AIDS or cancer. In this clinic students have successfully assisted poor individuals living with chronic health conditions to secure health coverage after wrongly being denied health benefits by their health carriers. Students also help arrange future care for children whose parents are terminally ill, with a range of services, including writing wills, obtaining disabilities benefits, addressing disability discrimination, maintaining housing arrangements, and more. Students witness families who are worn down by long drawn-out battles with insurance companies, and celebrate in relief and joy when they are successful in securing coverage for life prolonging medications, which had previously been denied as "experimental" in nature. Students also conduct community education and outreach programs to increase access to legal services.

In the **Litigation Clinic**, students represent clients in hearings and appeals involving unemployment benefits. All cases are referred by the Legal Aid Society of Northeastern New York.

In the **Tax and Transactional Law Clinic**, students represent individuals with tax matters. In this area of law we have seen an increase in clients. In particular, there has been a dramatic increase in the amount of working-poor individuals who desperately need legal representation. For example, many of those who submit claims based on the earned income tax credit are audited at a greater rate. Many clients in the tax clinic have lost their jobs, or fallen out of the tax system due to illness, drug addiction, domestic violence and a host of non-tax issues. Clients have been victims of identity theft, fraudulent employers, and incorrect assessments by the IRS. Last year the students in this clinic represented 92 individuals.

Albany Law's **Field Placement** program provides more than 140 placements in various areas of law practice in the Capital Region, including criminal defense, public interest advocacy, government law and more. Our partners for all of our programs are extensive and critical to our work. These partners include the Legal Aid Society, Empire Justice Center, Disability Advocates, The Legal Project, numerous public defender offices, and several more. All our endeavors at closing the justice gap would come to naught without these partners.

Pro Bono work

Even before Chief Judge Lippman announced that all law students must perform 50 hours of pro bono service to be admitted to the New York Bar, Albany Law School had a vibrant student-run, faculty supported, pro bono program. We applaud Judge Lippman's rule and believe it will be instrumental in creating an even deeper commitment and passion for pro bono work in many students as they move through their careers. In response to the rule, Albany Law School committed its resources to hire a full-time pro bono fellow, who supports our student and faculty in the Pro Bono Society. In our pro bono program, students commit to completing at least 15 hours of service through a project each semester, although many students volunteer in the 50- to 100-hour service range. Last year, 200 students completed nearly 2,500 hours over the course of the year.

Our projects include:

Staffing of the Albany County Family Court Help Desk, The Animal Law Project, Anti- Human Trafficking Project, Immigration Assistance Project, Elder Law Project, The Iraqi Refugee Assistance Project, LGBT Rights Project, Kinship Care Project, Veteran's Rights Project, and the Volunteer Income Tax Assistance (VITA) Project.

I'd like to give two shining examples of pro bono activities:

Senior Citizens' Law Day is an annual event we have hosted at Albany Law for 18 years, where 300 to 500 senior citizens and their family members spend the day at the School attending seminars on topics such as: Health Care Proxies and Living Wills; Medicaid; Medicare; Powers of Attorney; Putting Your Affairs in Order; Small Estates; Voting; and Trusts; Identity theft; and Future Care Planning for Adult Disabled Children. Working with the New York State Bar Association, attendees sign up for one-on-one sessions with volunteer attorneys throughout the day. In the past we have provided free transportation. Last year our keynote speaker was Elizabeth Loewy, Class of '84, who heads the Elder Abuse Unit for the Manhattan District Attorney's Office. This year's event is scheduled for October 26.

Another flagship event we host each semester, organized by the students, is Veteran's Service Day. About 50 veterans typically attend, with each attendee registering beforehand for a 30-minute session with a volunteer attorney. This year the students are planning to expand this program into a bigger event. October 19 is our next Veteran Service Day.

We are working collaboratively with the Legal Project to fund and hire post-graduate fellows, who will work full-time with their Domestic Violence Project. This is possible as a result of Office of Court Administration funding, which will be used to leverage additional support from law firms and businesses to fund the program in the long term.

FACULTY

I'd like to talk briefly about what some of our faculty are doing regarding access to justice:

Professor David Pratt works with students to assist the Legal Project in New Orleans with succession/ probate matters.

Professor Ray Brescia works with students on researching the foreclosure process in conjunction with the Empire Justice Center.

Professor Mary Lynch serves on the Albany County Coalition Against Domestic Abuse, the Albany City Domestic Violence Court Working Group, and the Albany County District Attorney Domestic Violence Advisory Committee

Professor Ira Bloom assists Legal Aid clients with wills and advance directives.

Professor Connie Mayer serves as the Law School's representative on the Statewide Law School Access to Justice Council which is part of Judge Lippman's Task Force to Expand Access to

Civil Legal Services in New York. This task force will be meeting in October to discuss and begin implementing the ways that law schools can help fill the legal services gap.

Professor Laurie Shanks has represented indigent clients in both criminal and civil matters throughout her legal career.

Professor Michael Hutter is a member of the NYSBA Third Department Pro Bono Appeals Program, where he voluntarily takes on appeals assigned to him by the program. As President of the Albany County Bar Association, he has directed the Association to increase pro bono participation and work with Albany Law School in its efforts. This includes hiring a part-time attorney to work with students.

Professor Dorothy Hill integrates “access to justice” routinely in her Introduction to Lawyering classes, including a lengthy discussion about “dedication to justice and the public good” as an essential characteristic of an expert lawyer. This past semester she used a case example of access to justice issues faced by many transgender individuals.

Professor Nancy Maurer chairs the board of Disability Rights New York, Inc., which this year was designated as the statewide agency for providing “Protection & Advocacy” to people with disabilities. DRNY has been engaged in major litigation on behalf of clients with disabilities in discrimination matters – access to services, rights to live in least restrictive environment, rights of prisoners with disabilities, education rights, and others, for over 20 years, and has partnered with Albany Law’s Civil Rights & Disabilities Law Clinic for the last 10 years.

Professor Paul Finkelman recently wrote a brief in a Michigan affirmative action case which deals with access to justice on a variety of levels. He believes he is about to be named amici in an establishment clause case involving Greece, N.Y., which begins its city council meetings with Christian prayers, making it hard for non-Christians to come before the town to ask for legislation affecting them. He teaches a course on slave law and legal history and provides students with historical perspective on the power of law to perpetuate injustice and the power of law to combat injustice.

I could continue. The point is that Albany Law School is deeply committed at all levels to ensuring access to justice. Continuing this work, and supporting our students who want to pursue public services, takes resources. Our students are weighed down by their student loans. There are some mechanisms that alleviate the loan after the student performs a certain number of years of service. We also have a limited Loan Repayment Assistance Program for students who pursue a career in public service. One of my goals as Dean is to raise more funding for the program.

Ensuring access to justice is central to the mission of the law school. Our work—in our clinics, through our pro bono program, and by our faculty --has a direct impact on the community. But more importantly, it helps students identify a passion for justice, and for service, that will make a difference throughout their careers. Based on recent history and the path of our alumni, we know that Albany Law students go into public service, continue to engage in pro bono work, and

answer the call to close the justice gap as a direct result of their experience at Albany Law School. We are proud of this tradition, and of our contribution to access to justice.

Our work at Albany Law would not be possible without the partnerships of those organizations and institutions that provide access to civil legal services in the great state of New York. The combined efforts in training, mentoring, advocacy and service with these organizations and institutions make our efforts at Albany Law possible and meaningful.

I have been the President and Dean at Albany Law School for just over one year, and there are many things that I am heartened by in this role. One is being part of the community of those who provide access to civil legal services to marginalized, struggling and poor New Yorkers. I am particularly heartened by the commitment of Chief Justice Lippman and this committee.

I applaud you and thank you for allowing me this opportunity to testify before you.

Denise V. Gonick

President and CEO, MVP Health Care

Denise V. Gonick, Esq.
President and CEO of MVP Health Care

Denise V. Gonick is President and CEO of MVP Health Care. Prior to being named President and CEO, Ms. Gonick was President of Operations. She has also served as Executive Vice President, Administrative Services and Chief Legal Officer.

Prior to joining MVP's Senior Management Team, Ms. Gonick was a member of Empire Blue Cross Blue Shield's legal department. Before that, she spent several years practicing public sector labor law, representing the State of New York at the Governor's Office of Employee Relations, and the interests of school principals through the School Administrators Association of New York State.

Ms. Gonick is a graduate of Hofstra University with a bachelor's degree in Creative Studies and earned her JD from Albany Law School.

Testimony
The Task Force to Expand Access to Civil Legal Service in New York

September 17, 2013

Thank you for the opportunity to testify this morning on the importance to the business community of expanded access to civil legal services in New York State. I want to especially thank Chief Justice Lippman and this Task Force for their leadership to address this critical issue.

I am Denise Gonick, President & CEO of MVP Health Care. This issue is important to me both as a leader of a health care company and as an attorney who was educated in Albany and practiced law in New York State. As a not-for-profit health plan with over 30 years of experience, the MVP family of companies serves approximately 733,000 members across New York State, Vermont and New Hampshire. The company and our more than 1,600 employees are committed to improving the health and wellness of those we serve so that our communities can be among the healthiest in the nation.

Central to our vision of creating healthy communities is a desire to expand access to quality health care services for the most vulnerable among us. As part of our mission, MVP collaboratively partners with health care providers and state and federal governments to provide a critical safety net. Universal access to health coverage is a pillar of our work in the communities we serve. It's important that we all have the peace of mind that our health care needs—regardless of our socio-economic standing—will be met. Through Medicaid Managed Care, new subsidized Exchange coverage under health care reform and Medicare Advantage programs for our seniors, we are committed to this goal. I believe expanding access to civil legal services similarly supports a vision of equitable and healthy communities that benefits us all.

In many respects, our health care challenges parallel those of the court system and access to justice. The current economic climate has caused great despair for many in our communities. The expanding number of low income families is at record levels and more individuals and families are temporarily poor and out of work after many years as income providers. Many are facing new health care and legal issues, among other challenges, because of this. Losing health coverage due to changes in underlying employment and financial situations is something we're working to remedy and hope that health care reform will provide a pathway to alleviate some of

this burden. Health reform will make access to health care easier for all Americans, particularly the uninsured and underserved, but it comes with hurdles that could further the demand for legal expertise.

At MVP, we are very focused on the health of our communities. However, good health is determined by far more than health behaviors and clinical interventions. For example, the Robert Wood Johnson Foundation has been collecting and analyzing data to measure the relative health of every county in the United States for the last several years. Socio-economic factors, such as rates of unemployment, the percentage of children living in poverty and inadequate social support play as important a role in overall health as the time one spends seeking medical care. We understand that health care needs are often secondary to basic needs like food, clothing, safety and shelter. A diabetes diagnosis, for example, is often an afterthought for someone that is preoccupied with mounting bills, the threat of foreclosure or an unsafe living environment due to domestic violence.

By ensuring equal access to civil legal services, a family can—at little or no cost—attain the assistance of a trained legal professional to navigate the very difficult New York State justice system. When local systems aren't prepared to recognize the signs and symptoms of a lack of basic needs, small legal issues can find their way out of local courts and into advanced court systems. Victims and other individuals struggling to meet their basic needs are often seen as the criminals themselves and often denied access to help.

When a community is made up of individuals who have equal access to health care and civil legal services, its strength is evident through improved health outcomes, home ownership, safety within all of the communities, business growth, entrepreneurship and healthy schools with strong academic outcomes. Business will grow as the community grows. Strong businesses—who demonstrate their ability to do well—attract other businesses. Growth breeds new growth.

It's also good business to provide access to representation so that businesses can have better access to the court system for resolution of business disputes. The 2.3 million unrepresented litigants slow judicial proceedings for all litigants, including businesses. Civil legal matters that are important to business growth can be addressed in a timely manner and they will continue to exist.

In closing, businesses want to do business in a community that ensures that justice is available to all. As Katherine Wylde, the President and CEO of the Partnership for New York City testified in 2010: “A fair and just legal system is essential to sustaining the competence of business in our City and to encouraging investment and growth. This is why ensuring adequate representation for lower income New Yorkers dealing with our civil legal system is so important to the economic future and well-being of our City.”

In the Capital District, the non-profit community contributes substantially to the economic well-being of the Capital Region. The local legal services providers – Albany Law Clinic and Justice Center, Legal Aid Society of Northeastern New York, The Legal Project of the Capital District Women’s Bar Association, Empire Justice Center, the Albany County Bar Association, Unity House of Troy and the Workers’ Justice Center all contribute in many positive ways to the economic and social well-being of our community.

Equal access to justice, without regard to income, is fundamental to our system of justice and integral to our society. New York State can serve as a model in access to legal services for all its residents regardless of income. Working together with legal services providers and law school clinics will ensure that justice is delivered thereby creating strong communities which foster healthy individuals and families, strong businesses and positive outcomes for all.

Mark Eagan

President and CEO, Albany-Colonie Regional
Chamber

Mark N. Eagan
President and CEO
Albany-Colonie Regional Chamber

Mark Eagan serves as president and CEO of the Albany-Colonie Regional Chamber. The Regional Chamber is the primary business advocacy organization for the Capital Region. It represents 2,200 organizations that employ more than 110,000 area citizens.

Eagan is a 26-year veteran of the chamber profession. Prior to coming to the Capital Region in 2008, he held executive posts with chambers in Mansfield and Brockton MA, followed by a decade of leading the chamber of commerce in South Bend, IN.

He holds a Bachelors degree from Stonehill College and a Certificate in Executive Management from the University of Notre Dame. His is also a graduate of the Institute for Organization Management at the University of Delaware and the Center for Creative Leadership. He has earned the professional designation of Certified Chamber Executive.

Eagan served as chairman of American Chamber of Commerce Executives, an association that represents more than 6,000 chamber professionals in the United States and Canada. He is past chairman of the Massachusetts and Indiana associations for chamber of commerce executives and is chair-elect of the Chamber Alliance of New York State. He served as chair of the U.S. Chamber's Institute for Organization Management Board of Regents.

He was named Chamber Executive of the Year by the New England Chamber Association in 1996 and by the Indiana Chamber Executives Association in 2006.

TESTIMONY OF
MARK N. EAGAN, CCE
PRESIDENT AND CEO
ALBANY-COLONIE REGIONAL CHAMBER

AT HEARING ON CIVIL LEGAL SERVICES
September 17, 2013

Good morning, I'm Mark Eagan, president and CEO of the Albany-Colonie Regional Chamber. Our organization is the primary business advocacy organization for the Capital Region. We represent 2,200 organizations that employ more than 110,000 area citizens.

The ultimate goal of the Regional Chamber is community prosperity. Our goal isn't simply that businesses do well; we want our citizens and communities to do well. We serve as a catalyst for growth and prosperity by providing leadership, advocacy and services. We want every citizen to have the opportunity for success.

I am pleased to be here today to express our support for funding civil legal services for low and moderate income New Yorkers.

The proper functioning of a free society and an efficient economy require the availability of a fair and balanced legal system to adjudicate legitimate disputes and preserve individual rights. This mechanism for resolving disputes must be available to everyone. Access to legal services at all socio-economic levels is crucial to community stability. Legal assistance can be critically important for the individuals involved, as issues related to marriage; divorce, immigration, child custody, housing employment, and many other facets of daily life can be successfully resolved.

A breakdown in the legal system and an increase in the unmet need for services burdens the economy as a whole. Individuals and businesses alike suffer from the consequences that lack of access to legal services can create. For a business, productivity is enhanced when the number of workdays missed due to legal problems is reduced or eliminated. While contributions to business activity are certainly not the primary objective of these efforts, they are nonetheless an important consequence.

The business community has to have confidence in our justice system. Uncertainty as to who can get help, who can't, and whether it will change creates instability and distrust, and creates the perception that New York State is volatile in its dissemination of services, whether they be legal, economic, tax-related, regulatory, etc. Businesses need to know that these services are available not only for themselves if they need them, but also for those who might sue them. The more that services are available up front, the less costly it is for everyone.

Having legal representation and fair access to the system enhances a fair outcome, decreases the amount of time needed to resolve disputes, and may prevent a case from proceeding to formal litigation, saving businesses, taxpayers and the judiciary time and money.

The Capital Region's economy is known for our jobs in state government, higher education and health care, along with our growing technology sector; however our small businesses are a critical part of our economic engine. Many of these businesses have struggled through this economic recession and some wouldn't have survived without the services provided by civil legal service providers. They match women, minorities and low-income business owners with pro bono attorneys with corporate law experience for consultations in areas such as business formation and incorporation, zoning, real estate, and employment issues to help sustain and grow microenterprises in our community.

It's good business to fund civil legal services because of the positive economic impact on the State of New York and its citizens. A 2011 study demonstrated a cost savings of close to \$85 million from representation of victims of domestic violence and \$116 million from preventing unwarranted homelessness. A 2012 report found that providing civil legal assistance resulted in nearly \$1 billion in Federal benefits being brought to New York State. These studies demonstrate that for every \$1 invested in civil legal services, \$6 is returned to New York State.. In addition, the work of civil legal service providers reduces New York State's excess federal tax burden by 2%.

I am confident that further study of the economic benefits generated by the advice and brief service given by civil legal services providers, as well as their representation in child support proceedings, will demonstrate even greater economic benefits for all of New York.

Providing civil legal services prevents the downstream societal and financial impacts that stem from problems such as domestic violence and homelessness. For example, representation in foreclosure proceedings ensures that low and moderate income homeowners have a fair chance at retaining their homes.

Recognizing the importance of supporting nonprofit organizations in connecting residents to services, our Chamber also has a Nonprofit Business Council with nearly 500 members.

Our region's legal services providers – Legal Aid Society of Northeastern New York, The Legal Project of the Capital District Women's Bar Association, the Empire Justice Center, the Albany County Bar Association, and the Workers' Justice Center all contribute in many positive ways to the economic and social well-being of the Capital Region.

I understand that you will hear from a number of legal services clients who are veterans and from local non-profits that serve veterans, including the Albany Housing Coalition. These services are but one example of why legal services are essential to ensuring access to justice for all low and moderate income New Yorkers, especially those who have served our country honorably.

In closing, I thank you for the opportunity to testify today. The lives of thousands of New Yorkers are directly affected by the assistance provided through civil legal services. Without this mechanism for access to the judicial system, many of these persons would be unable to resolve very difficult very issues. Capital Region businesses want to do business in a community that ensures that justice is truly available to all. Ensuring adequate representation for lower income citizens dealing with our civil legal system is so important to their rights and to the economic future and well-being of all New Yorkers.

Thank you.

Hon. Carmelo M. Laquidara

Rensselaer City Court

**Testimony by
Carmelo Laquidara
City Court Judge, Rensselaer, NY**

**Civil Legal Services in New York State
Submitted to:
Hon. Chief Judge Jonathan Lippman
Panel on Civil Legal Services**

**September 17, 2013
NYS Court of Appeals
Albany, New York**

My name is Carmelo Laquidara and I have been a part time City Court Judge in the City of Rensselaer since 2007. I appreciate the opportunity to participate in this hearing and I thank Judge Lippman and the Task Force for making the funding of civil legal services for low income New Yorkers a priority. It is quite apparent that there is a growing crisis in New York State Courts when it comes to unrepresented litigants in civil cases.

City Courts throughout the state deal with the greatest volume of cases than any other court within the court system. For the vast majority of civil litigants, City Courts will be their only exposure to the New York State Court system. Yet, it is more common for a litigant to be unrepresented in a City, or Town and Village Court, than in any Superior Court.

As a City Court Judge, the vast majority of civil cases I preside over involve pro se litigants. In 2012 Rensselaer City Court heard 472 civil cases, 167 Landlord/Tenant cases, 51 small claims cases and 48 commercial claims. Of these 738 civil cases 99% involved both sides being unrepresented. That's nearly 1400 pro se litigants in a one year span in only a modestly busy city court. These staggering numbers of pro se litigants greatly impacts the quality of justice for all parties and increases the amount of litigation in courts throughout the state.

In addition to the unfairness suffered by the litigants, a judge presiding over hearings and trials with pro se litigants has to walk a fine line between being fair and impartial and not rendering legal advice to a litigant. This can be even more problematic when one litigant has an attorney and the other is pro se. Pro se litigants are clearly disadvantaged when appearing against a represented party and often look to the Judge for assistance in their case. Having a greater percentage of litigants represented will not only help ensure justice for them, it will also relieve the Judge of having to engage in a difficult balancing act. I am absolutely certain that many valid claims are lost because the pro se litigant does not present evidence that comports with

the law. Pro se litigants simply do not know the law, understand burdens of proof or the rules of evidence.

In the past 6 years, there have been a few times where a litigant in a landlord/tenant case was able to secure the services of a civil legal services attorney. Having an attorney from The Legal Project, or Legal Aid assist these litigants make a tremendous difference and invariably lead to an equitable and efficient outcome. These agencies provide a well trained and experienced attorney to assist the litigant in what would otherwise be an overwhelming and terrifying experience.

In one of the reports previously submitted to this commission the following statement was made. "Because Judges and court personnel must spend countless hours trying to assist the unrepresented litigant in navigating our complex court system, our courts have become less efficient and the quality of justice has suffered for every New Yorker." I couldn't agree more.

As a Judge I have also witnessed attorneys who are representing a client attempt to take advantage of their unrepresented opponent. The pro se litigant often believes that the opposing party who is represented receives better treatment from the Judge and that the system is skewed in favor of a litigant who is fortunate enough to be able to afford an attorney. There are countless cases in which I wish had the authority to assign an indigent litigant an attorney in order to level the playing field against the represented party.

Because I am a part time judge, I am also a defense attorney in both criminal and civil cases. I have often represented clients in Landlord/Tenant cases, small claims matters and even in family court where the opposing party is unrepresented. This often makes the prospects of reaching a quick and equitable resolution quite difficult leading to additional adjournments that further bog down a court system with increasing case loads.

My legal experience also includes serving as a Prosecutor in Rensselaer County for seven years. The majority of the cases I prosecuted were domestic violence cases. The victim of domestic violence, whose interest I was representing in the criminal justice system, often had collateral cases they were litigating in civil courts. For example, a divorce proceeding in Supreme Court, a child custody matter in Family Court or an eviction proceeding. As a prosecutor I always had to be cognizant of these other proceedings especially if the other proceedings involved sworn testimony by the unrepresented victim of domestic violence that could possibly impair the prosecution of the case against their abuser. The victim of domestic violence, without the advice and assistance of counsel in their civil case, could unwittingly hurt their chances of receiving a modicum of justice in the criminal case and thereby be further victimized by a court system that is supposed to be there to protect them.

It is clear that more funding is needed for organizations such as The Legal Project and Legal Aid to assist low income New Yorkers in their civil cases. In addition to more funding, thanks to the efforts of Chief Judge Lippman, any current law student who seeks admission to the New York State Bar is required to provide 50 hours of pro bono service prior to being admitted. This will certainly help legal services programs in their effort to respond to the growing needs of low income litigants who otherwise have no access to legal advice and representation in civil cases. Importantly, this also helps sensitize these soon to be lawyers to the importance of giving back to the community through pro bono.

Thank you again for the opportunity to provide this testimony, and for all of the time and attention that the Task Force and the Judiciary has given to the vital issue of support for civil legal services in New York State.

Hon. Margaret T. Walsh

Family Court, Albany County; Acting Supreme
Court Justice, Third Judicial District

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Judge Margaret T. Walsh, elected in 2004, successfully ran the first primary campaign for family court in Albany County's history. In addition to her duties as Albany County Family Court Judge, Judge Walsh presides over the Integrated Domestic Violence part for Rensselaer County as an Acting Supreme Court Justice.

Judge Walsh is the Lead Judge in Albany County for the New York State Child Welfare Court Improvement Project, which is a cross-systems collaboration designed to shorten the time children spend in foster care. She is a member of the Statewide Multidisciplinary Child Welfare Collaborative, a group that provides guidance to local Court Improvement Projects.

Judge Walsh formed and chaired the Court/Community Partnership for the purpose of ensuring communication among governmental agencies and schools regarding children and youth who are the subject of PINS, juvenile delinquency, and neglect petitions in family court. She is a member of the Albany County Juvenile Justice Steering Committee, and served on the Albany City School District's Think Tank (a panel whose focus is the evaluation of the district's alternative education programs) and on various subcommittees of these groups.

Judge Walsh is a member of the New York State Permanent Judicial Commission on Justice for Children, chaired by former Chief Judge Judith S. Kaye. She also serves on the New York State Advisory Committee on Judicial Ethics.

Prior to becoming a judge, she worked in private practice, and served on the Law Guardian and Assigned Counsel panels in Albany County. She was employed as an Assistant Albany County Public Defender, and served as Assistant Corporation Counsel to the City of Albany and Assistant Commissioner of the City's Department of Assessment and Taxation. She received her B.A. from Manhattan College in 1986 and her J.D. from Brooklyn Law School in 1991.

Good Morning Chief Judge Lippman, Chief Administrative Judge Prudenti, Presiding Justice Peters and Bar President Shraver. Thank you for giving me the opportunity to present my views about unmet civil legal services needs.

I have served as a family court judge in Albany County since 2005 and as an acting supreme court justice since 2009. In the latter capacity, I have presided over an integrated domestic violence part since the beginning of this year. Before becoming a judge, I maintained a private practice in which I handled, among other things, family law and matrimonial matters. I have worked in my county's public defender's office, in my city's corporation counsel's office, and I have served as assigned counsel in both criminal and civil proceedings. I was a member of the law guardian panel, serving in Albany County Family Court for four years.

In all of these capacities, I have encountered the problems that are caused by the absence of counsel. But it is my judicial experience that compels me to conclude that expanded access to counsel is vital to our ability to deliver access to justice.

In Albany County, we have effective representation for indigent litigants insofar as the attorneys' skills are concerned. The effect of the attorneys' excessive numbers of clients, however, is delay in court proceedings and frustration on the part of attorneys and clients, all of whom would like more time to be devoted to individual cases. Resources for indigent litigants are, without doubt, insufficient.

And we have many litigants who are not represented at all notwithstanding their desire and need for representation. This class of litigants includes people who work and who cannot afford to hire an attorney. Our county's bar association has a pro bono program, and two agencies, the Legal Project and the Legal Aid Society, often assist litigants in this situation. As helpful as these agencies are to the litigants they represent, they do not have enough resources to

be anywhere near a complete remedy to the problem. There remains, therefore, an enormous gap in legal services in family court and in the integrated domestic violence part as I see it. I am often loath to reject an application for assigned counsel but I am often compelled to do that notwithstanding my awareness that the appointment of counsel will lead to a speedier and better resolution of the case.

There are legal concepts that could assist litigants, if the litigants were aware of them. While judges explain certain concepts and procedures to litigants, there is a limit to what we can do, as well there should be. The unrepresented litigant's position simply remains different from the litigant who has counsel. That difference can ultimately cause delays in resolution of cases concerning children and can even cause negative outcomes. For example, an unrepresented parent in a PINS proceeding files a legally insufficient petition, the child's attorney moves against the petition, and the motion is granted, leaving the parent without the assistance of the court and the child without the intervention he or she needs. If the parent had counsel, that would not happen.

It is worthwhile to point out, I think, that when people don't know the law, they don't know which facts are important, and so they sometimes fail to state them. For example, an unrepresented mother who does not know that a man can be estopped from denying paternity might not say that the man has held himself out as the father for the child's entire life. Instead, a DNA test might be ordered with her consent and then her child could be left without a father, resulting in financial hardship and psychological damage to the child. Similarly, issues of standing with respect to custody of children are not raised by unrepresented litigants because they are unknown to them; parents' consent to access to their child might be unnecessarily granted. In child support matters, we may only appoint counsel at the point where a liberty

interest attaches, that is, when a respondent is faced with incarceration as a possible penalty for contempt or failure to pay child support (and then it is only the non-custodial parent who is entitled to counsel). But often, both custodial parents, who seek child support, and non-custodial parents, who must pay it, should have access to counsel. Only in this way can they be made aware of the legal issues involved in the court's decision-making and consequently provide information to the court that they might otherwise not know was relevant.

Unrepresented litigants are in peril not only because they don't know the law, the rules of evidence or the procedures of the court: as a litigant, a person is often under the sort of stress that can impair his ability to perform as he ordinarily would and to make himself understood the way he ordinarily could. So, a self-represented litigant, as opposed to one who has a trained, objective advocate, faces the peril of not being properly understood. Quite often, in the frustration of not being able to adequately express their positions, litigants shake their heads and become silent, or ask to leave the courtroom altogether and abandon the proceedings. This leaves the court bereft of potentially valuable information. Attorneys help the process of good decision-making by speaking for litigants who are unable to speak for themselves. They also help to avoid unnecessary psychological stress. I received an anonymous letter a few months ago that began this way: "Dear Judge Walsh, I first want to apologize for not standing in your court when speaking with you. I am representing myself and get so nervous due to the passion I have for my child and the court room." I have no rule about standing while speaking in my courtroom. The writer must have observed an attorney rise to speak and thought that I could have been offended by his or her failure to do that. While this event was unnoticed by me, the litigant was clearly concerned that he or she had offended the judge who makes decisions about his or her child. Given all the things that people have to worry about when they come to family

court, and the effect that their stress can have on their children, what a shame that this parent had that additional burden. An attorney's presence would, necessarily, have avoided that.

My final point is this: our response to children's needs should not be compromised by our policies regarding their parents' income. Access to counsel should not be limited to litigants whom we deem indigent or who are relatively well-off. We have learned through long and hard experience that the first years of a child's life last forever; decisions made in our courts therefore have a life-long impact. The subject of unmet legal services needs is therefore not academic. Unmet legal services needs have direct, demonstrable consequences for children. Meeting legal services needs has a cost, but no intervention that keeps children out of harm's way comes on the cheap. I thank you for your commitment to expanding access to counsel in civil matters. And thank you for giving me the opportunity to testify today.

Joseph Sluszka

Executive Director, Albany Housing Coalition, Inc.,
Veterans Housing and Services

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September 8, 2013

Chief Judge Lippman, Presiding Justice Karen K. Peters, Chief Administrative Judge A. Gail Prudenti and New York State Bar Association President David M. Schraver.

I am Joe Sluszka, Executive Director of the Albany housing Coalition. Thank you for the opportunity to share with you our experiences with homeless and at risk veterans and their civil legal needs.

We are a provider of housing, employment services, peer support, and access to health care and legal support for approximately 300 homeless and at-risk veterans each year. Since 2010 we have partnered with the 3rd judicial district in developing and implementing veterans treatment courts - VetTrak- in each county in the district, providing training and coordination of peer mentors to assist veterans appearing before these problem-solving courts.

We also provide access to pro bono attorneys for those requiring assistance with civil matters.

We have been serving homeless veterans for 23 years in the capital district and it is timely to appear before you today as we seek to eliminate those barriers to an independent and successful life for these veterans in our local communities. Timely, because the Veterans Affairs Secretary Eric Shinseki has vowed to end veterans homelessness by 2015.

Here in the capital district there are an estimated 900 veterans either homeless or at imminent risk of homelessness. The VA estimates that nationally 1.4 million veterans live below the poverty line and 10% of them risk homelessness because of their low income. This is a growing number as is the number of veterans reaching 62 each year.

We encounter many veterans with civil legal needs. Those needs include help regaining a driver's license, paying off debt, and the largest we see: child support issues. The typical scenario is a homeless veteran with no job who resists all efforts to secure meaningful employment on the books, has no checking account, and generally flies below the radar.

It takes my case managers time and energy to peel away the veterans excuses to get him to admit and accept his real reason: unresolved child support issues. Facing this with the assistance of a pro bono attorney is critical and resolves a major barrier for the veteran's long term housing and employment success.

REMEMBERING AND SERVING THOSE WHO SERVED



Veterans also file claims for VA compensation through a network of trained and certified claims representatives. These services are offered in each county either by the NYS Division of Veterans Affairs, county veterans service officers, or local organizations like the VFW and American Legion. VA will only accept claims from a certified representative. This is not an area for pro bono work, nor is it needed at the initial claims level.

When veterans wish to appeal their rejected claim, we have seen some hire attorneys who are skilled and experienced in the nuances of the claims process: it is more an art than a science. Others use the original claims representative. Again, this is not an area for an attorney with no experience or knowledge of the VA claims regs. It is an area where training and mentoring in pro bono representation of a veteran with a benefits appeal could expand the pool of available, qualified representatives for a low income veteran.

Over the years, we have linked veterans with pro bono attorneys in a hit or miss fashion. For the last two years we have been fortunate to have a local retired attorney through the Legal Aid Society of Northeastern NY' s Private Attorney Involvement (PAI)_program. Michael O'Brien has become our go-to for our veteran's civil needs. He has handled a variety of complex and time-consuming issues. Veterans need local linkages and access to people like Mike. i attribute his success to the fact that he is a veteran. Veterans are more willing to trust other veterans and in fact much of our current work with Iraq Afghanistan veterans is built around a peer support model.

Local legal aid societies are the community's resource to services and all need to have the resources to coordinate and attract pro bono attorneys who themselves are veterans to assist our low income veterans.

On the topic of wills and trusts we have had limited success with our homeless population. Legal Aid's "Wills for Heroes" program provides pro bono services but these veterans seem reluctant to discuss end of life preparation or state that they have no family or have nothing of value to pass on. Clearly, an education initiative would be of value and we will work with the Legal Aid Society to develop such a program for local veterans. .

In conclusion the needs of low income veterans dovetail with the needs in the general population. However, reaching these veterans will require peer support efforts - veterans helping veterans - to most effectively meet their needs. Funding for local legal aid programs is needed to ensure that they have the infrastructure to recruit, train and support pro bono and staff attorneys. Thank you for supporting such funding and for allowing me the opportunity to share the experiences of the Albany Housing Coalition.

Courtney Slade

Veterans Justice Outreach Coordinator, Albany VA
Medical Center



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Testimony of
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To Chief Judge Lippman and Distinguished Members of the Panel: Thank you for the opportunity to testify on the important topic of civil legal services available to veterans within the 18 county Albany VA Medical Center catchment area. I am a social worker and the Veterans Justice Outreach (VJO) Coordinator for the Albany VA Medical Center, covering all 18 counties by means of outreach and care coordination.

The Veterans Justice Outreach (VJO) Program's mission is to, "Partner with the criminal justice system to identify Veterans who would benefit from treatment as an alternative to incarceration. VJO will ensure access to exceptional care, tailored to individual needs, for justice-involved Veterans by linking each Veteran to VA and community services that will prevent homelessness, improve social and clinical outcomes, facilitate recovery and end Veterans' cyclical contact with the criminal justice system." In addition to the criminal justice partnership, the VJO program has been given the opportunity to develop civil legal clinics within the Albany VA Medical Center, where agencies like the Legal Aid Society can provide legal consultation directly to veterans within the walls of the VA hospital.

Additionally, the Veterans Justice Outreach Program (VJO) is a prevention based program established to support the goals of the President and Secretary of the Department of Veteran Affairs to end homelessness amongst veterans. Both criminal and civil legal issues can contribute greatly to veterans becoming homeless. Having available resources for veterans through partnerships with various legal agencies in the community expands the options clinicians and case managers can offer veterans who might be having legal difficulties. Additionally, having these resources on the VA campus also reduces some of the travel and access issues

veterans may experience out in the community. The VJO program is focused on reducing barriers and creating better access for our justice involved veterans and partnerships with these agencies greatly increases and supports this mission.

Aside from direct outreach to veterans criminally involved in the criminal justice system, the VJO program works to partner and collaborate with agencies that have similar goals in mind to better assist veterans within the community. Veteran's issues are very unique, both to the civilian population in general, as well as within the veteran population itself. At times the legal matters our veteran population are seeking assistance on, are directly related to their service time and at other times can be related simply to basic needs (i.e. housing issues, bankruptcy and financial, family court matters, wills, etc.). Having legal clinic programs like The Legal Aid Society and The Legal Project make it more convenient for veterans to address both their medical issues while on the VA campus and also address specific legal concerns, at times within the same day. While the VA strives to make appointment availability flexible and conducive to veteran's schedules, there is added convenience in having a community partner providing similar opportunities under the same roof.

Clinicians, physicians, nursing staff, administration, and all staff are given information on these legal clinics. They have provided positive feedback as to their patient's experience with the programs they have utilized. The best referral for assistance often comes from a fellow veteran. Having a supportive healthcare system that wants our veterans to succeed often motivates a veteran to seek help, when they may have otherwise settled for the first alternative. Legal services have expanded options for veterans and at times saved money for them.

As the VJO coordinator, I am hopeful that programs affording free legal services to veterans are able to grow and develop beyond the current status, to best serve our veteran population. With greater access to legal services for our low income veterans and their families, we hope to better address collectively the healthcare needs of these veterans and decrease stress with these partnerships. Support and continuance of these resources appears vital to keeping these goals spirited.

.

Michael O'Donnell

Client of Legal Aid Society of Northeastern New
York, accompanied by Kristie M. Cinelli

**Summary of Testimony & Biography
Of
Michael O'Donnell**

Michael O'Donnell is a 61 year old veteran. He went to college for one year and then he voluntarily entered the military where he served in the Army Airborne in Vietnam. He suffers from post traumatic disorder, anger management and depression. He also has permanent shoulder and foot injuries. All of these are related to his service in the Army Airborne.

He currently resides in Albany with his son, Derrick. He works at Maggie's Café in Albany as a dishwasher, though he does whatever he can, working an average of 21 hours a week. Mr. O'Donnell will testify regarding his experience with Legal Aid Society of Northeastern New York's Private Attorney Involvement ("PAI") program and his visitation and custody matters. For both, he was represented by LASNNY PAI volunteer, Mike O'Brien, Esq. Mr. O'Donnell will talk about prevailing on his visitation matter which led him to seek custody which he was granted by the Court.

Testimony at the Chief Judge's Hearings on Civil Legal Services:

My name is Michael O'Donnell and I speak today as a client of Legal Aid Society of Northeastern New York. For the past two years, I have worked with Michael O'Brien, Esq. a volunteer I was referred to through LASNNY's Private Attorney Involvement (PAI) program.

I'm a 61 year old veteran of the war in Vietnam. I went to college for one year and then I voluntarily entered the military. I served in the Army Airborne in Vietnam. As a result of my service in the Army Airborne, I suffer from post traumatic disorder, anger management and depression. I also have permanent shoulder and foot injuries. I now work as a dishwasher at Maggie's Café in Albany.

My son Derrick, who is 15, is my only child. I lost contact with Derrick when he was moved from his mother's home, located in Summit, to a State foster care facility in Gloversville on April 6, 2011. I hadn't seen him since March 19, 2011. My son blamed me for being placed in foster care. I was the one that called CPS because his mother was using drugs. At that time, I was not comfortable with taking my son in because I didn't think I could do it. Because of this, my son did not want to talk to me and I didn't know how to reestablish contact him.

I met Mike O'Brien through LASNNY's PAI program called "Veterans Legal Project" in July of 2011. I met with him for what I thought was just advice to learn what I needed to do to see my son. He ended up telling me that he would represent me in my visitation matter in Schoharie County. Mr. O'Brien suggested that I write to my son and build a relationship with caseworkers at Berkshire Farms. Mr. O'Brien and I attended many hearings, meetings and teleconferences with the Court and Berkshire Farms in that first year. Mr. O'Brien would drive me to the hearings and meetings because I did not have a car to get to Schoharie County.

Finally, in the summer of 2012, my son asked me to visit him. I did and after that we had visits at least every other week at Berkshire Farms or my home. In December of last year, my son asked me if he could live with me. He wrote a letter to the Judge stating that this is what he wanted. He even told the Judge that he realizes that no one can help him but himself and is committed to self-improvement. Once my son and I started seeing each other, I began to realize that I was capable of taking care of him and that I wanted him to live with me.

In March of this year, I was awarded full custody of Derrick. He moved in with me at the end of June. If I didn't have Mr. O'Brien, I would not have my son. No one would have listened to me or cared enough about my situation. I didn't even have a car to go to Court to try to represent myself or go see my son. At the time I met Mr. O'Brien I was on Social Security making \$1103.00 a month. I couldn't afford a lawyer. If it weren't for LASNNY and Mr. O'Brien, my son would still be in foster care and I would still be trying to see him. After I received custody and my son moved in, Mr. O'Brien continued to help me. For example, when I enrolled my son into school at Albany High, I was told that he would be placed in special education classes. My son had a 94.1 average for the last school year at foster care. This didn't seem right. I called Mr. O'Brien and he got my son into regular classes. He has been there for me, even when it didn't involve Court. I am forever grateful to the Mike O'Brien and Legal Aid Society of Northeastern New York. Veterans like me really need legal representation – thank you for helping to increase funding for these great programs.

Michael DeBenedetti

Client of The Legal Project, accompanied by Tia
Sullivan Hock

Chief Judge Jonathan Lippman and Members of the Panel: Thank you for the opportunity to testify on the difference that receiving free civil legal services made in my life.

In August of 2007, I, Michael DeBenedetti, stood on the yellow footprints at recruit Depot Paris Island where I had started my journey to become a United States Marine. During my time spent in the Marine Corps, I was deployed in 2009 to 2010 to Iraq. Towards the end of deployment I sustained a permanent back injury that limits what I can do in the Civilian world and I was honorably discharged from the Marine Corps. Due to my injury I have missed time at work which significantly decreases my income. During this time I was still waiting for my disability rating. I could not work and had no funds in which to pay my bills.

I had missed enough time at work which led to me becoming behind my mortgage. Wells Fargo was the Loan holder and I contacted them to explain my situation. They first stated they would be willing to work with me in deferring my payments. But after giving them every piece of information that they asked for, I still was receiving no help from the loan officer that was assigned to my case, consistently leaving message with no return call. When I eventually did get a hold of someone it was never the loan officer assigned to my case and all they could tell me was that they themselves could not take a payment and that I needed to speak with her. This went on for more than a month which pushed me further behind and when I finally did get in contact with her I was two months Delinquent and at that time she stated there was nothing she could do for me. She stated that it was now out of her hands and she would have to speak with her loan department to check and see if anything could be done to defer these payments to the end of the loan now that my

house would be in foreclosure. At this point I had become fed up with getting the run around from Wells Fargo and was sick with worry that I would lose my home.

I asked my counselor at the VA what options I had and they suggested that I get in contact with The Legal Project. I called right away and that same day, I spoke with Tia who treated me with respect and was quick to help me with setting up an appointment to discuss my legal matter. I met with The Legal Project attorney, Christy, and she looked over my documents and gave me peace of mind knowing that she could help me to keep my house. *Finally*, I had some help. Within a week Christy made arrangements with the bank for a reinstatement fee. Once I received the reinstatement fee I could pay this and my mortgage would be current and I would no longer be in foreclosure. I was able to do this and get my house out of foreclosure. I was so relieved. Slowly, my credit report started to go back up again. During the 2-3 month journey Tia, Christy and the other Legal Project staff have been nothing but respectful, courteous, and professional. I would definitely use their services again if I needed to, (although I hope I don't need to) and would also recommend them to anyone I know who needs legal help and can't afford it.

It is so important for people like me to be able to get help from programs such as The Legal Project. In my case, I am a veteran who served our country, and who was injured when deployed and still was facing a terrible crisis in almost losing my home. If not for The Legal Project, I could have lost the home I worked so hard for. Please do all that you can to make sure that these important programs have the help that they need, so they can help people like me and all of the others who find themselves in situations beyond their control. My story could have turned out very differently if not for The Legal Project. Thank you for your time and attention.

Laurie Schaible

Client of Empire Justice Center, accompanied by
Saima Akhtar

Testimony before the Chief Judge's Hearings on Legal Services

Good afternoon. My name is Laurie Schaible, and I would like to thank the Honorable Chief Judge Jonathan Lippman for this opportunity to speak on a personal experience I had where I desperately needed legal advice and assistance.

I now live in the town of Selkirk, but up until a few years ago, lived in a home in the Town of Coeymans.

In 1986, my family was impacted by a traumatic event that changed our lives. Because of this event, I was left on my own to care for my three young children. Thankfully I was able to keep my home, but I left my job to take care of my children and I needed help. I enrolled in welfare to receive benefits that enabled me to provide for my family while staying at home. My children were not school age at the time. I am very grateful these benefits were there when we needed them.

I received assistance for close to 6 years, in one form or another, from HEAP to food stamps, child care, and cash assistance. For some of that time I worked and so my benefits would change.

Over the years, I had asked for information on many occasions from the Albany County Department of Social services, regarding the services received and the related costs, but did not receive any information.

A few years ago – 20 years after I had received public assistance -- I was in the process of selling my home, and had to once again contact DSS for information on the lien that was added to the mortgage for my home, because of the benefits I received. This was a condition of getting assistance – I had to let the county put a lien on my home.

This time I did receive a response. The paperwork arrived, but the dollar amount was a surprise to me. The county said I owed them \$40,000 – and they only gave me an adding machine tape that ended with \$40,000 – no other information or explanation.

Luckily, I had kept most of the paperwork I received those many years ago from DSS, stating the benefit my family was getting and the related dollar amount.

I did not know what to do or who could help. This was very distressing, since I was afraid this lien could stop the sale of the home. I was also very sad, to think that all these years I had been a part of the working class, and also committed many hours of volunteer time, which were not going to help in this situation. The money owed, was the money owed.

Finally, I was referred to Empire Justice Center, specifically Susan Antos. I contacted her via email and almost immediately, someone responded. A law student was quickly assigned to my case (Jessica). She spent many hours going over the paperwork with me, researching

history and law regarding benefits in New York State. It turns out the County was asking me to repay three federal benefits that are not supposed to be included in these repayments – food stamps, child care and HEAP.

Susan was instrumental in contacting the appropriate individual at DSS to review the monetary charges and help determine what the end result would be. Suffice it to say, the total I owed DSS after selling my home, was reduced by over \$20,000. If not for the assistance of Susan and Jessica I would not have received much money at all from the sale of the home. Clearly for anyone \$20,000 is a lot of money to have to lose, for my family it was critical to our ability to move on with our lives.

Empire Justice Center provided invaluable assistance, both legally in knowing who to contact and what charges were appropriate, and emotionally by assuring me they could help and would stand by me until resolution was achieved. I am truly grateful for this contribution. If they were not there to help me, I am sure the result would have been much different.

I am now working to hopefully inspire changes in NYS Welfare Laws which would require all recipients to receive a yearly accounting of their benefits received, and also more clearly explain the rights citizens have in relation to welfare benefits.

I want to thank the Chief Judge for helping to provide these services to me and families like mine. It is so hard sometimes to keep going when you think you have nowhere to turn and by making sure legal services is there, you give us all a place to turn in times of need.

Thank you

Jason Keller

Client of Legal Aid Society of Northeastern New
York, accompanied by Laura Dwyer

My name is Jason Keller and I speak today as a client of the Legal Aid Society of Northeastern New York. I have two small children at home with my wife and a third child with special needs who currently lives with his mother. I served in the military and also got into some trouble when I was younger. I got my life back on track and work in construction as a painter and remodeler. My focus is to provide for and take care of my family.

When I was laid off from my construction job, my employer told me it was due to a lack of work and encouraged me to apply for unemployment insurance benefits, which I did. So I was shocked and scared when my employer told the Department of Labor that I should not get benefits because he claimed I was an independent contractor for part of the time I worked for him and that I was fired for misconduct because of an altercation with a coworker. I contacted Legal Aid Society and met with Laura Dwyer. Ms. Dwyer saw that my employer had requested his hearings late and would have to establish good cause for missing the deadlines. She also told me of a statute, for unemployment benefit purposes, that presumes workers in the construction industry are employees and it is the employer's burden to prove that a worker is an independent contractor. She also told me that it would be difficult for my employer to prove misconduct because he admitted he let me go for lack of work, he admitted the coworker hit me, and I did not have any prior warnings for misconduct and in fact was a stellar employee.

The Department notified me that I would have to attend three hearings and Ms. Dwyer represented me at those hearings. Without her, and the Legal Aid Society, I would not have known what to do. Because of the Legal Aid Society, I am receiving my unemployment insurance benefits and am able to pay my rent and feed and care for my children while I look

for work. I am grateful to the Legal Aid Society for what they did for me personally, but also for what they do for people – they give the little guy a voice. I believe everybody should have access to legal representation even if they can't afford a lawyer. I hope you will do all you can to ensure that Legal Aid can continue to help people.

Karen L. Murtagh, Esq.
Executive Director, Prisoners' Legal Services of
New York

**PROPOSED TESTIMONY OF
PRISONERS' LEGAL SERVICES OF NEW YORK
BEFORE
THE CHIEF JUDGE'S HEARINGS
ON CIVIL LEGAL SERVICES**

**Presented by:
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INTRODUCTION

I would first like to thank Judge Lippman and the members of the Task Force for once again holding public hearings to evaluate the continuing unmet civil legal services needs throughout New York State and to assess the level of resources necessary to meet those needs.

As Judge Lippman has so eloquently stated “[e]qual justice is our reason for being in the Judiciary and the profession, and if we don’t have equal justice in these beautiful courtrooms and courthouses then we might as well close the courthouse doors. It doesn’t mean anything.”¹

‘Equal justice’ means justice not only for the haves but also the have-nots, not only for the working poor but also the unemployed poor, not only for the unemployed poor but for the poor in our prisons. Dostoevsky’s often cited quote “[t]he degree of a civilized society can be judged by entering its prisons” has no greater relevance than when viewed in the context of the legal services that we provide to the people whom we imprison. We cannot and do not have a system of equal justice when our prisoners, people who are viewed as lower than the working poor, lower than the poor on welfare, the lowest of the low, are not only denied adequate legal representation, but often denied access to our courts entirely.

Today in New York State, there are approximately 55,000 incarcerated persons of whom 96% are male.² Approximately half of the prison population is African-American; just under a quarter is Hispanic; and another quarter is White. About half (46%) come from the New York City area; 11% come from suburban New York and 42% come from Upstate New York. Ninety percent (90%) of those under custody were born in the United States. Their ages range from 16 to 89. Fifty-nine percent (59%) have children; 4.5% are veterans; and forty-two percent (42%) do not have high school diplomas. Twenty eight percent (28%) of incarcerated individuals read below the 9th grade level and 16% of those cannot read at a 5th grade level. Twenty-five percent (25%) of the prison population is Spanish language dominant. The Department of Corrections and Community Supervision (DOCCS) and the Office of Mental Health (OMH) have identified over 15% of the

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

² State of New York Department of Corrections and Community Supervision, *Under Custody Report: Profile of Inmate population Under Custody on January 1, 2013* available at: http://www.doccs.ny.gov/Research/Reports/2013/UnderCustody_Report_2013.pdf

prison population as suffering from some form of mental illness, although many other reliable sources put the number as high as 30%.

These statistics are relevant because they demonstrate that people behind prison bars in New York State are a mirror image of the poor and the working poor in our communities, all of whom rely on the assistance of civil legal services to deal with the ‘essentials of life’ obstacles they face. They are members of our minority communities who were born into and suffer from the effects of growing up in poverty. Many did not have supportive families and did poorly in school. They range in age from the very young to the very old and many of them are parents and grandparents. Some suffer from mental illness, others from traumatic brain injuries and others from other serious medical issues. Many have drug or alcohol addictions and many were subjected to long-term abuse and neglect as children.

For those who couldn’t overcome growing up in poverty or who were handicapped by their mental or medical illnesses or addictions, prison was a likely outcome. I am not here to, in any way, excuse prisoners from accountability for their poor judgments and actions. Indeed, prisoners pay the debt owed society for those judgments and actions by losing their liberty for the length of their sentences. I am here, however, to argue that, further punishment through the denial of equal access to justice, inevitably threatens both public safety within and outside of prison walls and successful reintegration. The vast majority of prisoners will someday return to their communities of origin. Whether they are successful in re-entering society often depends on the measure of justice and fairness they receive while behind bars.

If Dostoevsky is correct, then it is our job, as lawyers and as judges, to ensure that we provide the same level and quality of civil legal services and access to our courts to those in prison as we provide to those who live and work in our communities. If we can’t do that, then we should follow Judge Lippman’s sage advice and “close the courthouse doors” because ‘equal justice’ really “*doesn’t* mean anything.”³

³ *The Chief Judge’s Hearing on Legal Services, Fourth Dep’t, Oct. 2, 2012* (remarks of Hon. Chief Judge Jonathan Lippman at 5:06 – 6:10).

I. THE CURRENT STATE AND SCOPE OF THE UNMET NEED FOR CIVIL LEGAL SERVICES FOR LOW INCOME INCARCERATED NEW YORKERS CONFRONTING LEGAL PROBLEMS INVOLVING “ESSENTIALS OF LIFE” ISSUES

Most incarcerated New Yorkers are in prison because they were unable to manage the issues associated with the “essentials of life,” including housing, family stability, personal safety in domestic relations, access to health care or education and subsistence income and benefits. While they are in prison, it is easy for society to ignore them. However, of the 55,000 individuals who are currently incarcerated, 54,000 will return to society. If we fail to tend to *their* critical ‘essentials of life’ needs while they are in prison, we do so at our own peril. Failing to tend to the needs of incarcerated individuals, or worse yet, placing incarcerated individuals in environments which have the effect of decreasing their ability to live outside of prison, all but guarantees that upon release they will falter and the cycle will continue.

Prisoners Legal Services (PLS) is a statewide agency created by New York State in 1976 in response to the Attica uprising. For over 37 years, the PLS staff has worked tirelessly to address the civil legal services needs of incarcerated New Yorkers and to help stop the revolving door of incarceration. However, our funding is such that there is a tremendous gap between the civil legal services we have the capacity to provide and the civil legal services needs of our clients.

In 2012, we received 8,242 requests for assistance. Approximately 1,300 of those requests were from prisoners who were being held in solitary confinement as a result of disciplinary hearings. Of those, we were forced to turn away 80% due to insufficient resources. The same is true regarding the 745 people who wrote to us with serious complaints about their medical and mental health care; we were forced to turn away 85% of those cases. We rejected 82% of the jail time and sentencing cases that came in due to lack of staff, and tragically, we were only able to accept 12% of the 559 cases where individuals claimed they were beaten by corrections officers.⁴

No person without legal counsel and advice should face a hearing that could result in their placement in solitary confinement for 23 hours a day for an unlimited period of time; yet, in New York State, thousands of prisoners face such hearings annually. Below are just a few examples:

Randy A. and Patrick C., juveniles serving time in adult prisons, contacted PLS for

⁴While we respond to all requests for assistance and send self help materials and instructional memos where appropriate, these statistics document the number of requests for assistance which we were unable to accept for investigation and representation.

assistance challenging the punishments they received at prison disciplinary hearings. Randy was 16 years old when he was sentenced to 3 years in solitary confinement for running away from a Shock Incarceration Camp after being abused by corrections officers.⁵ Patrick was 17 years old when he was sentenced to 4 years in solitary confinement after being found guilty of assaulting a correction officer. Through administrative advocacy PLS was able to obtain Randy's release from solitary confinement. Through litigation on behalf of Patrick, PLS obtained the first New York State court decision recognizing youth as a mitigating factor at prison disciplinary hearings and finding that a disciplinary disposition of 4 years for a juvenile was so excessive that it 'shocked the conscience' of the justices.

Frank W. has a history of suicide attempts, Bi-Polar disorder and a current diagnosis of Mood Disorder NOS (not otherwise specified). In September, 2012 he informed correctional staff that he had been saving his mental illness medication for a suicide attempt. As a result, Frank was charged with unauthorized medication, contraband, drug use, and drug possession. During his hearing, Frank told the hearing officer that he was feeling suicidal and had been saving the pills to overdose. The hearing officer indicated that he believed that the pills were for self-harm and not for distribution, yet he found Frank guilty and imposed a penalty of 6 months in solitary confinement. PLS' advocacy resulted in the 6 months solitary confinement time being converted to 2 months being locked in his own cell.

No person should be denied essential mental health treatment or medical treatment; yet every day there are incarcerated New Yorkers who are denied critical medical and mental health care. Take, for instance, the case of C.B:

Due to his long-standing serious medical problems, our client, Chris B. is required to self-catheterize four times a day. Medical personnel have told him that it is crucial to maintain the highest level of hygiene, so that he does not develop an infection. He was recently placed in a medium security dorm where the only place he had to self-catheterize was the communal dorm bathroom, which was of questionable cleanliness and offered no privacy. PLS sent an advocacy letter to the superintendent explaining that Chris needed a private room with a sink and toilet so that he could catheterize himself hygienically and privately and within days Chris was moved into such a room.

No person should be held in prison for longer than they were sentenced; yet every day there are people being held past their scheduled release date. In 2012, PLS worked on good time, jail time, sentencing time and parole jail time cases that resulted in over 43 years being credited to prisoners' sentences.

⁵Disciplinary punishments of solitary confinement also result in the denial of any vocational, educational and religious programming and typically a corresponding loss of packages, commissary, phone privileges and good time, the later resulting in extending the individual's sentence.

Children should not be denied the right to visit with their parents; yet total visitation bans are regularly imposed, often for non-visit related incidents, or visitation is simply impossible due to distance and cost.

Andy P. is a 45 year old man who serving a 25 to life sentence for murder. He is now completely paralyzed. He suffers from advanced multiple sclerosis, diabetes, diabetic neuropathy, bi-polar disorder and manic depression. He is fed intravenously. He is cognitively and emotionally aware and cries when his children are mentioned. For years his children were unable to visit him because he was in a prison near Buffalo and they lived in the Bronx. After we advocated for him, he was moved closer to both his father and his children, so they can now visit.

No person who suffers from a disability should be denied a reasonable accommodation and certainly no person who suffers from a sensorial disability should be subjected to solitary confinement; yet such cases occur every single day of the year. Our client, Billy F. is just one example:

Billy F. is a deaf inmate who has been held in solitary confinement since 2005 and is scheduled to remain there until the end of his prison sentence in 2019. Billy was born deaf and has almost no language skills. He communicates only through sign language. Although he is given an interpreter for select meetings and disciplinary hearings, often the interpreter is not even certified. Even more problematic is the fact that Billy is not provided an interpreter for daily interactions with corrections officers. The inability to communicate with the officers results in huge levels of frustration for Billy such as the time when he didn't wake up on time because he can't hear the alarm and C.O.'s threw a bar of soap at him through the cell doors to wake him. In turn, he engages in what DOCCS terms as "misbehavior" and as a result, his solitary confinement term increases.

No person should be subject to excessive use of force at the hands of state employees; yet for 492 out of 559 people who claimed they were beaten last year, due to lack of resources, PLS was unable even to investigate their claims of abuse, much less represent them in court.

The November 2012 Report to the Chief Judge of the State of New York by the Task Force to Expand Access to Civil Legal Services in New York, found that to fill the 80% gap in access to justice for the poor would require a five-fold increase in the current \$223 million funding level for New York civil legal services providers. The gap in access to justice for prisoners is even greater, but the increase in funds needed to fill that gap is far less. The entire funding provided by New York State for civil legal services for prisoners is \$2 million. To completely close the gap in access to justice for prisoners would likely cost the State an additional \$8 million, less than 1/100th of a percent of the entire NYS budget. However, just as the fiscal realities and budget constraints led the

Task Force to refrain from recommending the complete elimination of the 80% gap in access to justice for other civil legal services provides, I am not proposing the complete elimination of the gap in access to justice for prisoners; I do propose, however, that monies proportionally equivalent to what is being set aside for civil legal services funding be set aside for the provision of civil legal services to incarcerated New Yorkers. At the very least, the civil legal services needs of prisoners should be given the same weight and consideration as the civil legal services needs of all other New Yorkers.

II. THE IMPACT OF JUDICIARY CIVIL LEGAL SERVICES FUNDING OF 12.5 MILLION IN 2011-2012, 25 MILLION IN 2012-2013 AND \$40 MILLION IN 2013-2014

For PLS, the impact of the Judiciary Civil Legal Services Funding of \$12.5 million in 2011 resulted in PLS receiving \$48,000. With these funds, PLS hired a full-time staff attorney in our Albany office who responded to over 328 requests for assistance and successfully advocated on many other cases. She also filed two Article 78 petitions challenging the placement of two of her clients in long-term solitary confinement, prevailing on both.

In 2012, with Judiciary Civil Legal Services Funding of \$25 million, PLS was awarded \$60,000, with a restriction that PLS use the money on issues associated with child custody and visitation. As a result, we expanded our case acceptance guidelines to include prison disciplinary cases that involved suspension or termination of visitation and child custody and visitation and support cases. We also updated and revised three family law-related memoranda: *Suspension of Visitation*; *Child Visitation*; and *Child Support Modifications* and created a packet of materials for PLS staff to use in handling child support modification cases.

For most offenders, huge child support arrears raise significant barriers to successful reintegration. Ex-offenders who are lucky enough to get a job often find that most of their small paycheck goes to pay child support; as a result, they are unable to survive upon what little is left and often return to their life of crime.⁶ Thus, having the ability to seek a modification of a child support

⁶New York State Bar Association, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Convictions, *Reentry and Reintegration; The Road to Public Safety*, May 2006. See also: Susan C. Antos & McGregor Smyth, *Public Benefits and Child Support Arrears*, New York University Review of Law and Social Change, New York State Judicial Institute 2006, available at: <http://www.bronxdefenders.org/wp-content/uploads/2013/05/PUBLIC-BENEFITS-AND-CHILD-SUPPORT-ARREARS.pdf>; Miriam J. Auckerman, *Barriers to Reentry: Legal Strategies to Reduce Recidivism and Promote the Success of Ex-Offenders*, Michigan

order is essential to successful reentry. The PLS Child Support Modification Packet consists of everything necessary to prepare draft petitions and related papers to provide to our clients who want to seek suspension of their child support obligations due to their incarceration.

We also began publishing a newsletter specifically targeted to female prisoners entitled “Essentials of Life.” The newsletter addresses a myriad of issues including those associated with child visitation, child custody, maintaining contact with children and avoiding or, at the very least responding to, termination of parental rights actions. We also included articles on termination of parental rights, modification of visitation orders and modification of child support orders in our bi-monthly *Pro Se* Newsletter that we send, free of charge, to over 8500 prisoners.

Finally, we continued to expand our *pro bono* efforts to seek counsel to handle support and visitation related cases.

The \$60,000 awarded in 2012 - 2013 was renewed for fiscal year 2013-2104 with the same requirement that the money be used for child custody and visitation work. We plan to continue our work in this area and hope to make some headway in the area of modifications of child support arrears although the hurdles many of our clients face are still significant.

In *Knights v. Knights*, 71 N.Y.2d 865 (1983), the Court of Appeals held that incarceration was insufficient grounds to reduce support even though prisoners have no means to pay. The obvious result was that arrears for many prisoners accrued to exorbitantly high levels. In response, in 2010, amendments were passed to Domestic Relations Law §236 and Family Court Act §451 that identified incarceration as a situation that would qualify as a ‘substantial change in circumstances’ and in turn allow for prisoners to seek a modifications of their child support orders due to their incarceration. However, the 2010 statutory amendments provide only prospective relief and thus prisoners who have support orders that were issued prior to the effective date of the statute are not eligible to petition for a modification.

In New York City, this problem is partially remedied by the Administration of Children Services (ACS). Arrears owed to the ACS, as opposed to the other parent, may be reduced through an administrative procedure. It does not appear, however, that there are comparable procedures available outside of New York City. As a result, the majority of modification petitions that our

Criminal Law Annual Journal, 2003 available at: http://www.capwayne.org/2006/handouts/2006-09-15_05_barriers.pdf; Administration for Children and Families, U.S. Dept. of Health and Human Services, *Project to Avoid Increasing Delinquencies- Child Support Fact Sheet Series*, June 2012, available at: http://www.acf.hhs.gov/sites/default/files/ocse/realistic_child_support_orders_for_incarcerated_parents.pdf

clients have filed have been denied because the child support orders they are attempting to have modified were entered before October 13, 2010, the effective date of the legislation.⁷ Unfortunately, for a significant number of incarcerated parents our current system is designed, not to collect support for the benefit of children, but to cause arrears to accrue to the level of insurmountable debt, impairing both re-entry and family relationships.

III. ECONOMIC AND SOCIAL CONSEQUENCES OF INSUFFICIENT CIVIL LEGAL SERVICES IN OUR PRISONS AND FOR THE COURTS

PLS was created with the stated goal of providing civil legal services to prisoners to help them peacefully air and resolve their grievances and to provide them with access to the courts to vindicate their civil rights. The grievances that brought about the 1971 Attica uprising (and the creation of PLS) continue to plague our prisons: denial of visitation with family members; placement in solitary confinement on little or no evidence; denial of medical and mental health care; refusal to allow prisoners to practice their religion; excessive use of force; and errors in calculating ones jail/sentence time.

Failing to provide adequate funding for civil legal services for incarcerated New Yorkers will, and has had, disastrous economic and social consequences. First, the State has a legal responsibility to provide meaningful access to the courts for inmates confined in state prisons [*Bounds v. Smith*, 430 U.S. 817 (1977)] and PLS is the only statewide legal services organization with the expertise and capacity to fulfill the legal mandate of providing prisoners access to the courts. Failure to fulfill the Supreme Court mandate could result in massive financial liability on the part of the State.

More importantly, however, is the fact that PLS, by its very existence, has helped to prevent another Attica. As I am sure you all know, the Attica uprising cost New York State not only multiple millions of dollars in liability, but also the loss of 39 lives and the ruination of many more. The cost of another Attica would be astronomical, not just in dollars and lives, but in the threat to the future stability of our criminal justice system. Thus, the economic and social consequences of insufficient civil legal services funding for incarcerated New Yorkers cannot be overstated.

⁷Michael S. contacted PLS about his current child support and support arrears. His current support order is \$50.00 monthly for two children, which is the statutory correct amount under the support guidelines if the non-custodial parent has no income. However, prior to this modification he had accrued arrears of over \$40,000. Because his child support order was issued before 2010, there is nothing that can be done to ameliorate his situation and thus, when he

Finally, the economic facts are that PLS saves the State millions of dollars every year by correcting jail time and sentencing errors and successfully seeking restoration of good time. The amount PLS saves the State has been historically directly proportional to the amount PLS receives in State funding. In 2009, with an operating budget of \$2.8 million, PLS saved NYS \$6.99 million. In 2010, with an operating budget of \$2.6 million, PLS saved NYS \$5.36 million. In 2011, with an operating budget of \$1.9 million, PLS saved NYS \$3.96 million. In 2012, the average annual cost for housing a prison was changed from \$55,000⁸ to \$60,076⁹ and, as a result, in 2012, with an operating budget of 1.9 million, PLS saved NYS \$4.1 million.

IV. COST AND BENEFIT TO THE COURTS AND COMMUNITIES FOR THE PROVISION OF CIVIL LEGAL SERVICES IN MATTERS INVOLVING ‘ESSENTIALS OF LIFE’ FOR PRISONERS

PLS, by answering over 8000 requests for assistance from prisoners annually, has discouraged, and often prevented, the filing of thousands of lawsuits that would have otherwise been a costly burden to DOCCS, OMH, the Judiciary and the State Attorney General’s Office. In addition, when PLS accepts a case, the courts benefit significantly from having experienced legal counsel steering the litigation and negotiating settlements.

PLS’ work in the area of solitary confinement results in tremendous benefits to the community in terms of public safety. Although there is no national recidivism data on people who are released directly from solitary confinement to the community, a recent Washington State study found that people who were released *directly* from segregation had a much higher rate of recidivism than individuals who spent some time in the normal prison setting before returning to the community: 64 percent compared with 41 percent.¹⁰ When over 2000 New York prisoners are released directly into our communities from solitary confinement annually,¹¹ the projected 23% increase in recidivism for this population raises significant public safety issues.

is released he will have a debt of more than \$40,000.

⁸ <http://www.correctionalassociation.org/PPP/downloads/TimesUpForNYPrisonsDec2010.pdf>

⁹ <http://www.vera.org/files/price-of-prisons-new-york-fact-sheet.pdf>

¹⁰ David Lovell & Clark Johnson, *Felony and Violent Recidivism Among Supermax Prison Inmates in Washington State: A Pilot Study*, available at: <http://www.son.washington.edu/faculty/fac-page-files/Lovell-SupermaxRecidivism-4-19-04.pdf>

¹¹ New York Civil Liberties Union, “*Boxed In – The True Cost of Extreme Isolation in New York’s Prisons*” p. 8. (Oct. 3, 2012) available at: <http://www.nyclu.org/publications/report-boxed-true-cost-of-extreme-isolation-new-yorks-prisons-2012>

Because of PLS' work, many prisoners receive the mental health care, medical care, programming and education they need to succeed in life once they are released. Through our work, prisoners learn that society will not tolerate unjust treatment of its people. Our work instills in prisoners the sense that the criminal justice system is fair and just. Thus, when they are released from prison, our clients are much more likely to successfully adjust to life outside the prison walls and become law-abiding productive members of society.

V. POTENTIAL FOR REDUCTION IN UNMET NEED THROUGH PREVENTION AND EARLY INTERVENTION, EXPANSION OF AVAILABLE PRO BONO LEGAL SERVICES BY PRIVATE ATTORNEYS, LAW SCHOOL AND LAW STUDENT INVOLVEMENT, AND PROGRAMS THAT ASSIST LAW STUDENTS IN FULFILLING THE 50 HOUR PRO BONO REQUIREMENT.

By working with and for prisoners prior to their release, PLS helps prepare incarcerated New Yorkers for successful release into society, thus reducing the “essentials of life” issues that they would typically face upon release. By engaging in client education via educational form memos, our bi-monthly newsletter, *Pro Se*, and our “*Essentials of Life*” newsletter prisoners learn how to resolve issues peacefully while in prison and access mental health care, housing, jobs, etc. upon release, thus reducing their need for civil legal services.

PLS also partners with various law schools to leverage resources thereby increasing the number of incarcerated New Yorkers we can assist. Currently, we are partnering with the City University of New York Law School (CUNY), the Syracuse Disability Law Clinic, Albany Law School's Pro Bono Program, Cornell Law School and Columbia University's Prison Clinic.

One of our most exciting projects is an immigration project that began in July 2013 and involves collaboration with Albany Law School, immigration expert Joanne Macri, Hon. Robert Weisel, Assistant Chief Immigration Judge and Hon. Roger Sagerman, Immigration Judge at Ulster Correctional Facility. Thousands of noncitizens face removal and expulsion from the United States and permanent separation from their U.S. families because of current immigration laws and many of them are incarcerated in New York's prisons. For those incarcerated immigrants who face removal proceedings, many may be eligible for, but are unable to access, avenues that will allow them to seek relief from removal or, if ordered deported, early parole for deportation only. In an effort to minimize what can be harsh and disproportionate immigration consequences for the unrepresented,

PLS, together with Albany Law School, has created an opportunity for a second or third year law student to apply for a field placement position that will allow the law student to engage in direct, supervised legal representation of immigrants facing removal proceedings while incarcerated within DOCCS. Second Circuit Chief Judge Robert Katzman has indicated his full support of the program and, together with all of those listed above, will be attending a luncheon in October, hosted by Albany Law School Dean Andrews, to discuss this progress of the immigration project.

In July 2011, PLS commenced its Pro Bono Partnership Project (PBPP). Since that time, we have recruited over sixty (60) individuals and firms and a dozen prisoners have had legal representation they otherwise would not. The PBPP works to educate the private bar and community-at-large about the need for civil legal services, as well as the conditions found in our state's correctional facilities. The PBPP has also received *pro bono* CLE accreditation, which allows Prisoners' Legal Services (PLS) to grant CLE credit to attorneys for the *pro bono* work that they do.

The PBPP also recruits and trains law students to volunteer with PLS. This year, the Project recruited four (4) law students to translate letters sent to PLS by Spanish-only or Spanish-dominant inmates, and to translate our educational memos from English to Spanish, in order to allow PLS to better assist the Spanish-dominant inmate population. Students have also researched legal issues, drafted proposals and memoranda, and assisted in the preparation of materials for the PBPP. We also have students who transcribe prison disciplinary hearing tapes for our PLS attorneys who are considering challenging a disciplinary sanction. Finally, additional students are involved with our partnership with the Albany County Supreme Court, whereby they review Article 78 petitions filed *pro se* by prisoners and, if determined to be appropriate, are sent to the Pro Bono Partnership Program for referral to outside counsel. In the first year of the PBPP (2011-2012), students contributed over 400 hours of *pro bono* service, in 2012-2013, students contributed over 1700 *pro bono* hours.

CONCLUSION

As Chief Judge Lippman has stated: “[t]he fair administration of justice requires that every person who must use the courts have access to adequate legal representation.”¹² He did not exclude

¹² *The Chief Judge's Hearing on Legal Services, Fourth Dep't, Oct. 2, 2012* (remarks of Hon. Chief Judge Jonathan Lippman at 5:06 – 6:10).

prisoners from the embrace of his statement. While the needs relating to the ‘essentials of life’ that incarcerated New Yorkers have may be somewhat different than those of un-incarcerated New Yorkers, they should be accorded the same weight and consideration.

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TESTIMONY OF COURT APPOINTED SPECIAL ADVOCATES OF NEW YORK STATE (“CASANYS”) BEFORE THE CHIEF JUDGE ON CIVIL LEGAL SERVICES

SEPTEMBER 13, 2013

Presented by Arthur J. Siegel, President of the Board, CASANYS

A. THE HISTORY OF CASA

In 1976, Superior Court Judge David Soukup of Seattle, Washington, reflected on his own effectiveness as a judge when addressing the needs of children in his court:

In criminal and civil cases, even though there were always many different points of view, you walked out of the courthouse at the end of the day and you said, “I’ve done my best; I can live with this decision.”

But when you’re involved with a child and you’re trying to decide what to do to facilitate that child’s growth into a mature and happy adult, you don’t feel like you have sufficient information to allow you to make the right decision. You can’t walk away and leave them at the courthouse at 4 o’clock. You wonder, “Do I really know everything I should? Have I really been told all of the different things? Is this really right?” History of CASA, National CASA Association Publication, 2009.

To address this problem, Judge Soukup proposed a concept that would eventually have an enormous positive impact on the lives of nearly two million children throughout the United States, including New York. Judge Soukup secured funding to

recruit and train community volunteers to work side-by-side with Family Court Judges on behalf of the most vulnerable children within the court system. These volunteers became known as Court Appointed Special Advocates. CASA was born.

In 1978 the Seattle program was selected by the National Center of State Courts as the "best national example of citizen participation in the juvenile justice system."

In 1989, the American Bar Association officially endorsed the use of CASA volunteers to work with attorneys to speak for abused and neglected children in court. In 1990, the National Council of Juvenile and Family Court Judges named CASA "Outstanding Volunteer Program" in America's juvenile and family courts.

The US Congress also recognized the importance of CASA by passing the "Victims of Child Abuse Act of 1990", 42 U.S.C. 13011, et. seq., which provided that a "court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate." 42 U.S.C. 13012.

In July of 1991, The Justice Department's Office of Juvenile Justice and Delinquency Prevention named CASA an "Exemplary National Program in Juvenile Delinquency Prevention."

In 1978 the first CASA program in New York State was founded in New York City. Over the years, an additional 19 programs were opened throughout the State, covering 31 counties. A state organization, CASANYs was also formed to provide support for the local programs.

In 2005, New York State Chief Judge Judith S. Kaye created the CASA Task Force, chaired by retired Court of Appeals Justice Howard Levine. This task force, after performing a needs assessment, recommended that rules be established to govern the operation of CASA programs throughout New York State.

As a result, in early 2006, Part 44 of the Rules of the Chief Judge and the companion Part 117 of the Rules of the Chief Administrative Judge were promulgated. By adopting these Rules, the Office of Court Administration recognized the important role CASA plays in the family courts and in the civil justice system.

B. THE ROLE OF CASA VOLUNTEERS

All CASA programs strive to achieve the same goal: to ensure that every abused and neglected child be placed in a safe, permanent home. CASA also seeks to make certain that the placement process, which often involves moving children from their natural parents to one foster home after another, be consistent with the child's best interests and takes into consideration his or her emotional, educational and physical needs.

CASA volunteers are screened, trained and supervised in their activities. They come from a variety of professional, educational and ethnic backgrounds. Aside from their CASA volunteer work, 60 percent are employed in full- or part-time jobs and 60 percent are college or university graduates. CASA volunteers receive a minimum of 30 hours of training before being permitted to assist Family Court.

For those court jurisdictions that have adopted a CASA program, the Family Court judge, often in the more difficult and high-risk cases, will call upon CASA

volunteers to provide assistance. An Order of Assignment is entered by the Family Court judge, directing the CASA volunteer to perform the types of activities specifically described in 22 NYCRR Part 44.1:

to provide assistance to the court in cases regarding children in or at risk of out-of-home placement... [by]providing thorough information about the health, safety, well-being and permanency plans of children and their families to the court, the parties and law guardian; monitoring Family Court orders; meeting with children in the presence of, or with the consent of, their law guardians or as directed by Family Court.

Most recently in June, 2013, CASA was recognized in the Report of the New York City Bar Association, Committee on Professional Responsibility entitled "Narrowing the Justice Gap, Roles for NonLawyer Practitioners", as "advocates for abused, neglected, or at-risk children" and "'friends of the court'", attending all court hearings and certain other proceedings, monitoring court orders, and reporting directly to the court."

By being assigned only one or two cases at a time, the CASA volunteer can dedicate a sufficient amount of time and energy to fully explore the history of each assigned child and engage in dialogue directly with the child, parents, foster parents, family members, attorneys, case workers, neighbors, school officials, and others involved in the child's life. After this process is completed, the volunteer typically submits a report of recommendations to the court. This report is instrumental in helping the judge determine whether the child should stay with his or her parents, be placed in foster care or be freed for adoption. If the court leaves the child in temporary

care, the CASA volunteer continues his or her positive contacts with the child until the child is permanently placed in a safe home. This critical, comprehensive and effective follow-through cannot always be performed by already constrained and heavily taxed civil legal service providers.

Studies have shown that children who have been assigned CASA volunteers tend to spend less time in court and less time in the foster care system than those who do not have CASA representation. Judges have observed that a child assigned a CASA volunteer also has a better chance of finding a permanent home than a child where no such assignment has been made.¹

Not surprisingly, given the depth and breadth of a CASA volunteer's knowledge of the circumstances and needs of the children they serve, in four out of five cases, all or almost all of the CASA volunteer's recommendations are accepted by the court.

C. THE IMPACT OF CASA VOLUNTEERS

Since CASA was founded in 1977, CASA volunteers have served, supported and enhanced the lives of the most vulnerable and fragile children within our court systems. There are now 1,018 CASA programs covering 49 states. As a result of CASA's work, these children have a better chance of finding safe, permanent homes more quickly. In 2012 alone, 77,000 CASA volunteers directly helped 234,000 children throughout the United States.

¹ See the website for the National CASA Association, www.casaforchildren.org. For additional statistical information concerning the benefits of CASA intervention in the lives of abused and neglected children.

The local CASA programs in New York State have profoundly improved the lives of abused and neglected children. In 2012, 769 volunteers in 31 counties served 2,727 children. The average volunteer contributed 104 hours. Together, volunteers in 2012 contributed 73,619 hours. In 2012, of the 103 family court judges in the State who handle abuse and neglect proceedings, 94 judges (91 percent) assigned CASA volunteers.

This volunteer force of trained and committed individuals directly supports, supplements and enhances the civil legal services these children receive by law. Moreover, these volunteers, by working to secure for these children permanent placement in safe, loving homes, provide to them, in very real terms, one of the most essential of the "essentials of life".

Tragically, a small percentage of children in need of CASA volunteers are being served, and our courts are uniquely challenged with an enormous number of children in need of the specialized attention CASA volunteers provide.

New York State ranks first in the United States for the most maltreated children and second in the United States for the most children in foster care. New York State has 11% of all maltreated children in the United States. (State of America's Children 2012, page 44, Children's Defense Fund)

Although in 2011 there were 43,910 children in the family courts due primarily to abuse and neglect, CASA volunteers were able to serve only 3,557, or 8.1% of the

children in need. Funding cuts for local CASA programs has caused an 11% decrease in the number of children served by CASA volunteers in 2012, reducing further the number of children being provided assistance.

This trend must be reversed. New York State should strengthen its support for the existing CASA programs and provide funding for the creation of additional CASA programs in counties and regions where CASA programs do not currently exist.

Civil justice for a child placed in the hands of our family courts can best be defined as being able to live and grow up in a safe, secure and nurturing home. Court Appointed Special Advocates are, and must continue to be, critical partners with all other civil legal service providers in the family courts to ensure that, for these seriously at risk children, justice is fully served.

APPENDIX 12:

**Written Statements Submitted at the First Department
Hearing Held on September 19, 2013**

Written Statements Submitted at the
First Department Hearing on September 19, 2013

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

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

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

Wendy Z. Goldstein (*President and Chief Executive Officer, Lutheran HealthCare*)

Maria Perez (*Client of The Legal Aid Society's Harlem Community Law Office, accompanied by Magda Rosa-Rios*)

Dr. David L. Reich (*President and Chief Operating Office, Mount Sinai Hospital*)

Miriam Tangara (*Client of Northern Manhattan Improvement Corporation, accompanied by Danielle Salgado*)

Merryl H. Tisch (*Chancellor, New York State Board of Regents*)

Cyrus R. Vance, Jr. (*District Attorney, New York County*)

Jerome Young (*Client of Legal Services NYC, accompanied by Peggy Earisman*)

Merryl H. Tisch

Chancellor, New York State Board of Regents

- Good morning, Chief Judge Lippman, Chief Administrative Judge Prudenti, Presiding Justice of the First Department Gonzalez and President of the New York State Bar Association Schraver. Thank you for inviting me to testify before you today. I am honored to be the lead witness in your proceedings on this important issue and I will try to provide useful context and suggestions from my perspective as an educator and Chancellor of the State Board of Regents.
- As an educator and a Regent, I always do my homework, and I have done it to prepare for my testimony today. I know that you and the Task Force are rightly concerned with ensuring that our neediest and most vulnerable New Yorkers have access to civil legal services to ensure that their children have, to use your term, the “essentials of life.” I know, because you invited me here today, that you realize that the lack of such services has broad and far-reaching impacts not only on adults, but also on their children.
- And I know that you, like the Board of Regents, sense the urgency with which this problem must be remedied. Your reports from hearings in previous years refer to the “Access to Justice Gap” – in education, we talk about the “Achievement Gap.” No matter what we call it in our respective fields, our fundamental goal is the same – to ensure that all New Yorkers have fair and equitable access to the services that will enable them to live full and productive lives.
- You have asked those who will testify before you today for a description of the “economic and social consequences of the lack of sufficient civil legal services in communities and for the courts.”

- From an educator's perspective, I can tell you that the consequences of the unmet civil legal needs of New York's families are far-reaching and devastating for our students.
- Some sobering statistics: based on June 2012 data, NY's 4-year high school graduation rate is 74% for all students. However, the percent graduating college and career ready is significantly lower at 35.3%, and the percentages of students from at-risk groups graduating college and career ready is lower still (7.3% for English Language Learners, 4.9% for students with disabilities, 12.5% for black students, 15.7% for Hispanic students).
- And the consequences for these students don't end at high school - over 50% of students in NYS 2-year institutions of higher education take at least one remedial course, which comes at a cost to them in both money and time.
- The Board of Regents and the State Education Department have taken several steps to address these issues and to ensure that all students graduate from high school ready for college and careers. We are implementing higher academic standards (the Common Core State Standards), preparing and training great teachers and leaders, turning around the lowest-achieving schools, and building effective instructional data systems.
- But in a struggling economy – where jobs and homes have been lost, and access to healthcare and other services is all-too-frequently out of reach – we have to challenge ourselves further to ensure that a world-class education has a meaningful impact on all students, especially those most in need. We need to make sure that all students and their parents or caregivers are able to fully

engage in and benefit from their educational experience – including those whose families are facing eviction or foreclosure, those who lack access to needed health services; and those whose families struggle with domestic violence and addiction – all of whom could be helped with the provision of legal services.

- We in the education field understand and support your initiative and the work of the Task Force to ensure that the civil legal needs of New Yorkers are met. We understand that, without the “essentials of life,” our most vulnerable students and families cannot take full advantage of the educational opportunities we as State leaders know are so important to their future and the future of this nation.
- As Regents, my colleagues and I often visit schools and students across the State. We know that students deal with issues such as poverty, hunger, homelessness, health, and domestic violence on a daily basis. We know that these problems impact their ability to learn and, in some cases, their ability or desire to attend school at all.
- We know that the financial consequences of obtaining only a high school diploma, as opposed to a college degree, are dramatic and enduring.
- For example, US Census Bureau Data shows that in Monroe County in 2011, the unemployment rate for individuals with a Bachelor’s degree or higher was 2%; for those with only a high school diploma, the unemployment rate jumped to 7%.
- And researchers have estimated that academic underperformance costs our nation \$1 trillion annually.
- At the State level, if NY increased its college attainment rate by just one percent – from 33.8 to 34.8 percent – the State would capture a \$17.5 billion Talent

Dividend (Calculated by CEOs for Cities: based on correlation between per capita income and college attainment rates).

- With access to civil legal services, families facing issues that can disrupt their home life and educational opportunities – for example, homelessness, eviction or foreclosure; termination of governmental benefits; immigration issues; or divorce or custody disputes – could find stability. And with such stability, students could better focus on their education and parents could be more engaged in their children's education.
- Your efforts to ensure that civil legal services are accessible to New Yorkers in need will go far toward helping families provide safe, secure and stable home lives for their children, thereby increasing the chance that they will stay in school and go on to lead fulfilling and productive lives.
- As you continue your important work, I offer the Board of Regents and the State Education Department as a committed partner. We have long recognized that a school community must provide the right conditions for learning. Schools and communities support and sustain these conditions by ensuring that students are safe, supported, engaged, and healthy, in part by helping to ensure that students and their families have access to critical services – legal, health, mental health, dental, nutrition and counseling.
- In coordination with the NYS Council on Children and Families, the Department is currently working on the new Community Schools initiative, for which \$15M was included in the 2012-2013 Enacted State Budget to be made available to eligible school districts through grant awards. The goal of the program is to

improve student outcomes through the implementation of community schools programs that use school buildings as community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and other services to students and their families. I encourage the Task Force members to explore such potential partnership opportunities with our school communities to provide these much-needed services.

- As you well know, our State Constitution requires the “maintenance and support of a system of free common schools, wherein all the children of this state may be educated.” The Board of Regents and I stand ready to help build bridges between school communities and the legal community to help eliminate the justice and achievement gaps and to make good on the Constitution’s promise.
- I commend your efforts in this area and I welcome any questions you might have.

Dr. David L. Reich

President and Chief Operating Officer, Mount Sinai
Hospital

David L. Reich, M.D. arrived at Mount Sinai in 1984 and completed a residency in anesthesiology and a fellowship in cardiothoracic anesthesia. He was named Horace W. Goldsmith Professor and Chair of Anesthesiology in 2004 and named Interim President of The Mount Sinai Hospital in January 2013. In September 2013, Dr. Reich was named President and Chief Operating Officer of The Mount Sinai Hospital. Dr. Reich's research interests include neurocognitive outcome following thoracic aortic surgery, outcome effects of intraoperative hemodynamics, medical informatics, and hemodynamic monitoring. He has published greater than 130 peer-reviewed articles, 30 invited articles or editorials, and 30 book chapters. He is an associate editor of the text *Cardiac Anesthesia* and editor of *Monitoring in Anesthesia and Perioperative Care*. He is co-editor of the first edition of *Perioperative Transesophageal Echocardiography* that is currently in press. He is a member of the International Organization for Terminology in Anesthesia (IOTA) of the Anesthesia Patient Safety Foundation, and works with IHTDSO and HL7 to create international standards for anesthesia terminology for electronic patient records. Dr. Reich serves on numerous committees and boards of anesthesiology societies, and the editorial board of the *Journal of Cardiothoracic and Vascular Anesthesia*. At Mount Sinai, he has served for ten years on the Appointments and Promotions Committee and eight years on the Executive Committee of the Faculty Practice Associates. He also chairs the FPA Contracts Committee and serves on the Board of the Independent Practice Association. Dr. Reich served as the President of the Medical Board in 2011-2012. He is one of the course directors of the Law and Business of Medicine elective for the medical school.

CURRICULUM VITAE

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DATE OF BIRTH: February 7, 1960

ACADEMIC APPOINTMENTS:

Instructor of Anesthesiology
July 1, 1987 - December 31, 1987
Mount Sinai School of Medicine

Assistant Professor of Anesthesiology
January 1, 1988 - June 30, 1993
Mount Sinai School of Medicine

Associate Professor of Anesthesiology
July 1, 1993 – December 31, 1998
Mount Sinai School of Medicine

Professor of Anesthesiology with tenure
January 1, 1999-present
Mount Sinai School of Medicine

Chair of Anesthesiology
July 1, 2004-present
Mount Sinai School of Medicine

Horace W. Goldsmith Professor of Anesthesiology
September 23, 2004-present
Mount Sinai School of Medicine

HOSPITAL APPOINTMENTS:

Senior Clinical Assistant
Department of Anesthesiology
Mount Sinai Hospital, New York, NY
July 1, 1987 - December 31, 1987

Assistant Attending
Department of Anesthesiology
Mount Sinai Hospital, New York, NY
January 1, 1988 - June 30, 1993

Co-Director of Cardiothoracic Anesthesiology
Mount Sinai Hospital, New York, NY
October 1, 1990 - present

Associate Attending
Department of Anesthesiology
Mount Sinai Hospital, New York, NY
July 1, 1993 – June 30, 2001

Vice-Chair for Academic Affairs
Department of Anesthesiology
April 1, 2000 – June 30, 2004

Attending
Department of Anesthesiology
July 1, 2001 – present

Chair of Department/Chief of Service
Department of Anesthesiology
July 1, 2004 – present

Interim Hospital President and Chief Operating Officer
The Mount Sinai Hospital
January 9, 2013-July 31, 2013

Hospital President and Chief Operating Officer
The Mount Sinai Hospital
August 1, 2013-present

EDUCATION:

B.S. with highest distinction, 1980
Pennsylvania State University
University Park, PA

M.D., 1982
Jefferson Medical College of Thomas Jefferson University
Philadelphia, PA
(Penn State-Jefferson Five-Year Cooperative Program)

POSTDOCTORAL TRAINING:

PGY-1 and PGY-2 Years in General Surgery
July, 1982 - June, 1984
Harbor/UCLA Medical Center
Torrance, CA

Residency in Anesthesiology
July, 1984 - June, 1986
(Chief Resident: July, 1985 - June, 1986)
Mount Sinai Medical Center
New York, NY

Fellowship in Cardiothoracic Anesthesia
July, 1986 - June, 1987
Mount Sinai Medical Center
New York, NY

CERTIFICATION:

National Board of Medical Examiners
Identification Number 261353
June 24, 1983

American Board of Anesthesiology
Identification Number 211-52-0023
October 30, 1987

National Board of Echocardiography
Certification in Perioperative Transesophageal Echocardiography
Certificate #1999-1066
May, 1999 (exp. 6/30/2019)

Certificate in Business Administration
American Society of Anesthesiologists
January, 2003

LICENSURE:

California (expired)
License Number G00050168
June 24, 1983

New York
License Number 157750-1
March 26, 1984

New Jersey (inactive)
License Number 72312 (25MA07231200)
May 14, 2001

HONORS/AWARDS:

Award for Achievement, 1986
Dripps Memorial Award, 1986
Residents' Research Award, 1987
Attendings' Research Award, 1990

Department of Anesthesiology
Mount Sinai Medical Center
New York, NY

Special Recognition Award, 2011
Department of Nursing
Mount Sinai Medical Center
New York, NY

OTHER PROFESSIONAL APPOINTMENTS:**Editorial Boards and Peer Review:**

Journal of Cardiothoracic and Vascular Anesthesia
1993-present
Co-Section Editor, Diagnostic Dilemmas
1994-1996
Section Editor, Emerging Technologies
1996-2006

Anesthesia and Analgesia
Frequent Guest Reviewer
1993-present

Frequent Consultant Journal Reviewer:
Anesthesiology
Journal of Clinical Anesthesia
Annals of Thoracic Surgery

Editor-in-Chief
Seminars in Cardiothoracic and Vascular Anesthesia
2007-2010

Administrative Positions in Societies:

American Society of Anesthesiologists
Committee on Research (Scientific Grant Review Committee)
Adjunct Member
1990-1992

Society of Cardiovascular Anesthesiologists
Newsletter Committee
1993- 1995

New York State Society of Anesthesiologists
Committee on Workshops and Miniworkshops
1993-1998

Society of Cardiovascular Anesthesiologists
Newsletter Committee
1995-1999

Society of Cardiovascular Anesthesiologists
Electronic Communications Committee
1998-present (Chair, 1998-2003)

Anesthesia Patient Safety Foundation
Data Dictionary Task Force
International Organization for Terminology in Anesthesia
2001-present

American Association of Medical Instrumentation
Blood Filtration Committee
2002-present
Co-Chair of Committee
2006-2013

SNOMED International Anesthesia Section
International Health Terminology Standards Development Organization
(IHTDSO)
2004-present

Health Level 7 Special Interest Group for Generating Anesthesia
Standards
2005-present\

Society of Cardiovascular Anesthesiologists
Board of Directors
2007-2009

American Society of Anesthesiologists
Electronic Media and Information Technology (member)
2007-present
Committee on Information Management (member)
2008-2010

American College of Cardiology/American Heart Association
Thoracic Aortic Disease Guidelines Writing Committee
2007-2010

Society for Technology in Anesthesia
Treasurer
2011-2013

Intramural/Extramural Committees:

Department of Anesthesiology:

Performance Improvement Committee
Appointments and Promotions Committee (Chair)
Residency Selection Committee
Research Committee

Mount Sinai Hospital

Medical Board Administrative Executive Committee (2009-present)
Vice-President, Medical Board (2011)
President, Medical Board (2011-2013)
Quality Patient Safety Council (2004-present)

Mount Sinai School of Medicine

Appointments and Promotions Committee (2002-present)
Faculty Practice Associates Executive Committee (2004-present)

Pharmaceutical Industry:

Neuromuscular Advisory Panel, Glaxo Wellcome Inc.
1995-1996

HUMANITARIAN MISSIONS:

Healing the Children—Northeast, Medical Missions Abroad
Cardiac Surgery Mission to St. Petersburg, Russia
St. George's Hospital
February 15-22, 1997

Healing the Children—Northeast, Medical Missions Abroad
Plastic Surgery Mission to Shanghai, China
November 6-15, 1997

Healing the Children—Northeast, Medical Missions Abroad
Cardiac Surgery Mission to St. Petersburg, Russia
St. George's Hospital
June 10-20, 1998

Healing the Children—Northeast, Medical Missions Abroad
Plastic Surgery Mission to Dongguan City, Guangdong, China
January 7-14, 2000

Mount Sinai Medical Center Pediatric Cardiac Surgical Mission
Cluj, Romania
May 11-21, 2000

Healing the Children—Northeast, Medical Missions Abroad
Plastic Surgery Mission to Dongguan City, Guangdong, China
January 5-12, 2001

Healing the Children—Northeast, Medical Missions Abroad
Plastic Surgery Mission to Nanning, Guangxi, China
February 25-March 7, 2002

In Vitro Heparin and Protamine Titration Using the Hemochron Rx-Dx System in Cardiac Surgery
Co-P.I.

GCO 92-632 AN(x) (David L. Reich, M.D.) 7/1/93 - 12/31/96
Foundation for Anesthesia Education and Research \$45,000
Noncognitive Aspects of Anesthesia Resident Performance
Principal Investigator, 2 renewals

GCO 92-637 AN* (David L. Reich, M.D.) 4/1/93 to 4/1/94
Glaxo Wellcome, Inc. \$46,000
Hemodynamic Effects of BW 51W89
Principal Investigator

GCO 92-050 AN* (David L. Reich, M.D.) 4/1/92 - 4/1/93
Somanetics, Inc. \$9,800
Factors Affecting Neuropsychological Outcome Following Cardiac Surgery
Principal Investigator

GCO 87-088 AN* (David L. Reich, M.D.) 3/1/87 - 2/28/90
Burroughs Wellcome, Inc. \$59,400
Study of Hemodynamic Effects of BW A938U
Principal Investigator 1989-1990

GCO 87-445 AN* (David L. Reich, M.D.) 3/1/87-2/28/90
American Edwards, Inc. \$10,000
Intraoperative Monitoring
Principal Investigator

GCO 85-231 AN* (Steven N. Konstadt, M.D.) 12/1/85 - 11/30/89
Datascope, Inc. \$15,000
Intraoperative Transesophageal Echocardiography
Principal Investigator 1988-1989

PUBLICATIONS:**Original Peer-Reviewed Articles:**

1. Konstadt S, Thys D, Reich DL, Hubbard M, Follis F, Goldman M: The normal pericardium does not affect left ventricular function. *J Cardiothorac Vasc Anesth* 1987;1:284-8.
2. Reich DL, Thys D: Mitral valve replacement complicated by endobronchial hemorrhage. *J Cardiothorac Vasc Anesth* 1988;2:359-362. (case report)
3. Reich DL, Silvay G: Ketamine: An update on the first 25 years of clinical experience. *Canad J Anaesth* 1989;36:186-97. (review)
4. Reich DL, Konstadt S, Raissi S, Hubbard M, Thys DM: Trendelenburg and passive leg raising do not significantly improve cardiac performance in the cardiac surgical patient. *Crit Care Med* 1989;17:313-6.
5. Reich DL: Transient systemic arterial hypotension and cutaneous flushing in response to doxacurium. *Anesthesiology* 1989;71:783-5. (case report)
6. Reich DL, Konstadt S, Thys D, Hillel Z, Raymond R, Kaplan JA: The effects of doxacurium chloride on biventricular cardiac function in patients with cardiac disease. *Brit J Anaesth* 1989;63:675-681.
7. Reich D, Mingus M: Transtracheal oxygenation using simple equipment and a low pressure oxygen source. *Crit Care Med* 1990;18:664-5.
8. Konstadt SN, Reich DL, Thys DM, Hillel Z, Louie E: The importance of atrial filling to ventricular filling is predicted by transesophageal echocardiography. *Anesthesiology* 1990;72:971-6.
9. Konstadt SN, Reich DL, Thys DM: Nitrous oxide does not exacerbate pulmonary hypertension or ventricular dysfunction in patients with mitral valvular disease. *Canad J Anaesth* 1990;37:613-7.
10. Reich DL, Konstadt SN, Thys DM: The pericardium exerts constraint on the right ventricle during cardiac surgery. *Acta Anaesthesiol Scand* 1990;34:530-3.
11. Reich DL, Thys DM, Guffin AV, Kaplan JA: The hemodynamic effects of doxacurium in abdominal aortic surgery. *J Cardiothorac Vasc Anesth* 1990;4(Suppl IV):28-30.

12. Reich DL, Hammerschlag B, Rand JH, Weiss-Bloom LJ, Perucho MH, Galla J, Thys DM: Desmopressin acetate is a mild vasodilator that does not reduce blood loss in uncomplicated cardiac surgical procedures. *J Cardiothorac Vasc Anesth* 1991;5:142-5.
13. Marlow RM, Reich DL, Neustein SN, Silvay G: Hemodynamic response to induction of anaesthesia with ketamine/midazolam. *Canad J Anaesth* 1991;38:844-8.
14. Lebovic S, Koorn R, Reich DL: Role of two-dimensional transoesophageal echocardiography in the management of a right ventricular tumour. *Canad J Anaesth* 1991;38:1050-4. (case report)
15. Reich DL: Monitoring hemostasis in the perioperative period: anticoagulation control. *J Cardiothorac Vasc Anesth* 1991;5(Suppl I):4-7. (review)
16. Reich DL, Zahl K, Perucho H, Thys DM: An evaluation of two activated clotting time monitors during cardiac surgery. *J Clin Monit* 1992;8:33-36.
17. Lebovic S, Reich DL, Steinberg LG, Vela FP, Silvay G: Comparison of propofol versus ketamine for anesthesia in pediatric patients undergoing cardiac catheterization. *Anesth Analg* 1992;74:490-4.
18. Reich DL, Bucek JL, Wolf NM, Klumpe DB, Cullen DJ: Case Conference: General anesthesia complicated by unexpected hypertension and tachycardia. *J Cardiothorac Vasc Anesth* 1992;6:360-5. (case report)
19. Radu C, Reich DL, Tamman R: Anesthetic considerations in a cardiac surgical patient with Osler-Weber-Rendu syndrome. *J Cardiothorac Vasc Anesth* 1992;6:461-4. (case report)
20. Weiss-Bloom LJ, Reich DL: Haemodynamic responses to tracheal intubation following etomidate and fentanyl for anaesthetic induction. *Canad J Anaesth* 1992;39:780-5.
21. Reich DL, Hammerschlag BC, Rand JH, Perucho-Powell MH, Thys DM: Modest doses of nitroglycerin do not interfere with beef lung heparin anticoagulation in patients taking nitrates. *J Cardiothorac Vasc Anesth* 1992;6:677-9.
22. Reich DL, Griep RB, Golinko RJ: Severe neurological injury following bidirectional Glenn shunt. *J Cardiothorac Vasc Anesth* 1993;7:207-9. (case report)

23. Reich DL, Konstadt SN, Nejat M, Abrams HP, Bucek J: Intraoperative transesophageal echocardiography for the detection of cardiac preload changes induced by transfusion and phlebotomy in pediatric patients. *Anesthesiology* 1993;79:10-5.
24. Neustein, SM, Cohen E, Reich DL, Kirschner P: Transoesophageal echocardiography and the intraoperative diagnosis of left atrial invasion by carcinoid tumour. *Canad J Anaesth* 1993;40:664-6. (case report)
25. Reich DL, Yanakakis MJ, Vela FB, Jacobs E: Comparison of bedside coagulation monitoring tests with standard laboratory tests in cardiac surgical patients. *Anesth Analg* 1993;77:673-9.
26. Koorn R, Kahn R, Brannan T, Martinez-Tica J, Weinberger J, Reich DL: Effect of isoflurane and halothane on in vivo ischemia-induced dopamine release in the corpus striatum of the rat: a study using cerebral microdialysis. *Anesthesiology* 1993;79:827-835.
27. Joffe D, Reich DL: Post-cardiopulmonary bypass pulmonary artery thrill. *J Cardiothorac Vasc Anesth* 1003;7:493-4. (case report)
28. Koorn R, Brannan TS, Martinez-Tica J, Weinberger J, Reich DL: Effect of etomidate on in vivo ischemia-induced dopamine release in the corpus striatum of the rat: a study using cerebral microdialysis. *Anesth Analg* 1994;78:73-9.
29. Konstadt SN, Reich DL, Quintana C, Levy M: The ascending aorta: How much does transesophageal echocardiography see? *Anesth Analg* 1994;78:240-4.
30. Konstadt SN, Abrahams HP, Nejat M, Reich DL: Are wall thickening measurements reproducible? *Anesth Analg* 1994;78:619-23.
31. Neustein SM, Bronheim DS, Lasker S, Reich DL, Thys DM: Esmolol and intraoperative myocardial ischemia: a double-blinded study. *J Cardiothorac Vasc Anesth* 1994;8:273-7.
32. Reich DL, Patel GC, Vela-Cantos F, Bodian C, Lansman S: Aspirin does not increase homologous blood requirements in elective coronary bypass surgery. *Anesth Analg* 1994;79:4-8.
33. Kahn RA, Weinberger J, Brannan T, Prikhojan A, Reich DL: Nitric oxide modulates dopamine release during global temporary cerebral ischemia. *Anesth Analg* 1995;80:1116-21.
34. Shore-Lesserson L, Reich DL, DePerio M, Silvay G: Platelet-rich plasmapheresis: risk versus benefit in repeat cardiac operations. *Anesth Analg* 1995;81:229-35.

35. Konstadt SN, Reich DL, Kahn R, Viggiani RF: Transesophageal echocardiography can be used to screen for ascending aortic atherosclerosis. *Anesth Analg* 1995;81:225-8.
36. Silvay G, Ammar T, Reich DL, Vela-Cantos F, Joffe D, Ergin MA: Cardiopulmonary bypass for adult patients: a survey of equipment and techniques. *J Cardiothorac Vasc Anesth* 1995;9:420-4.
37. Carr G, Neustein SM, Galla J, Schor J, Reich DL: The role of intraoperative transesophageal echocardiography in the diagnosis and correction of a malfunctioning St. Jude's mitral valve. *J Cardiothorac Vasc Anesth* 1995;9:312-6. (case report)
38. Konstadt SN, Reich DL, Stanley III TE, DePerio M, Chuey C, Schwartzbach C, Abou-Donia M: A Two Center Comparison of the Hemodynamic Effects of Cisatracurium (Nimbex) and Vecuronium in Patients with Coronary Artery Disease: *Anesth Analg* 1995;81:1010-4.
39. Kahn RA, Slogoff FB, Reich DL, Konstadt SN: Transcranial Doppler ultrasonography: What is its role in cardiac and vascular surgical patients? *J Cardiothorac Vasc Anesth* 1995;9:589-97. (review)
40. Reich DL, Timcenko A, Bodian CA, Kraidin J, Hofman J, Deperio M, Konstadt SN, Kurki T, Eisenkraft JB: Predictors of pulse oximetry failure. *Anesthesiology* 1996;84:859-64.
41. Konstadt SM, Reich DL, Rafferty T: Validation of a test of competence in transesophageal echocardiography. *J Cardiothorac Vasc Anesth* 1996;10:311-3.
42. Shore-Lesserson L, Reich DL, Vela-Cantos F, Ammar T, Ergin MA: Tranexamic acid reduces transfusions and mediastinal drainage in repeat cardiac surgery. *Anesth Analg* 1996;83:18-26.
43. Reich DL, Osinski T, Bodian C, Krol M, Sarier K, Roth R, Konstadt SN: An algorithm for assessing intraoperative mean arterial pressure lability. *Anesthesiology* 1997;87:156-61.
44. Shore-Lesserson L, Reich DL, Silvay G, Griep RB: Hemostasis in aortic and cardiothoracic surgery. *J Cardiac Surg* 1997;12(Suppl):232-7. (review)
45. Shore-Lesserson L, Reich DL, DePerio M: Heparin and protamine titration do not improve haemostasis in cardiac surgical patients. *Canad J Anaesth* 1998;45:10-18.
46. Reich DL, Mulier J, Viby-Mogensen J, Konstadt SN, vanAken HK, Jensen F, DePerio M, Buckley SG: Comparison of the cardiovascular effects of cisatracurium and vecuronium in patients with coronary artery disease. *Canad J Anaesth* 1998;45:794-7.
47. Reich DL, Uysal S, Sliwinski M, Ergin MA, Kahn RA, Konstadt SN, McCullough JN, Hibbard MR, Gordon WA, Griep RB: Neuropsychological outcome following deep hypothermic circulatory arrest. *J Thorac Cardiovasc Surg.* 1999;117:156-63.

48. McCullough JN, Zhang N, Reich DL, Juvonen TS, Klein JJ, Spielvogel D, Ergin MA, Griep RB: Cerebral metabolic suppression during hypothermic circulatory arrest in humans. *Ann Thorac Surg* 1999;67:1895-9.
49. Ergin MA, Uysal S, Reich DL, Apaydin A, Lansman S, McCullough JN, Griep RB: Temporary neurological dysfunction following deep hypothermic circulatory arrest: a clinical marker for long term functional deficit. *Ann Thorac Surg* 1999;67:1887-90.
50. Reich DL, Uysal S, Bodian CA, Gabriele S, Hibbard M, Gordon W, Sliwinski M, Kayne RD: The relationship of cognitive, personality, and academic measures to anesthesiology resident clinical performance. *Anesth Analg* 1999;88:1092-1100.
51. Kahn RA, Moskowitz DM, Manspeizer HE, Reich DL, McConville JC, Marin ML, Hollier LH: Endovascular aortic repair is associated with greater hemodynamic stability compared with open aortic reconstruction. *J Cardiothorac Vasc Anesth* 1999;13:42-6.
52. Reich DL, Bodian CA, Krol M, Kuroda M, Osinski T, Thys DM: Intraoperative hemodynamic predictors of mortality, stroke and myocardial infarction following coronary artery bypass surgery. *Anesth Analg* 1999;88:814-22.
52. Krol M, Reich DL: Object-oriented analysis and design of a health care management information system. *J Med Sys* 1999;23:145-58.
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Books and Chapters in Books:

Books:

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2. Kaplan JA (ed.), Reich DL and Konstadt SN (assoc. eds.): *Cardiac Anesthesia* (4th Ed). Philadelphia, Saunders, 1999
3. Kaplan JA (ed.), Reich DL, Lake CL, Konstadt SN (assoc. eds.): *Cardiac Anesthesia* (5th Ed.) Philadelphia, Saunders, 2006
4. Reich DL (ed.), *Monitoring in Anesthesia and Perioperative Care* (1st Ed.), Cambridge University Press, 2011
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30. Reich DL, Mittnacht A, London M, Kaplan JA. Monitoring of the Heart and the Vascular System. In: Kaplan JA (ed.) Essentials of Cardiac Anesthesia (1st ed.) Philadelphia, Elsevier; 2008, pp.167-198.
31. Wax DB , Reich DL: Case Study: Implementation of an Anesthesia Information Management System at an Academic Medical Center. In Stonemetz J, Ruskin K (eds.) Anesthesia Informatics. New York, Springer, 2008 (in press).
32. Reich DL, Mittnacht A, Kaplan JA: Anesthesia for the Patient with Cardiovascular Disease. In Fuster V, Walsh RA, Harrington RA (eds.): The Heart (13th Edition). New York, McGraw Hill, 2011.
33. Reich DL: History of Anesthesia Monitoring. In Reich DL (ed) Monitoring in Anesthesia and Perioperative Care (1st ed.) New York, Cambridge University Press, 2011. (in press)
34. Hyman J, Reich DL: Physiologic Monitoring. In Levine AI, DeMaria S (eds.) Anesthesiology and Otolaryngology (1st ed.)

INVITED LECTURES AND VISITING PROFESSORSHIPS:

(Abbreviated List from January 2008 through present)

Plenary Lecture and Workshop Moderator: Informatics Outcomes Research and Compensation Models
Society for Technology in Anesthesia
San Diego, CA
January 2008

Franco-American Symposium in Anesthesia: Regional Anesthesia Lecture
American Hospital of Paris
Paris, France
February 2008

New York Anesthesiology Review Cardiac Lecture Series (3 Lectures)
Sponsored by MSSM, Orlando, FL
March 2008

Plenary Lecture: Anesthesiologists Should be Leaders in Perioperative Data Management
New York State Society of Anesthesiologists 2nd Annual Resident Conference
Syracuse, NY
May 2008

Visiting Professor: New York University Department of Anesthesiology
New York, NY
July 23, 2008

Invited International Speaker: South African Society of Anesthesiologists,
Durban, South Africa
March 2009

Invited International Speaker: Australia/New Zealand Society of
Anaesthesiologists Cardiothoracic Special Interest Group, Noosa, Australia,
October 2009

Visiting Professor, University of Jilin Medical School, Changchun, China
October 2009

Refresher Course: Anesthesia Information Management Systems.
Three Panel Lectures on Anesthesia Information Management Systems
American Society of Anesthesiologists Annual Meeting, New Orleans, LA
October 2009

Panel Moderator: Advances in Cardiac Anesthesia

New York State Society of Anesthesiologists Postgraduate Assembly
December 2009

Lecture: Anesthesia Information Systems for Quality and Department
Management
International Anesthesia Research Society
March 2010

New York Anesthesiology Review Cardiac Lecture Series (3 Lectures)
Sponsored by MSSM, Orlando, FL
March 2010

Franco-American Symposium in Anesthesia: Inpatient Pain Management
Predictors of Patient Satisfaction
American Hospital of Paris
Paris, France
March 2010

Lecture: Anesthesia Information Management Systems for Financial
Management
Society of Cardiovascular Anesthesiologists Annual Meeting
New Orleans, LA
April 2010

Lecture: Anesthesia Information Management and Patient Safety
Slovakian Society of Anesthesiologists Annual meeting
Piestany, Slovakia
May 2010

Lecture: Thoracic Aortic Surgery: New Guidelines
European Association of Cardiothoracic Anesthesia
Edinburgh, Scotland
June 2010

Lectures: Anesthesia and Perioperative Outcomes; AIMS and Anesthesia Quality
Mexican Society of Anesthesiologists
Mexico City, Mexico
July 2010

Lecture: Hypothermic Circulatory Arrest and Cerebral Protection
International Congress of Cardiovascular Anesthesiologists
Beijing, China
September 2010

Refresher Course Lecture: AIMS—How to Choose and How to Use
American Society of Anesthesiologists

San Diego, CA
October 2010

Multiple Lectures and Transesophageal Echo Workshop
Postgraduate Assembly of New York State Society of Anesthesiologists
New York, NY
December 2010

Workshop Moderator: Anesthesia Information Management Systems
Society for Technology in Anesthesia
Las Vegas, NV
January 2011

Lecture: Aortic Surgery
29th Annual Symposium and Update
St Martin
January 2011

Lecture: A Hospital-Wide Pain Management Initiative
American Hospital of Paris
Paris, France
April 2, 2011

Lecture: Use of Information Systems in Anesthesia
New Jersey State Society of Anesthesiologists
Jamesburg, NJ
April 9, 2011

Visiting Professor: Jilin University Department of Anesthesiology
Chanchun, China
May 19-21, 2011

Panel Lectures on Information Systems
American Society of Anesthesiologists
Chicago, IL
October 2011

Multiple Lectures and Transesophageal Echo Workshop
Robertazzi Lecture: Taking Responsibility for Adverse Outcomes
Postgraduate Assembly of New York State Society of Anesthesiologists
New York, NY
December 2011

Workshop Moderator: Anesthesia Information Management Systems
Society for Technology in Anesthesia
Palm Beach, FL
January 2012

Lecture: Anesthesia Outcomes
29th Annual Symposium and Update
Puerto Rico
January 2012

Lecture: Cognitive Outcomes of Cardiac Surgery
Japanese Society of Cardiovascular Anesthesiologists
Sendai, Japan
September 2012

Multiple Panel Lectures
Refresher Course Lecturer: Use of Information Systems for Managing Payers
and Hospital Administration
American Society of Anesthesiologists
Washington DC
October 2012

Visiting Professorship: Cleveland Clinic Department of Outcomes Research
Cleveland, OH
October 2012

ICCVA Lecture: Aortic Surgery Outcomes
Auckland, NZ
November 2012

Panel Moderator: Challenging Clinical Cases
Postgraduate Assembly of New York State Society of Anesthesiologists
New York, NY
December 2012

MEETINGS ORGANIZED

Anesthesia Patient Safety Foundation
Data Dictionary Task Force
September 10-13, 2003
Mount Sinai Medical Center
New York, NY

Let me begin by saying that it is an honor and a privilege to testify on behalf of The Mount Sinai Medical Center to support this worthy effort to provide legal assistance to economically disadvantaged New York residents.

The Mount Sinai Hospital and the Icahn School of Medicine at Mount Sinai together have approximately 18,000 employees, students, and faculty, and that number will increase to 36,000 when the combination with Continuum Health Partners occurs in the near future. A very large number of these employees and students would benefit from Civil Services legal funding for various reasons that I will elaborate in the next several minutes. Additionally, as an advocate for the health of the residents of New York City, a very large percentage of our patient population would also benefit from legal funding in ways that would absolutely serve to improve public health.

At our Medical Center, many good paying positions would still qualify for legal assistance services. Mount Sinai cares about its employees and tries to help, but as in other large workplaces the absence of funded legal services could negatively impact the work performance of employees, who would be consumed with pressing family issues. When our employees' ability to focus on their work is affected, it creates challenges to meeting the needs of our patients.

I will note several examples:

1. A family living in an apartment with leaks and mold formation has an asthmatic child whose condition is exacerbated by the apartment's condition. The employee must take paid or unpaid time off to fight the landlord in court to force improvements. The employee's time off might then exceed the limit and a record of excessive absence could lead to discipline or termination.
2. An employee with financial difficulty is evicted from his or her home due to lack of legal service for representation in Landlord-Tenant Court.
3. The parent of an employee is in the late stages of Alzheimer's disease. The family needs assistance in end-of-life decision making and creating advance directives.

Our medical and graduate students may also find themselves in need of legal assistance. Remember that many of these students come from modest backgrounds and are tens or hundreds of thousands of dollars in debt. One example would be a student who is a victim of domestic violence and cannot afford legal assistance to obtain a restraining order.

And perhaps the greatest challenges lie in the neighborhoods served by Mount Sinai and the future Mount Sinai Health System. Tens of thousands among these communities suffer due to barriers in obtaining health care and threats in their own homes. I ask that you consider the following examples:

1. A landlord fails to maintain ramp access to a building that effectively traps a disabled patient who cannot make her physician appointments to treat complex medical conditions. As a direct result, frequent hospital readmissions occur that were both completely avoidable and are very costly to New York State, which funds a large percentage of these avoidable hospital admissions.
2. A family cannot get a landlord to remove mold, lead paint, or even asbestos.

3. A young father of four with extensive credit card debt loses his job due to absenteeism related to his inability to receive legal advice to restructure his debt or to declare personal bankruptcy. He thus loses health insurance coverage for his family and access to medical care. While public assistance and Medicaid serve as a safety net, this occurs at greater expense to the State, compared with the minimal cost of good legal advice.
4. A man injures his wrist while working as a minimum wage laborer. He applies to workers' compensation, but his claim is contested (as greater than 90% are) and he therefore receives no compensation for the next nine months—a time period that would be reduced to 1-2 weeks if he had legal representation. To feed his family, he must continue to work during the 9 month delay. During that time, he further injures his wrist and permanent joint deformity with median nerve injury results. When he finally receives workers compensation and begins rehabilitation treatments, the best outcome that can be expected is partial restoration of function. Timely legal intervention would have prevented this permanent injury

In summary, many of Mount Sinai's employees and students, and innumerable members of our community need access to legal services, which they must otherwise forego due to economic hardship. They desperately need lawyers to help them walk through complex issues. This affects not just our employees and our patients, but also their families. The issues are well known to this panel and include medical, financial, housing, disability, and insurance, among many others. As hospital president of an urban academic medical center that is serious about its mission to serve our community, I must frequently decide as to the allocation of scarce resources that will yield the greatest benefit for our patients and our staff. I assert that this panel has that same responsibility to advocate for maintenance and growth of legal assistance in New York. This is a shrewd and sound investment that yields productive employees who are better able to maintain their health and that of their families.

I am grateful for the opportunity to address this panel today and thank you for your attention and your advocacy for legal assistance for our most vulnerable community residents. If you have any questions, I will do my best to answer them.

Respectfully submitted,

David L. Reich, M.D.
President and Chief Operating Officer
The Mount Sinai Hospital
Horace W. Goldsmith Professor and Chair of Anesthesiology
Icahn School of Medicine at Mount Sinai

Wendy Z. Goldstein

President and Chief Operating Officer, Lutheran
HealthCare



Testimony for Civil Legal Services Hearing

**Wendy Z. Goldstein
President and CEO**

September 19, 2013

Background

Lutheran HealthCare is an academic community-based health care and social support system that includes Lutheran Medical Center, Lutheran Family Health Centers, Lutheran Augustana Center for Extended Care and Rehabilitation, subsidized senior housing and numerous community-based service programs, such as adult education, early childhood centers, after-school programs, and family support.

Lutheran Medical Center is a 456 bed safety net hospital with a Level I trauma center and Joint Commission-accredited New York State regional stroke center. The Lutheran Family Health Centers network is New York State's largest Federally Qualified Health Center network. The Health Center has the largest NYS school-based health clinic program and the nation's largest dental residency program, which brings dental residents into traditionally underserved areas such as American Indian reservations across the country. The Health Centers also provide primary care services at homeless shelters throughout New York City. Lutheran HealthCare has as its mission serving the indigent and medically underserved. Annually, as a system we touch over 200,000 lives.

Lutheran both employs and serves richly diverse communities, including people of Arabic,

Chinese, Hispanic, Orthodox Jewish and Russian descent, among others. Approximately 45% of our service area in southwest Brooklyn is Hispanic, and the next largest demographic is Asian, which makes up approximately 36% of the service area. Fifty percent of Sunset Park's residents are foreign born. Approximately, 23% of our service area lives below 100% of the federal poverty level. Forty-three percent (43%) of residents in our service area do not have a high school diploma.

Lutheran is a nationally recognized leader in cultural competence. We learned long ago that to best serve our communities, we must understand all of their needs, not just their medical needs. We like to say that we care for the "whole person," but it is equally true to say that we care for whole families and whole communities. Our philosophy mirrors that of Healthy People 2020, which recognizes that certain social determinants, such as where people live, the state of their environment, their income and education level, and their relationships with friends and family, all have considerable impact on health status. These factors affect not only a family's access to health services, but also impacts on their ability to effectively manage their health needs – such as eating healthy foods to reduce complications from diabetes or reducing home environmental triggers that exacerbate asthma.

We could not bring the high level of empathy that we do, to our patients and clients without a staff that understands, on an experiential level, the unique circumstances of each person that comes through our doors. This is a strength, but also at times a challenge because what this means is that our staff face the same issues as our patients in many respects. Our staff is dedicated, engaged and largely unsung. They are our strength and the key to our ability to serve our patients, which means we as leaders must be dedicated to enabling them to do their jobs.

As a system, we employ approximately 5,000 people at all levels of education and training, heavily drawn from the communities that we serve in southwest Brooklyn. Including part-time and per diem employees, roughly 50% of our staff earns less than \$46,000 per year, the income level that would qualify a person for civil legal aid services.

Access to Civil Legal Services: Lutheran's Perspective

As I hope I've made clear, the issue of access to legal assistance is relevant to Lutheran both as an employer and a health care provider. It is so important, in fact, that we have as part of our system a Family Support Center that exists for the purpose of empowering patients and families, as well as our employees, through programs that reduce social, economic and educational barriers to health and wellness. Through our case management services, our Family Support Center connects individuals and families to Lutheran's internal services as well as local community resources, and often makes referrals for free or low-cost legal services. Through this work, we have become acutely aware of both the valuable work that these legal providers offer and how difficult it is for our patients and employees to access their services. We have observed the long waits for appointments and have seen firsthand the devastating impact on families when cases are not taken due to a lack of resources.

I would like to outline some of the specific issues that affect our patients and employees and give you a few examples of cases that have been brought to our attention. We have changed names and identifying details.

Domestic Violence

Joanna is a long-time Lutheran employee and someone whose personal challenges have

spilled over into the workplace in ways that probably would be mitigated if there were more legal assistance resources available. Over the past year, she's had a significant increase in the number of sick days taken and a noticeable change in her mood and work behavior. Her supervisor has noted that she's had more personal calls from her husband recently, and that the calls coincide with Joanna's negative mood changes. Her co-workers and friends have noticed bruising on her arms, but she refuses to speak about it. They suspect she is being abused by her husband. Although Joanna is trying to bear up under the circumstances, with a lawyer whom she could speak to confidentially, she might begin to understand the supports that are available to domestic violence victims and avail herself of them.

It goes without saying that domestic violence is a tenacious and complex problem in our society that is far too widespread. It touches not only the direct victim, but also children and extended family members. We have a formal policy of providing accommodations to any worker who is affected by domestic violence, and this can take the form of modified work schedules, transfers, support from security staff to ensure orders of protection are enforced at the workplace, among many other accommodations. These accommodations are afforded because it is the right thing to do, but they all come with a price operationally.

With respect to our patients, as a matter of practice, we conduct universal screening of all patients and make efforts to connect them with counseling, case management, law enforcement and other appropriate services when they are disclose the violence they are living with. Of course, apart from the physical trauma of domestic violence, the emotional stress that comes from living in fear and the practical impact of living in an unstable situation such as in a shelter,

all serve as barriers to the delivery of health care. It is simply not possible for someone dealing with acute domestic violence to keep doctors' appointments consistently, take medications regularly, eat right and exercise. Our providers are skilled in asking the right questions and are highly compassionate, but at the end of the day, without the proper support system, including accessible and competent legal services, our patients simply will not have good health outcomes. And that is a tragic secondary effect that could be mitigated by increasing access to legal services.

Housing

Jorge is 6-years old and suffers from uncontrolled asthma despite receiving daily oral doses of corticosteroids. He is often absent from school due to asthma, which threatens his mother's ability to keep her job. He has had 3 visits to the ED in the past year. The mother has repeatedly complained to her landlord about mold and dust mites in their apartment, but has not had any response. Jorge's mother already has her hands full trying to balance her family and work obligations and simply does not have the ability to bring a housing court action and follow through the multiple court appearances that would be necessary. Unfortunately, without bringing such an action, families like Jorge's simply do not get their needs met, which can result in detrimental health effects.

Housing poses a serious challenge to our patients and employees. With increased foreclosures and dwindling stock of affordable rental housing in Brooklyn, more people are living in less stable housing situations. As the example above illustrates, when patients or staff live in poorly maintained housing, there is a direct impact on health status, and many lack the time or money to advocate for improvements. Housing instability also complicates ongoing contact with patients.

When a patient moves a lot, it becomes increasingly difficult for us as a health care system to reach out for follow-up, to send check-up or mammogram reminders or just to communicate with them about our programs and services.

Access to Benefits

7-year old Wu is a pediatric patient of one of our pediatricians. A year ago, the doctor referred Wu for a developmental evaluation because he had difficulty concentrating in school and was having behavior problems. The evaluation indicated a need for both speech and special education services, but his mom has been unable to navigate the complex service system – getting no response from the department of education or being told that there are long waiting lists for services. In the meantime, Wu continues to struggle and is at risk of being left back at school and being labeled a troublemaker. It is an unfortunate fact of life that, particularly when dealing with complex bureaucracies like the educational system, a well-worded letter from an attorney spurs action far more quickly than even the most tenacious parent, trying to be her own child’s advocate. This is doubly true where the parent does not speak or write English comfortably or does not know exactly what the law provides. Wu’s mother certainly would have a better chance of getting Wu the therapeutic and educational supports he is entitled to, with competent legal counsel at her side.

Many of our patients need assistance with accessing benefits from the department of education, as well as entitlements such as Supplemental Security Income (SSI), Food Stamps or Social Security Disability. Our Family Support Center has worked with many patients who have been denied such benefits and who need assistance with appeals. When one’s most basic needs are not

met, non-acute health care needs take a back seat, and understandably so. It is impossible for patients without money for food to do the things that they need to do to address chronic metabolic disorders, such as childhood obesity, hypertension and diabetes, which are all far too prevalent in our communities.

In Closing

At Lutheran, we have a unique perspective on these issues, based on our role as a community employer and health care system. We have programs and policies in place, as I've outlined above, to try to help our employees and patients deal with these challenges, but there is only so much that we can do. Free and affordable legal services would make a huge difference in the lives and the health of the families that we serve. I am very grateful for this opportunity to share our perspective and even more grateful for the resources that are provided to fund civil legal services organizations like The Legal Aid Society.

Cyrus R. Vance, Jr.
District Attorney, New York County

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

First Department of the New York State Supreme Court
Cyrus R. Vance, Jr., District Attorney, New York County
September 19, 2013

Good morning. My name is Cyrus R. Vance, Jr., and I am the District Attorney of New York County. I first want to thank Chief Judge Lippman, Chief Administrative Judge Gail Prudenti, Presiding Justice of the First Department Luis Gonzalez, and New York State Bar Association President David Schrauer for inviting me to testify about the need for civil legal representation for low-income New Yorkers. It is a privilege to be here and to speak about this critical issue.

I had the opportunity to read the hearing testimony of my esteemed colleagues District Attorney Charles Hynes and District Attorney Kathleen Rice. I share their commitment to helping to promote access to

free civil legal services and I agree with their conclusions that civil representation for indigent New Yorkers is essential to a comprehensive approach to reducing crime, maintaining stable communities and making families and neighborhoods safer.

Today I'd like to discuss the need for civil representation from the viewpoint of the front line of our prosecutor's office.

My role as the District Attorney is guided by two overarching principles: the pursuit of justice, and the prevention of crime. Adequate funding of civil legal assistance is critical to both of these goals.

First, civil legal representation for low-income individuals is a matter of *justice*. Each year, we have to turn away from our door hundreds of people with real problems - but whose problems are civil and not criminal in nature. We try to refer people to

appropriate government agencies and nonprofits to seek assistance. But, the reality is that the demand for civil representation outstrips the resources available, and often the other agencies are unable to represent these individuals or help them get restitution or a just resolution of their cases.

Even in cases that have a criminal component that we can pursue, the District Attorney's Office is not able to represent the complainants on their related civil claims. This could lead to irreparable outcomes. For example, in cases involving a fraudulent deed transfer, if the legitimate owner of the property is not represented by civil counsel and a *lis pendens* is not filed to prevent a further transfer of the property, the property can be lost to the rightful owner forever.

Deed fraud rings look for properties where the legitimate owner, for any number of reasons, is not managing the property. It may be owned by an

elderly or deceased individual, it may have fallen into disrepair, it may have numerous tax liens or essential utility services may have been turned off. At this point, the criminals file a fraudulent, sometimes forged, deed transferring ownership to a straw buyer or corporation. If the legitimate owner does not file a lis pendens to prevent further transfer of the property and the straw buyer sells the property to a bona fide purchaser for value without notice, the property will be lost, even if we are able to prosecute and convict the criminals for the initial fraudulent transfer. Then, the only civil remedy is for the legitimate owner to sue the fraudulent seller - again requiring the victim to have civil legal counsel.

In addition to these compelling issues of individual justice, the everyday experience of my Office shows that civil legal representation is also vital to preventing crime. The lack of adequate and

affordable civil counsel creates opportunities for criminals to move in to fill that hole in legal representation and take advantage of unsuspecting individuals. New Yorkers who cannot afford an attorney are often driven to use unscrupulous and unreliable non-attorneys and alternative quasi-professionals, predators who claim they will provide the needed representation only to steal litigants' hard-earned money.

Through my Office's Special Prosecutions Bureau, or SPB, as we call it, we see firsthand how a lack of civil representation too often leads to victimization and exploitation.

Let me give you some examples of the types of cases we see that illustrate how crime emerges when civil legal representation is not available:

One of the areas that are most susceptible to fraudulent criminal practices is immigration assistance. Here, phony immigration consultants and fake lawyers prey on some of the most vulnerable victims – poor, undocumented immigrants. These heartless criminals advertise in foreign-language papers offering to assist clients with citizenship, green card and asylum applications, and work visas for relatively low rates. They rely on the fact that the immigration laws are complicated and the forms are complex to deceive and confuse their victims. The money the victims scrape together for this representation is frequently all they have, and once it's gone, they have no additional means to get real representation. Often, victims are told they are eligible for certain amnesty programs or visas only to discover later, when they are contacted by the Department of Homeland Services about their immigration status, that the program has not been

open for years. While we have been successful prosecuting the criminals in these cases, the victims are left with no money and, even worse, sometimes face a deportation proceeding that never would have commenced, had their fake lawyer not filed fruitless or fraudulent papers.

If these victims had had access to legitimate, affordable, competent counsel in the first place, a crime would have been prevented and the chances of a successful outcome would have been much higher. A report by the Steering Committee of the New York Immigrant Representation Study Report, initiated by Judge Robert A. Katzmann of the U.S. Court of Appeals for the 2nd Circuit, found that 74% of clients facing deportation who were not detained, but were represented, had successful outcomes to their cases versus only 13% of clients who were unrepresented. Similarly, 18% of clients facing deportation who

were detained, but were represented, had successful outcomes versus only 3% who were not represented.¹ These statistics show the importance of affordable competent representation to protecting individuals' lives.

Another area where we see a cottage industry of crime is in uncontested divorces. We receive numerous complaints about companies that promise quick no-contest divorces that are, in fact, simply sham businesses set up to steal money. Sometimes the practitioner says she's a lawyer; sometimes she claims she's a paralegal who will fill out and file all the required paperwork to finalize the victim's divorce. For "only" several hundred dollars, a fortune to our complainants, these businesses promise to process and complete divorces in a matter of a few months. Invariably, the victims pay by cash or by

money order, and the scammers keep the victims on the hook until all the money is paid by having them sign papers, telling the victims that the paperwork is being processed or that an additional filing fee is required. Sometimes the victims are given an index number or even a document called a “judgment of divorce” to make them believe that the paperwork has been filed and that the divorce is final. It is only after a victim seeks to change her name back to her maiden name or seeks to remarry that she discovers that she was never divorced from her previous spouse. In some cases, the victim discovers that she is married to two people. By the time the victims realize that they are not divorced, the fake practitioner is long gone, the office space is empty, and the phone number is no longer working.

In 2011, SPB prosecuted a woman for operating a sham express divorce business where she forged

judgments of divorce using the same authentic index number over and over for different people, all the while taking in thousands of dollars from her unsuspecting victims. Among other things, she was charged with eight counts of forgery in the second degree and scheme to defraud in the first degree. The defendant pled guilty to forgery as a felony, and the sentence included restitution and a fine. Despite this successful prosecution, we continue to receive and investigate similar complaints. We will continue to receive them until New Yorkers of modest means have greater access to competent legal counsel.

In closing, let us remember that adequate legal representation is vital to effective law enforcement for a reason that is perhaps less obvious, but equally urgent. Our greatest asset in our efforts to build safe and stable communities is respect for law. Where the law does not engender respect, no level of police

staffing can provide security, no prosecutor or judge can bring civility to our streets. When people feel disenfranchised from the justice system – when their rights are being trampled, when they are being taken advantage of and victimized, and they have no recourse to the courts to right their wrongs – then the law itself is diminished. That, I am sorry to say, is the current situation for too many New Yorkers, many of whom come through our doors every week. It is hard enough when my office must turn them away, telling them that theirs is a civil, not a criminal case. How much harder must it be when civil legal assistance, the attorneys of last resort, tell victims that indeed they have a civil case - perhaps a compelling one - but that funding cuts make it impossible to bring that cause before a judge?

That is why I am encouraged that so many prominent New Yorkers have come before you to testify in

support of expanded funding for legal assistance. It is not just a humanitarian priority; it is a law enforcement priority as well.

Thank you.

Dr. Elizabeth Becker

Senior Vice President, NERA Economic Consulting

**Executive Summary of Testimony by Elizabeth Becker to
The Task Force to Expand Access to Civil Legal Services in New York
Presented at the 1st Judicial Department Hearing
September 19th, 2013**

NERA Economic Consulting was asked by the Task Force to Expand Access to Civil Legal Services in New York to update the estimates of the value of federal funds brought into New York State from the provision of civil legal services using data for cases closed through 2012. Using the same methodology described in testimony in October 2012, but relying on more recent data through 2012, the updated value of federal funds brought into the State has risen to \$458 million dollars. This represents an \$80 million increase in value relative to the estimate using data only through 2011. Considering the multiplier effect this flow of funds has for the State, the total economic stimulus deriving from activity through 2012 comes to \$679 million, compared with an economic stimulus of \$561 million previously estimated for cases closed through 2011. Activity in 2012 has generated more than a 20 percent increase in economic benefit for the State relative to the prior year.

NERA also was asked by the Task Force to assess the value created by the provision of civil legal services in two categories of service that were not measured or reported at all last year. In the first of these new categories, the provision of extended legal representation to assist clients in securing Child and Spousal Support generated over \$5 million in benefits. In the second new category, the provision of Advice and Brief Legal Services provided either in person or by phone to assist clients in securing Supplemental Security Income, Social Security Disability Income, Medicaid and Child and Spousal Support generated \$53.7 million in benefits to low-income New Yorkers. All analyses performed at the request of the Task Force were done pro bono.

Report by Elizabeth Becker to
The Task Force to Expand Access to Civil Legal Services in New York
Presented at the 1st Judicial Department Hearing
September 19th, 2013

I. Qualifications

1. I am a Senior Vice President at NERA Economic Consulting, a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. I hold a Ph.D. in applied economics from Clemson University. I am experienced in preparing economic and statistical assessments for both plaintiffs and defendants in numerous matters involving single plaintiff and class action allegations of employment discrimination, class action allegations of violations of wage and hour regulations, warranty claim and consumer class action matters. I have testified in deposition, at trial, or in arbitration more than 35 times. My empirical research has been published in peer-reviewed academic publications.

II. Assignment and Summary of Findings

2. I was asked by the Task Force to Expand Access to Civil Legal Services in New York to evaluate the economic benefits to low-income New Yorkers and to New York State overall from the provision of civil legal services to low-income New Yorkers and their families to assist them in obtaining access to various benefits for which they are eligible. I performed the above analyses for the Task Force pro bono. Specifically, I was asked to:

- Evaluate the current year's financial impact of increased access to several federal programs on the direct recipients of those benefits and their families;
- Estimate the long-term financial impact on the direct recipients and their families of increased access to certain federal programs for which they can expect long-term, on-going eligibility and benefits;
- Evaluate the economic impact of the flow of federal benefits into the New York State economy as a whole;

- Compare the flow of federal benefits into New York State to the excess federal tax burden borne by residents of New York State;
- Estimate the current year's and long-term impact of Child and Spousal Support payments obtained due to Extended Representation civil legal services on the direct recipients of those benefits and their families; and
- Estimate the financial impact on the direct recipients of Advice and Brief services.

3. Representatives from the Interest on Lawyers Account Fund (“ IOLA”) provided me with summaries of the dollar value of federal benefits as well as Child and Spousal Support received by low-income New Yorkers as a result of the provision of civil legal services by grantee organizations from 2007 until 2012. I have reviewed these data, as well as publicly available data. Having reviewed this information, I find:

- The financial impact in 2012 of increased access to federal benefits on the direct recipients of those benefits and their families is conservatively estimated as \$457.7 million.
- The long-term future financial impact of increased access from the provision of civil legal services in recent years ranges as high as \$1 billion, depending upon the expected duration of continued participation in key federal programs and other support payments.
- Multiplier effects for the in-flow of federal resources in the amount of \$457.7 million to New York State result in estimated economic benefits to the State of \$679 million and estimated creation of about 6,776 jobs.
- These economic benefits derived from additional federal funds effectively reduce New York State's excess tax burden of approximately \$20 billion by about 2.3 percent.
- The additional economic benefit in 2012 from Child and Spousal Support payments on the direct recipients of those benefits and their families is estimated as \$5.12 million.
- Advice and Brief services to low-income New Yorkers provided approximately \$53.7 million in value.

4. In this report, I summarize the various benefits evaluated, the data received from IOLA regarding increased access to these benefits and publicly available data, my methodology for evaluating financial and economic impacts from this increased access, and the overall financial and economic impacts.

III. Summary of Benefits Evaluated

5. Provision of civil legal assistance enables low-income New Yorkers to obtain access to benefits under several key federal programs that are targeted at the neediest in our population.

Among these are the following benefits that I also analyzed in 2012:

- **Supplemental Security Income:** SSI is a federal program that makes monthly payments to people who have low-income and few resources and are age 65 or older, blind or disabled. Eligibility for SSI depends upon income and certain assets.
- **Social Security Disability Income:** SSD is a federal program that pays monthly benefits to people who cannot work because they have a medical condition that is expected to last at least one year or result in death. Eligibility is tested with specific rules regarding recent work and duration of work, as well as a determination of disability by doctors and disability specialists.
- **Unemployment compensation provided by the federal government:** The Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular state unemployment benefits have been exhausted.
- **Medicaid funded by the federal government:** Some portion of Medicaid benefits is funded by the State, but some is reimbursed by the federal government.
- **Earned Income Tax Credits:** EITC is a benefit for certain people who work and have low to moderate wages that reduces the amount of federal tax owed and may also provide a refund.
- **Various other federal benefits:** In addition to these major federal benefit programs, low-income New Yorkers may be eligible for other programs such as Veteran's benefits and Medicare.

6. Access to these programs and payments may be barred for low-income New Yorkers for a number of reasons. They may not be aware of the programs or of their eligibility. Determining eligibility can be complicated and require knowledge of complex rules and regulations. Proof of eligibility may require documents and/or information that are difficult for low-income persons to access or obtain. As a result, provision of civil legal assistance may be the only avenue available to low-income New Yorkers to ensure that they qualify for federal benefits and other payments they are entitled to. Provision of these resources results in substantial cost savings for State and local governments to whom these needy families would likely turn to instead.

7. I also analyzed Child Support and Spousal Support payments, which is a new analysis that I did not conduct last year. These payments are as follows:

- Child Support: A parent who has custody of a child and who lives separate from the other child's parent may file a petition in Family Court asking the court to enter an order for the "non-custodial parent" to pay Child Support.
- Spousal Support: In New York State, a married person may file a petition in Family Court seeking Spousal Support from a current husband or wife. While a divorced person may not seek a new order of support from an ex-spouse in Family Court, a petition may be filed seeking to modify an already existing order for an ex-spouse.

8. IOLA provided me with data reported by grantee organizations detailing the dollar value of benefits from cases completed in 2012 for SSI, SSD, state unemployment benefits, federal reimbursement for Medicaid benefits, earned income tax credits and various other federal benefits. Where appropriate, the value of these benefits was reported separately for back awards and on-going monthly benefits. IOLA also provided information for on-going monthly benefits for SSI/SSD to include cases closed back to 2007 and for "other" federal benefits to include cases closed back to 2009. For the first time, IOLA also provided me with data on Child Support and Spousal Support payments. I used the benefits and support payments data to estimate the value of benefits obtained and support payments received by New Yorkers as a result of the provision of civil legal services. Furthermore, I used first-time information provided to me by IOLA regarding the success of Advice and Brief Services in Pennsylvania's legal assistance programs in order to approximate the additional impact of such services in New York.

Estimated Value of Benefits and Payments Received as a Result of Civil Legal Services

A. Supplemental Security Income and Social Security Disability Income

9. The largest category of federal funds brought into New York State by the provision of civil legal services to low-income New Yorkers is SSI and SSD income. These amounts may include back awards as well as on-going monthly benefits for cases closed in 2012. These amounts are reported in columns (1) and (2) of rows (B) and (C) in Table 1. Federal funds also may be received in 2012 as on-going benefits for cases closed in recent years. On-going receipt of benefits under these programs occurs because the duration of participation, once a person is

qualified and enrolled, is quite lengthy. The estimated duration of participation prior to retirement age 65 is 9.7 years for SSD and 10.5 years for SSI.¹ Monthly benefits received in 2012 from cases closed between 2007 through 2011 are reported in columns (3) to (7) in row (C) of Table 1.

10. I evaluated the total economic impact of the receipt of these amounts for 2012 by annualizing the monthly benefits for each year. As benefits under these federal programs are routinely adjusted for inflation, I adjusted the monthly benefits received from past case closings upward using the Consumer Price Index.² I then added the value of the back awards from 2012 to this total value of monthly benefits. The estimated 2012 value of federal benefits brought into New York under these two programs is approximately \$196million.

B. Child Support and Spousal Support

11. In 2012 the provision of civil legal services helped clients claim a total of \$3.9 million in Child Support and \$1.2 million in Spousal Support, together totaling \$5.1 million. Both Child Support and Spousal Support are broken down into back awards and monthly payments. The breakdown of the two types of awards is presented in Table 2. Back awards account for approximately \$750,000 of the total amount. Under the prudent assumption that monthly Child Support and Spousal Support granted will continue to be received for the next 12 months, I annualized the monthly benefits by multiplying by 12 which adds up to \$3.4 million in annualized monthly payments in Child Support and \$922,250 in Spousal Support.

C. Expected Future Value from SSI/SSD and Child/Spousal Support

12. Note that the estimation of both the SSI/SSD benefits and the value of Child and Spousal Support payments described in sections A and B are conservative estimates of the value provided to clients as a result of the provision of civil legal services. It captures the value of payments

¹Kalman Rupp and Charles G. Scott, "Trends in the Characteristics of DI and SSI Disability Awardees and Duration of Program Participation," *Social Security Bulletin*, vol.59, No.1, Spring 1996: pp. 3 – 21.

² St. Louis Federal Reserve Bank.

paid only in 2012 and in the case of the SSI/SSD benefits includes benefits received as a result of case closings for only the past five years of completed cases. This is an understatement of financial impact because the expected duration of Child and/or Spousal Support receipt as well as the expected on-going participation in the SSI/SSD is considerably longer than five years. An alternative method for estimating the value of these closed cases is to consider the value of the expected future stream of benefits, given the long expected duration of future participation and receipt for low-income New Yorkers that have been found eligible. Several alternative estimates of the value of these expected future benefits are shown in Table 3.

13. In the first approach, I estimated future value of SSI/SSD benefits as well as Child and Spousal Support as a result of the provision of civil legal services provided on cases closed in 2012 alone. I projected over five years the value of the on-going monthly benefits from cases closed in 2012. These amounts are shown in columns (2) through (6) of rows (A) and (E) for the SSI/SSD benefits and Child and Spousal Support payments. In order to convert these future values to present value, I have discounted using the prime rate of interest at 3.25 percent, with SSI/SSD discounted values shown in row (B) and the Child and Spousal Support discounted values in row (F). The 5-year future value of cases closed in 2012 is \$113 million. Alternatively, the value of the cases closed in 2012 could be projected for 10 years, as in columns (2) through (10) of row (A) and row (E). The assumed average duration of time on Child and Spousal Support is 9 years based on the average age of children during divorce.³ Hence I assign a zero value to the Child and Spousal Support for the 10th year of the projection. This would yield a present value of future benefits of about \$188.3 million.

14. In the second approach, I estimated the present value of expected on-going future benefits from all cases closed between 2007 through 2011 for SSI/SSD. These amounts are shown in columns (2) through (6) of row (C) for a five-year projection and columns (2) through (10) of row (C) for a ten-year projection. Again the values are converted to present value using the prime rate and presented in row (D). The estimated values are \$660 million for the five-year projection and \$819 million for the ten-year projection, respectively. The future value of

³ Liu, Shirley H., *The Effect Parental Divorce and Its Timing on Child Educational Attainment: A Dynamic Approach*, 2007, available at http://moya.bus.miami.edu/~sliu/Research_files/divorcetiming.pdf.

recently closed cases far exceeds the more conservative estimate from a methodology that only measures benefits received in 2012.⁴

D. Federal Benefits Other Than SSI/SSD

15. The provision of civil legal services also helps low-income New Yorkers access a variety of other federal benefits, such as Veteran's benefits and Medicare. As with SSI/SSD, there were both back awards paid and enrollment for on-going monthly benefits in 2012. Persons enrolled in these programs in previous years also sometimes enjoyed receipt of on-going benefits in 2012. I have estimated the value of the cases closed in 2012 and for the prior two years by assuming the average duration of these benefits is three years. Table 4 reports the conversion of monthly benefits to annual amounts and the adjustment of past benefit amount for inflation using the CPI. The total estimated value of the monthly benefits from cases closed over a three-year period, plus the 2012 back awards is about \$86 million.

E. Federal Emergency Unemployment Compensation Extension

16. The Emergency Unemployment Compensation program is a federal extension of unemployment benefits that provides additional weeks of unemployment benefits after regular state unemployment benefits have been exhausted. In New York State, unemployed persons are generally eligible for 26 weeks of benefits. Extended federal benefits may be available from the federal program for 6, 9, 13, 14 or 20 weeks, depending upon the circumstances of the unemployed person. IOLA reports that the provision of civil legal services has assisted unemployed New Yorkers in gaining awards to state unemployment compensation benefits of \$4 million in back awards and nearly \$940,000 in monthly awards. If one were to assume that these state unemployment benefits are for the full 26-week eligibility, then the federal extension would be worth about half the value of the state benefits. Thus, the value of the federal extension of unemployment benefits would be about \$7.65 million. See Table 5.

⁴ Data regarding the future value of Child and Spousal Support cases closed in recent years were not available to me. If recently closed cases of this type provide on-going future benefits these are understated.

F. Total Value of Benefits Granted to and Support Payments Received by Service Participants, Including Medicaid and EITC

17. IOLA has provided me with estimates of the amount of federal reimbursement for Medicaid benefits and Earned Income Tax Credits received by low-income New Yorkers assisted as a result of the provision of civil legal services. These amounts are approximately \$134.6 million and \$34.2 million, respectively. When the value of these benefits is added to the value of the federal funds brought into the State under the other programs discussed above, the total value of federal funds brought into New York State in 2012 is \$457.7 million. The value of benefits increases further to \$462.8 once accounting for Child and Spousal Support obtained with the help of the civil legal services. See Table 6.

G. Impact of Advice or Brief Services

18. All previous estimates relate to value added from Extended Representation civil legal services. Low-income New Yorkers also have access to Advice and Brief services in person or by phone. In order to approximate the additional benefits granted as consequence of these services I was given information by IOLA regarding the outcomes of similar services in Pennsylvania since such information was not recorded in New York in 2012. Information regarding Pennsylvania's Advice and Brief services was collected through a survey of a randomly selected sample of 400 program participants in 2011. Benefits gained by the Advice and Brief services include additional SSI/SSD benefits and Medicaid benefits, as well as additional Child and Spousal Supports. Table 7 presents the numbers provided to me by IOLA as well as my calculations.

19. To proxy the additional benefits gained in SSI/SSD due to the Advice and Brief services I utilize the success rate of such cases in Pennsylvania in 2011 according to the survey. The components of my estimation are presented in rows (A) through (F) of Table 7. According to the survey, 41% of SSI/SSD cases closed received the right to benefits or increased the amounts of benefits received for the service participants. In 2012 New York's IOLA grantees closed 4,040 Advice and Brief services SSI/SSD cases. Using the 41% success rate found in the survey, 1,664 of these cases were estimated to be successful. To approximate the additional benefits gained in

each successful case I use the average back awards and annualized monthly benefits per case from New York's Extended Representation civil legal services in 2012 of \$10,832 and \$8,775, respectively. Multiplying the estimated number of successful cases due to Advice and Brief services and the average benefits per case suggests that \$18 million in back awards and \$14.6 million in annualized monthly benefits were generated from such services in New York.

20. Advice and Brief services have also assisted New Yorkers to obtain Medicaid benefits. In 2012 a total of 1,393 standalone Medicaid cases were closed by the Advice and Brief services program in New York. According to the Pennsylvania survey such cases had a 6.5% success rate. This would suggest that in total 90 cases out of all closed in New York were likely to obtain or maintain Medicaid benefits for the clients. Medicaid benefits may also be obtained through successful SSI/SSD cases. In 2012, a total of 3,045 combined cases were closed by the Advice and Brief services in New York. Using the success rate of SSI/SSD cases of 41%, a total of 1,254 were likely to be successful. I add the two numbers of successful Medicaid cases and estimate that a total of 1,344 successful Medicaid cases were closed by the Advice and Brief services in New York. Using the average annual Medicaid benefits per case of \$8,193 provided to me by IOLA I estimate that an additional \$11 million in Medicaid benefits could have been generated from the civil legal programs.

21. Finally, I use the same methodology described above to estimate the additional value gained for Child and Spousal Support from Advice and Brief services. According to the survey 4% of Child and Spousal Support cases handled by Advice and Brief services close with the desirable outcome. Using this success rate and applying it to the number of such cases closed in New York in 2012, I estimate that approximately 74 cases closed with additional benefits to the client. The average amount of Child and Spousal Support payments for successful Extended Representation cases in New York is \$798 in back awards and \$385 in monthly payments. Assuming that monthly payments will be received for at least 12 months, the total estimated Child and Spousal Support benefits generated from Advice and Brief services adds up to about \$10 million in 2012.

22. In total, utilizing the success rate of Advice and Brief services reported in the Pennsylvania survey and the average benefits per case documented in Extended Representation cases in New York, the aggregate value of additional SSI/SSD, Medicaid, and Child and Spousal Support benefits add up to \$53.7 million. Although this number is only an approximation of the potential value added from Advice and Brief Services in New York it may be regarded as conservative as New York has a greater low-income population than Pennsylvania. In comparison in 2012 New York had approximately 1.8 times the number of SSI recipients and 1.3 times the number of SSD recipients compared to Pennsylvania.⁵ The 2010 and 2011 average poverty rate in New York was 16% relative to Pennsylvania's 12.4%.⁶ Accordingly, New York also provided more aid services and had about 8 times more attorneys and paralegals funded by the IOLA relative to the IOLTA funded attorneys and paralegals in Pennsylvania.⁷ See Table 8.

VI. Economic Impact on the New York State Economy

23. Provision of federal benefits to eligible low-income New Yorkers provides benefits not only to them and their families, but to the State as a whole. Beneficiaries are empowered to spend money on housing, food, clothing and other support for their families. Thus, every extra dollar brought into in the State results in a stimulus to the State economy overall and benefits all New Yorkers.

24. The United States Department of Commerce reports that every dollar brought into the New York economy generates an extra 48 cents of value in stimulus to the economy overall.⁸ Applying this multiplier to the \$457.7 million in incremental benefits yields an overall positive

⁵Social Security Administration, SSI Annual Statistical Report, 2012, available at www.ssa.gov/policy/docs/statcomps/ssi_asr/2012/ssi_asr12.pdf; Social Security Administration, OASDI.

Beneficiaries by State and County, 2012, available at www.ssa.gov/policy/docs/statcomps/oasdi_sc/2012/oasdi_sc12.pdf.

⁶U.S. Census Bureau, Current Population Survey, 2009 to 2012 Annual Social and Economic Supplements, available at www.census.gov/hhes/www/poverty/data/incpovhlth/2011/tables.htm.

⁷Pennsylvania Interest on Lawyers Trust Account Board, Survey of the Provision of Civil Legal Assistance of IOLTA Funded Organizations, November 2011. The Interest On Lawyer Account Fund of the State of New York, Annual Report 2012.

⁸U.S. Department of Commerce "RIMS II" data. Multiplier and average cost of a job were provided by IOLA.

impact on the State economy of \$679 million. The Department of Commerce also provides a “jobs factor” enabling estimation of overall job creation due to the stimulus to the economy. The average cost of a job supported by funds brought into the State is \$100,224. Thus, the number of new jobs that are created by a stimulus of \$679 million is about 6,776 jobs. See Table 9.

VII. Reduction in Excess New York Federal Tax Burden

25. Last, I evaluated the value of the incremental federal benefits brought into New York State from the provision of civil legal services, relative to New York’s excess federal tax burden. The Tax Foundation reports that New York State sends a great deal more money to Washington in taxes than it receives back in federal expenditures. New York receives only 79 cents for every dollar that it pays in federal tax.⁹ New York’s total federal income tax liability is approximately \$95 billion, making this excess tax liability about \$20 billion.¹⁰ The \$457.7 million in incremental federal expenditures in New York from access to the federal benefits discussed above is about 2.3 percent of that excess federal tax liability.

VIII. Conclusion

26. Provision of Extended Representation and Advice and Brief civil legal services provides substantial economic value to help support low-income and disabled New Yorkers. The economic value to the beneficiaries and their families of benefits secured as a result of Extended Legal Representation is conservatively estimated at \$462.8 million for 2012 alone. The estimated additional benefit of Advice and Brief services is \$53.7 million. The provision of civil legal services to needy families to assist them in obtaining benefits also provides a significant stimulus to the New York State economy overall and creates thousands of jobs. Considering the multiplier effect of the federal funds brought into New York State, the positive impact is about \$679.1 million and the creation of approximately 6,800 jobs. Moreover, the extra federal expenditure in New York State moves the State modestly towards fairness in terms of its relative burden of federal taxation. Finally, the provision of civil legal services represents an investment

⁹Curtis S. Dubay, “Federal Tax Burdens and Expenditures by State: Which States Gain the Most from Federal Fiscal Operations?” *Tax Foundation Special Report*, March 2006.

¹⁰IRS, Statistics of Income Division, Individual Master File System, December 2012.

for the future. The expected future value of on-going participation in programs like SSI and SSD and Child and Spousal Support for services provided in 2012 and recent years has an estimated value of more than \$1 billion over the coming ten years.

Table 1. Value of SSI/SSD Federal Funds Received

	<u>Cases Completed in 2012</u>		<u>Benefits Received in</u> <u>2012 From Past Years' Cases</u>					<u>Total</u> <u>Impact</u> <u>in 2012</u>
	<u>Back</u> <u>Awards</u>	<u>Monthly</u> <u>Benefits</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	
	------(Dollars in Millions)-----							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
A. Inflation Rate (2012 Dollars) ¹	0.00 %	0.00 %	2.08 %	5.28 %	7.01 %	6.67 %	10.74 %	
SSI/SSD								
B. SSI/SSD back awards	\$ 25.35							
C. SSI/SSD monthly benefits		\$ 1.71	\$ 2.61	\$ 2.90	\$ 2.20	\$ 2.23	\$ 1.83	
D. Annualized SSI/SSD monthly benefits going forward		20.53	31.28	34.78	26.37	26.72	22.02	
E. Inflation-adj. SSI/SSD Benefits (2012 Dollars)	\$ 25.35	\$ 20.53	\$ 31.93	\$ 36.62	\$ 28.22	\$ 28.50	\$ 24.38	\$ 195.53

Notes: ¹ Year-over-year percent change in average monthly CPI index value.

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

Source: The CPI Index is from the St. Louis Federal Reserve.

Table 2. Impact of Child and Spousal Support

A.	Child Support Dollar Benefits in 2012		
(a)	Back awards	\$	497,455
(b)	Annualized monthly benefits	\$	3,442,093
B.	Spousal Support Dollar Benefits in 2012		
(a)	Back awards	\$	256,268
(b)	Annualized monthly benefits	\$	922,259
C.	Total Child and Spousal Support Benefits in 2012	\$	5,118,076

Table 3. Economic Value Created from Expected Future Participation in SSI/SSD and Child and Spousal Support

	Current	Projected Future Benefits								
	Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
2012	------(Dollars in Millions)-----									
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
A. Cases Completed in 2012 (Annualized Monthly Benefits)	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53	\$ 20.53
B. Discounted at Prime Rate (3.25%)		19.89	19.26	18.66	18.07	17.50	16.95	16.42	15.90	15.40
C. Benefit Received in 2012 From Past Years' Cases	\$ 149.65	149.65	149.65	149.65	149.65	125.27	96.77	68.55	31.93	0.00
D. Discounted at Prime Rate (3.25%)		\$ 144.94	\$ 140.38	\$ 135.96	\$ 131.68	\$ 106.76	\$ 79.87	\$ 54.80	\$ 24.72	\$ 0.00
E. Child and Spousal Support in 2012 (Annualized Monthly Benefits)	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 4.36	\$ 0.00
F. Discounted at Prime Rate (3.25%)		4.23	4.09	3.97	3.84	3.72	3.60	3.49	3.38	0.00
G. Current Value of Projected Future Benefits: 5-Year Projection										
H. Cases Completed in 2012	\$ 113.22									
I. Benefits from Past Years' Cases	\$ 659.72									
J. Current Value of Projected Future Benefits: 10-Year Projection										
K. Cases Completed in 2012	\$ 188.35									
L. Benefits from Past Years' Cases	\$ 819.12									

Notes: Assumed duration of Child and Spousal Support is 9 years based on the number of years between the average age of children at divorce and age of majority.

Source: WSJ Prime rate available at <http://www.bankrate.com/rates/interest-rates/prime-rate.aspx>
Average age of children at divorce taken from Liu, Shirley H., The Effect Parental Divorce and Its Timing on Child Educational Attainment: A Dynamic Approach, 2007, available at http://moya.bus.miami.edu/~sliu/Research_files/divorcetiming.pdf.

Table 4. Value of Other Federal Benefits Received

	<u>Cases Completed in 2012</u>		<u>Benefits Received in</u>					<u>Total</u>
	<u>Back</u>	<u>Monthly</u>	<u>2012 From Past Years' Cases</u>					<u>Impact in</u>
	<u>Awards</u>	<u>Benefits</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2012</u>
------(Dollars in Millions)-----								
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
A. Inflation Rate (2012 Dollars) ¹	0.00 %	0.00 %	2.08 %	5.28 %	7.01 %	6.67 %	10.74 %	
Other Federal Benefits								
B. Other Federal Benefits back awards	\$ 19.06							
C. Other Federal Benefits monthly benefits going forward		\$ 1.54	\$ 1.80	\$ 1.14	\$ 0.91	n/a	n/a	
D. Annualized Other Federal Benefits going forward		18.45	21.61	13.74	10.97			
E. Inflation-adj. Other Federal Benefits (2012 Dollars)	\$ 19.06	\$ 18.45	\$ 22.06	\$ 14.46	\$ 11.74			\$ 85.77

Notes: ¹ Year-over-year percent change in average monthly CPI index value.

Source: The CPI Index is from the St. Louis Federal Reserve.

Table 5. Estimated Value of Federal Unemployment Compensation Extensions

	<u>Cases Completed in 2012</u>		<u>Total Impact in 2012</u>
	<u>Back Awards</u>	<u>Monthly Benefits</u>	
	------(Dollars in Millions)-----		
	(1)	(2)	(3)
Federal Unemployment Compensation			
A. State Unemployment Compensation (6 months)	\$ 3.98	\$ 0.94	
B. Federal Unemployment Compensation back awards ¹	1.99		
C. Federal Unemployment Compensation monthly benefits ¹		0.47	
D. Annualized Federal Unemployment Compensation		5.66	
E. Inflation-Adj. Federal Unemployment Compensation	\$ 1.99	\$ 5.66	\$ 7.65

Notes: ¹ Estimated assuming Federal Unemployment Compensation benefits extend for an additional 3 months.

Source: The CPI Index is from the St. Louis Federal Reserve.

**Table 6. Total Benefits Received by Low- Income New Yorkers
Due to the Provision of Civil Legal Services: 2012**

	<u>Cases Completed in 2012</u>		<u>Benefits Received in</u>					<u>Total Impact in 2012</u>
	<u>Back</u>	<u>Monthly</u>	<u>2012 From Past Years' Cases</u>					
	<u>Awards</u>	<u>Benefits</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	
	<u>(Dollars in Millions)</u>							
	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>	<u>(8)</u>
A. Inflation Rate (2012 Dollars) ¹	0.00 %	0.00 %	2.08 %	5.28 %	7.01 %	6.67 %	10.74 %	
SSI/SSD								
B. SSI/SSD back awards	\$ 25.35							
C. SSI/SSD monthly benefits		\$ 1.71	\$ 2.61	\$ 2.90	\$ 2.20	\$ 2.23	\$ 1.83	
D. Annualized SSI/SSD monthly benefits going forward		20.53	31.28	34.78	26.37	26.72	22.02	
E. Inflation-adj. SSI/SSD Benefits (2012 Dollars)	\$ 25.35	\$ 20.53	\$ 31.93	\$ 36.62	\$ 28.22	\$ 28.50	\$ 24.38	\$ 195.53
Child and Spousal Support								
F. Total Child and Spousal Support Benefits in 2012								\$ 5.12
Other Federal Benefits								
G. Other Federal Benefits back awards	\$ 19.06							
H. Other Federal Benefits monthly benefits going forward		\$ 1.54	\$ 1.80	\$ 1.14	\$ 0.91			
I. Annualized Other Federal Benefits going forward		18.45	21.61	13.74	10.97			
J. Inflation-adj. Other Federal Benefits (2012 Dollars)	\$ 19.06	\$ 18.45	\$ 22.06	\$ 14.46	\$ 11.74			\$ 85.77
Federal Unemployment Compensation								
K. State Unemployment Compensation (6 months)	\$ 3.98	\$ 0.94						
L. Federal Unemployment Compensation back awards ²	1.99							
M. Federal Unemployment Compensation monthly benefits ²		0.47						
N. Annualized Federal Unemployment Compensation		5.66						
O. Inflation-Adj. Federal Unemployment Compensation	\$ 1.99	\$ 5.66						\$ 7.65
Other								
P. Federal share of Medicaid benefits received in 2012 ³								\$ 134.62
Q. Earned Income Tax Credits								\$ 34.15
R. Total benefits received in 2012								\$ 462.84

Notes: ¹ Year-over-year percent change in average monthly CPI index value.

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

³ Includes benefits received in cases closed in 2008 through 2012 under the assumptions that benefits from the past four years continue to recur annually.

Source: The CPI Index is from the St. Louis Federal Reserve.

Table 7. Impact of Advice and Brief Service Cases

SSI/SSD	
A. Number of SSI/SSD advice/brief service cases closed by IOLA grantees in 2012	4,040
B. Success rate measured in 2011 Pennsylvania Client Survey for SSI/SSD advice/brief service cases	41 %
C. Estimated number of successful SSI/SSD advice/brief service cases	1,664
D. Average SSI/SSD awards and benefits achieved per successful case in New York:	
(a) Back awards	\$ 10,832
(b) Monthly benefits	\$ 731
(c) Annualized monthly benefits	\$ 8,775
E. Estimated dollar benefits produced by successful SSI/SSD advice/brief cases in 2012	
(a) Back awards	\$ 18,025,042
(b) Annualized monthly benefits	\$ 14,602,092
F. Total SSI/SSD from Advice and Brief Service Cases	\$ 32,627,134
Medicaid Benefits	
G. Number of Medicaid Benefit cases closed by IOLA grantees in 2012	1,393
H. Success rate in 2011 Pennsylvania Client Survey for advice/brief service Medicaid cases	6.5 %
I. Estimated number of successful Medicaid cases	90
J. Number of Medicaid and SSI/SSD combined cases closed by IOLA grantees in 2012	3,045
K. Success rate measured in 2012 Pennsylvania Client Survey for SSI/SSD advice/brief service cases	41 %
L. Estimated number of successful Medicaid and SSI/SSD combined advice/brief service cases	1,254
M. Total estimated Medicaid stand alone and combined advice/brief cases	1,344
N. Average annual Medicaid benefits	\$ 8,193
O. Total Medicaid Benefits from Advice and Brief Service Benefits	\$ 11,008,889
Child and Spousal Support	
P. Number of Child and Spousal Support cases closed by Advice/Brief Services	1,859
Q. Success rate measured in 2011 Pennsylvania Client Survey	4 %
R. Estimated number of successful Child and Spousal Support cases	74
S. Average Child and Spousal Support Benefits	
(a) Back awards	\$ 798
(b) Monthly support payments	\$ 385
(c) Annualized monthly support payment	\$ 4,620
T. Estimated payment produced by successful Child and Spousal Advice/brief cases	
(a) Back awards	\$ 1,483,482
(b) Annualized monthly support payment	\$ 8,588,580
U. Total Child and Spousal Support Obtained from Advice and Brief Services	\$ 10,072,062
V. Total Estimated benefits from Advice and Brief Services	\$ 53,708,085

Note: A successful case is defined as a case in which the client obtained, preserved, or increased SSI or SSD benefit or right.

Source: Number of cases closed, Pennsylvania success rates and average benefits per case provided by IOLA.

Table 8. New York and Pennsylvania Statistics

	<u>New York</u>	<u>Pennsylvania</u>
Number of SSI Recipients 2012	698,226	376,600
Number of SSD Recipients 2012	643,454	498,176
Poverty Rate (2010-2011)¹	16 %	12.4 %
IOLA/IOLTA Funded Attorneys and Paralegals	1,617 ²	208 ³

Notes: ¹ Percentage of people in poverty using 2-Year average of 2010 and 2011.

² Number of IOLA guarantees in New York that provided direct legal assistance between April 1, 2011 and March 31,2012

³ Number of Full Time Equivalent IOLTA funded attorneys and paralegals in Pennsylvania in 2009.

Sources: Social Security Administration, SSI Annual Statistical Report, 2012, available at www.ssa.gov/policy/docs/statcomps/ssi_asr/2012/ssi_asr12.pdf
 Social Security Administration, OASDI Beneficiaries by State and County, 2012, available at http://www.ssa.gov/policy/docs/statcomps/oasdi_sc/2012/oasdi_sc12.pdf
 U.S. Census Bureau, Current Population Survey, 2009 to 2012 Annual Social and Economic Supplements, available at <http://www.census.gov/hhes/www/poverty/data/incpovhlth/2011/tables.html>
 Pennsylvania Interest on Lawyers Trust Account Board, Survey of the Provision of Civil Legal Assistance of IOLTA Funded Organizations, November 2011.
 The Interest On Lawyer Account Fund of the State of New York, Annual Report 2012.

Table 9. Economic Impact on New York State and Job Creation

A.	Total Federal Funds Brought Into State	\$	457,719,462
B.	Multiplier		1.484
C.	Total Economic Stimulus Effect of Federal Funds	\$	679,072,594
D.	Jobs Factor	\$	100,224
E.	Total Jobs		6,776

Notes: Total federal funds exclude child and spousal support.

Source: U.S. Department of Commerce "RIMS II" data. Multiplier and average cost of job were provided by IOLA.

Table 10. Reduction in Federal Excess Tax Burden

A.	Total NY State Tax Burden ¹	\$	95,093,557,000
B.	NY State Ratio of Federal Spending to Tax Collected ²		0.79
C.	Federal Spending Received	\$	75,123,910,030
D.	Net Tax Payment	\$	19,969,646,970
E.	Federal Funds Brought Into State in 2012	\$	457,719,462
F.	Federal Funds as Percentage of Net Tax Payments		2.3 %

Sources: ¹ IRS, Statistics of Income Division, Individual Master File System, December 2012.

² "Federal Tax Burdens and Expenditures by State: Which States Gain Most from Federal Fiscal Operations?," Special Report No. 139, March 2006.

Hon. Fern Fisher

Director, New York State Courts Access to Justice
Program; Deputy Chief Administrative Judge, New
York City Courts

Testimony Of Justice Fern Fisher, Deputy Chief Administrative Judge for New York City and Director of the New York State Access to Justice Program

I have been asked this morning to present statistics on how the Civil Legal Services funding increased access to justice in 2012 to 2013. These numbers represent thousands of lives assisted and changed by the legal service providers and volunteers who were able to be helping hands due to the existence of this funding. Allow me to put some faces to the numbers with three examples. Those assisted included Mrs. T-D, a homebound wheelchair-bound woman with multiple physical disabilities, who obtained badly needed food stamps after Super Storm Sandy. She was unable to apply for the benefits due to her disabilities without the assistance of the Legal Aid Society. A federal case has been filed on her behalf and those with similar situations.¹ Law students at Touro Law School secured a divorce for a terminally ill woman who was married to a level 4 sex offender and wanted to be free before she died.² Mr.X a father of three and sole wage earner of the family, whose bank account was restrained due to a default judgment in a consumer case received assistance from the Legal Aid Society of Northern New York. Due to the assistance received, \$18,000 in funds were released by the bank.³ In total 267,965 individuals received legal assistance due to the Civil Legal Services funding in 2012 to 2013.

¹Ms. T-D. resides with her husband, who works full-time, and her 14-year-old son in Far Rockaway, which was hit hard by Hurricane Sandy. She suffers from multiple physical disabilities, including multiple sclerosis (MS), hyperthyroidism, choric arthritis, and hip problems. She uses a wheelchair to move about her home and cannot leave her house without her husband's assistance to carry her down the stairs. When the City announced that during a one-week period it was accepting applications at two locations for a new program to provide food stamp benefits to low-income families and individuals affected by the Hurricane, due to her disabilities she could not travel to the closest application site, which was in Brooklyn more than 90 minutes away from her home by public transportation. Because her husband worked, he could not apply for the family and Ms. T-D. did not have an authorized representative who could apply on her behalf. When the Legal Aid Society intervened with the City, she eventually received \$526 in food stamp benefits. A federal court case on her behalf is pending to try to help other similarly situated City residents affected by the Hurricane.

² Ms. P is terminally ill. She married someone who subsequently was charged and convicted as a level 4 sex offender, not having very much, she wanted a divorce to terminate her association with such a sexual predator, and she also wanted the divorce to ensure that her son and nephew will receive all she leaves behind. To that end, Touro Law School students drafted her divorce and the supervising attorney prepared and executed a Last Will and Testament along with a Healthcare Proxy to further protect her interests.

³ The Legal Aid Society of Northern New York's consumer law attorney represented Mr. X, a client whose bank account had been restrained and severance checks tied up. Only then did he learn that a default judgment had been granted against him in 2007. The client is the sole income earner for his family of three. All of the client's funds were released, a total of about \$18,000.

The number of individuals served using Civil Legal Services money increased from 125,169 in 2011-2012 to 267,965 this funding cycle. This 114 per cent increase is substantial. The increase state-wide is reflected in the annexed bar graph. It should be noted that the largest jump in services was in the Second Judicial Department where communities impacted by Super Storm Sandy benefitted greatly from the assistance that the funding was able to make available in the face of much hardship. There has been an increase of services in rural areas, although more is needed still. Judge Coccoma will address the need for more rural services his testimony

Slightly more than 12 percent of the total individuals served or 32,937, were assisted by volunteer lawyers or law students through funded volunteer programs. Volunteers provided both emergency assistance due to the Sandy storm and bread and butter representation. The Legal Services Corporation requires grantees to devote 12.5 per cent of their budgets to private attorney involvement. New York State is providing pro bono services at approximately that standard.

The report today on the state of the use of Civil Legal Services funding to increase access to justice is rosy. Increased funding produced more services to individuals. The fortunate persons who benefitted from the funding have had their lives lifted. As funding is increased, more lives will be uplifted and access to justice receives a big boost. The unmet need is still a reality, but New York has made a major leap forward.

Carey R. Dunne

President, New York City Bar Association; Partner,
Davis Polk & Wardwell LLP



Carey R. Dunne

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Mr. Dunne is Chair of Davis Polk's litigation department and a member of the firm's three-person global Management Committee. He represents clients in a wide variety of criminal, civil and regulatory matters, including grand jury inquiries, internal investigations, enforcement actions by state and federal agencies, and complex commercial disputes. He was a prosecutor in the office of Manhattan District Attorney Robert Morgenthau from 1984 through 1987.

Mr. Dunne is also the current president of the New York City Bar Association, which was founded in 1870 and is the largest such organization in the city, with 23,000 members. Prior to his current position, he served as Vice President of the Association, and as Chair of its Judiciary Committee.

In 2006, he was chosen by Chief Judge Judith S. Kaye to chair her Special Commission on the Future of the New York State Courts. He also served on Chief Judge Kaye's Commission on Indigent Defense Services, and was Chief Counsel to the Commission on Drugs and the Courts. He is a past director of the Legal Aid Society, the Fund for Modern Courts, the National Center for Law and Economic Justice, and the Federal Bar Council. In 2008, he was presented by the Fund for Modern Courts with the John J. McCloy Award for outstanding contributions to the administration of justice in New York State.

Mr. Dunne is the recipient of numerous professional awards and rankings, including being named "Lawyer of the Year" in New York City Litigation – Regulatory Enforcement by *Best Lawyers 2014*; in *Chambers USA: America's Leading Lawyers for Business*, where he has been ranked in Band 1 and recognized as a "major presence in the white-collar world;" as well as in *The Legal 500 U.S.*, where he is commended by clients as a "superb" lawyer who "really know[s] our business and [has] our absolute trust."



**The Chief Judge's Hearing on Access to Civil Legal Services
September 19, 2013
Appellate Division, First Department
27 Madison Avenue, New York City**

**Testimony of the New York City Bar Association
By: Carey R. Dunne, President**

I am honored to testify before you today on behalf of the New York City Bar Association at this annual hearing to address access to justice for New Yorkers who cannot afford an attorney for their crucial civil legal services needs. I will be discussing both the role of the organized bar in promoting pro bono service, and the importance of seeking additional funding for civil legal services to close the gap that still exists between the services needed and services provided.

The New York City Bar has long been strongly committed to providing access to justice, and we work to achieve this on a local, national and international level. We continue to advocate for an adequate level of funding for legal services in Congress, with the State Legislature and with the City Council. In addition to our legal and policy work in this area, our public service affiliate, the City Bar Fund, has two divisions providing direct legal assistance. Our City Bar Justice Center leverages the efforts and resources of the City's legal community to increase access to justice for low-income individuals in New York City. And our Cyrus R. Vance Center for International Justice stimulates and coordinates pro bono efforts in Latin America, Africa and elsewhere in the world.

The City Bar applauds the work of the Task Force and the leadership of Chief Judge Lippman in improving access to justice for New Yorkers. You not only have added \$40 million in annual funding for civil legal services, but also have taken other major steps to stimulate more pro bono work and improve the assistance provided to legal services clients and to the still over two million litigants who appear in New York courts each year without an attorney.

On behalf of the City Bar, I urge that you continue to advance toward the original goal set forth by Chief Judge Lippman of a \$100 million increase in annual civil legal services funding. This is particularly important because of the uncertainty of the effect of the federal sequester, and because of the reduction in federal Legal Services Corporation funding for New York due to population shifts nationwide. As a result of these and other reductions in LSC funding over the past few years, federal funding for Legal Services NYC at the conclusion of 2014 will be roughly half of what it was in 2010. More and more, we must look to the State to provide for its own and, as this Task Force and other studies have shown, investing in legal services provides the State with a substantial return, avoiding the costs that result from eviction, homelessness, domestic violence, foster care and other social and economic crises, and facilitating the recovery of federal benefits that are rightfully owed to low-income individuals.

To achieve the effective provision of civil legal services, the vital role played by LSC-funded agencies and other legal services providers must be paired with a strong commitment by the organized Bar to pro bono service. This is a continuing and growing responsibility. At the City Bar Justice Center, we engage volunteer lawyers in targeting particular needs within our community. In doing so, we greatly appreciate the funding we have received through the Judiciary Legal Services Funding initiative. Additional funding has enabled us to increase our

Legal Hotline staff, permitting Hotline attorneys to service approximately 4,000 additional people. The Center also added consumer bankruptcy clinics and increased the activity of its Legal Clinic for the Homeless, which is particularly crucial with homelessness at record levels.

Our services have become even more needed as many of those formerly in the middle class but who fell upon hard times in the Great Recession have not fully recovered. In New York City alone, census figures show a one-third increase in the percentage of people living below the poverty line between 2007 and 2011. Long term unemployment and underemployment continue to plague many New York families. It is no surprise, then, that the City Bar Justice Center's foreclosure and consumer bankruptcy programs are still heavily in demand. Foreclosure cases have proved particularly intractable, a situation I know you are very much aware of.

In addition, Superstorm Sandy created a whole new group of people who need legal assistance because they experienced severe financial loss and cannot afford counsel. Among other serious concerns, these families face complex rules governing compensation (even where they were covered by insurance) and will need extensive assistance that even then might not make them whole. Losses of such magnitude can send families on a downward spiral toward poverty.

The overwhelming demand for legal services in the wake of the storm demanded a coordinated response both from legal services providers and pro bono volunteers, and we were pleased to help coordinate that response. Many pro bono lawyers were trained in sessions at the City Bar that involved the major civil legal services providers, and these volunteers joined the

City Bar Justice Center staff in the Rockaways in the weeks after the storm to provide emergency legal help. Then, as the legal needs moved from emergency unemployment and benefits assistance to insurance and contractor claims and other longer term concerns, we worked with other organizations to coordinate and provide assistance. In addition, the City Bar Justice Center developed a form to appeal FEMA denials that was vetted by the legal services and pro bono community in the City and converted into an easy-to-use fillable form by ProBonoNet. It was posted on LawHelpNY and is now available nationally to assist in other disasters; we hope it will be widely used. The disaster response further demonstrated that the work of legal services providers and the efforts of pro bono volunteers go hand-in-hand; each supports the other and each must continue to grow to meet the needs we are facing now, let alone the next disaster or economic downturn that may befall us.

It is undeniable that the Bar in New York must do more to meet the legal needs of the poor. That is why, in addition to our strong advocacy for increased funding for legal services, we supported the rule that established a 50-hour pro bono requirement for admission to the Bar in New York. In addition, at last year's hearing, we recommended the adoption of mandatory pro bono reporting, requiring New York lawyers to report their pro bono hours worked and contributions made to legal services providers on the biennial attorney registration form. We applaud the adoption of such a rule. The program has been successful in increasing pro bono participation and support elsewhere, and we believe it will be effective in New York. We also believe the program will enable the gathering of data as to the hours of pro bono effort New York lawyers are expending, to get a sense of the magnitude of what is being done and where. We appreciate that, in response to our request and that of other organizations, the definition of

pro bono service was expanded so that it comports with the definition in Rule 6.1(b) of the Rules of Professional Conduct.

In closing, I want to thank you and the Task Force for the tremendous work you are doing regarding access to justice, and look forward to continuing our work with the Task Force to increase access to civil legal services for those who cannot afford representation.

Jerome Young

Client of Legal Services NYC, accompanied by
Peggy Earisman

Mr. Jerome Young
Testimony before the Chief Judge's Hearings on Legal Services

My name is Jerome Young. I am 34-years old and a United States army war veteran. I was a soldier in Iraq and served in the military for 8 years. While I was in Iraq my vehicle was hit by an improvised explosive device. That day changed my life forever; although I recovered from most of my injuries such as the shrapnel wounds, my traumatic brain injury will always be part of my life and the war has left me with posttraumatic stress syndrome.

When I got back home, I tried to find a job but could not find suitable employment. I decided to go back to college. The traumatic brain injury made it hard, but I am very proud that I finished a two-year course in college.

In 2011, my posttraumatic stress syndrome got a lot worse. I have nightmares, can't sleep and sometimes need to be very isolated. During the worst of the days, I kept to my apartment almost all the time. I only went out in the middle of the night to 24-hour stores to do necessary shopping. I have a young son who is everything to me, but I sent him home to my parents because I was afraid of my anger.

Because of the traumatic brain injury and PTSD, I had to apply for veteran's benefits from the VA, which I was awarded because they found that I am 100% disabled due to injuries suffered while serving in the military. I was also told that I should also get Social Security Disability benefits because I had worked and am now not able to work due to my war injuries. I applied for them but was denied. I was shocked that they denied me since the military had found me 100% disabled. I had no idea that I could appeal so I simply gave up trying to get the benefits.

Luckily, I went to an event at City College for veterans. I'm so glad I did. They told me about the Veterans Justice Project at Legal Services NYC. Betty Heaton, a senior paralegal in the Manhattan office, helped me so much. Ms. Heaton explained that I could appeal the Social Security denial. She helped me from that moment forward. After Hurricane Sandy, my psychiatric treatment had been completely disrupted because the VA hospital had to be evacuated due to flooding. Ms. Heaton helped me get back in touch with my former psychiatrist who provided medical records and wrote long reports detailing the severity of my condition. She then helped me prepare for my hearing in front of the Administrative Law Judge.

Ms. Heaton accompanied me to my hearing and she got the job done. I was awarded disability benefits of about \$800 per month and about \$10,000 in back benefits. The income from the SSD has made a huge difference in my life, allowing me to live with dignity and without financial

worry. Before I met Betty and was helped by legal services, I had given up. Now, I am going back to school and slowly improving medically. I am trying to develop my music career and I am able to spend more time with my son.

I am so grateful that Legal Services is here for people who need help and for everything they did for me.

Thank you.

Maria Perez

Client of The Legal Aid Society's Harlem
Community Law Office, accompanied by Magda
Rosa-Rios

Introduction by Magda Rosa-Rios

Good morning Chief Judge Lippman, and members of the Hearing Panel. Thank you for this opportunity to speak regarding this matter. My name is Magda Rosa-Rios, and I am the Supervising Attorney of the Housing Development Unit and the Community Development Project of the Civil Practice at The Legal Aid Society. I am here today with my clients Maria Perez and Jose Fernandez, a married couple who we successfully represented in their housing matter. The Perez/Fernandez family lived in a building of tenants who had sought our legal services in the past and consequently were familiar with our housing expertise when they came to us in 2011 after the City Department of Buildings issued a vacate order on their building. We were able to negotiate a resolution with the Department to avert the placement of the tenants in shelters and instead arrange for them to be offered permanent affordable housing alternatives. The wait for subsidized housing can be as long as 20 years because the need is so great. There are more than 167,000 families on the list for public housing and nearly 124,000 on the list for Section 8 housing. The Section 8 waiting list has been closed since 2007. Because housing affordable to very low-income families is a scarce and important resource, The Legal Aid Society gives a high priority to representing these families and keeping them in their homes or obtaining alternative permanent housing.

Testimony of Maria Perez Chief Judge's Hearing on Civil Legal Services

Good morning. My name is Maria Perez and I'm here with my husband Jose Fernandez. I am one of four families previously living on 147th Street in Harlem. As part of a tenant group, we were fortunate to have been assisted by The Legal Aid Society in the past. At that time, our attorneys defended us in holdover proceedings, helped persuade HPD to appoint a 7A Administrator, and negotiated so that our apartments would be covered by the Rent Stabilization Law and our rents would be set at 30% of our household incomes until needed renovations were completed and we were approved for Section 8 benefits.

Unfortunately, in 2011, the New York City Department of Buildings issued a vacate order on our building. Immediately our attorneys began assisting us in this emergency situation as we all feared becoming homeless. They helped us negotiate so that we would not be placed in shelters, and instead we would be offered permanent housing alternatives. So as to not be left homeless, we were initially relocated to an apartment in our immediate neighborhood (located at 197 Edgecombe Avenue), in a building managed by the same 7A Administrator who managed our building. However, the apartment and building were in deplorable conditions. The Legal Aid Society started an HP case to address immediate repair issues as well as to expedite finding permanent housing for us. In 2012, the HP was settled with an agreement that my family would be permanently relocated to an apartment at 408 West 150th Street, a safe, decent, habitable apartment. In addition, our rent continued to be set at 30% of our household income until such time as we were approved for Section 8 benefits.

Part of the assistance The Legal Aid Society provided included helping me obtain legal immigration status. Not only was this an important benefit for me personally, but adjusting my immigration status enabled me to receive a Section 8 voucher that we now use to maintain the affordability of our new rent stabilized apartment.

I am so grateful that The Legal Aid Society agreed to help us. Without them, me and my family, as well as my entire building of neighbors would have become homeless. I consider ourselves very lucky, because now we now have a safe, habitable and affordable apartment, and were able to remain in our neighborhood where we have made our lives. I am also grateful because The Legal Aid Society was able to help me adjust my immigration status. However, I know that there are still many New Yorkers out there that also need this type of advocacy and assistance. I cannot stress enough the importance of funding The Legal Aid Society and other civil legal services programs, because they are an extremely significant resource for New Yorkers who otherwise lack the ability to obtain representation or gain legal assistance in a variety of civil litigation issues. I am here in support of continued and increased funding for civil legal services in New York.

Thank you.

Miriam Tangara

Client of Northern Manhattan Improvement
Corporation, accompanied by Danielle Salgado

My name is Miriam Tangara. I'm 35 years old and mother of a 10 year old boy Moussa. I was born in France and came to United States in 2001 to join my fiancé.

I got married in July 2001 with a man I met in Mali, a country in West of Africa, when visiting my parents' family members. Year after year, my relationship with my ex-husband became controlling, abusive and then became violent.

Eventually he was arrested after he sexually assaulted me and was not able to come back home. I was helped by the New York City District Attorney's Office Victim Center and attended a support group and individual counseling. I was given an order of protection.

While all of this was happening, I received court papers from our management office suing me for nonpayment of the rent. This was the time to face the reality of supporting myself and my son. I was filled with the fear somebody could take him away from me and have me deported. A threat my ex-husband always made. I didn't know where to turn. Due to my very complicated situation, my counselor referred me to the Northern Manhattan Improvement Corporation.

Today I'm here to share my experience as a client of the Northern Manhattan Improvement Corporation. It is so important for me to be here and say what services I received because without those programs I do not know what would have happened to Moussa or me.

The first time I went to NMIC, I spoke to the Domestic Violence Project Director Sarah Banda interviewed me and asked me why I needed help. I was very scared, but was able to talk to her about the serious problems I had. I was primarily concerned about my housing case and our need for public assistance. She also said they had legal services which could help me with my immigration status if I needed it. I was very scared and told her I was fine. I was overwhelmed.

An attorney from the Legal Housing Unit, Michelle Andrews, took my housing case. I was afraid of being evicted because my ex-husband wasn't paying the rent prior his arrest. The rent arrears went up to more than \$14 000. I could not get help from public assistance because my name was not on the lease. In court my ex-husband never agreed to add me to the lease or give up his right to the apartment. After many times in court my housing case got resolved. Michelle Andrews did all the necessary paperwork with Public Assistance to pay the arrears and also filed an application for FEPS. Moussa and I were able to remain in the apartment.

During the entire time the housing and criminal cases were proceeding, I received counseling with the Domestic Violence Project. I started opening up to Ms. Banda about things that I was afraid of. It felt good to have somebody that you can trust. At first I never admitted to her I needed to see an immigration lawyer, but she offered for me to meet with the legal department's domestic violence attorney, Danielle Salgado. I met with Danielle and she explained there was a benefit known as a U-visa which helps victims of crimes obtain legal status in the United States. She contacted the District Attorney's Office and confirmed I was helping with the criminal case against my ex-husband. She helped me complete the necessary paperwork and filed a U-visa petition on my behalf in 2010. My U-visa was approved and I received my work permit in December of 2010. I will be getting my greencard next year.

I started working part-time for a prestigious French private school in Manhattan in 2011. I divorced my husband in 2012 with the help of a pro-bono attorney NMIC referred me to. In June 2012, I was offered a full time position as a French Teacher Assistant. Moussa is now enrolled at this amazing bilingual French school and started this September as a 5th grader. He's so excited to learn Mandarin and Spanish. My son and I are doing well so far and look forward to achieving a lot more.

APPENDIX 13:

**Written Statements Submitted at the Second Department
Hearing Held on October 1, 2013**

Written Statements Submitted at the
Second Department Hearing on October 1, 2013

Mary Brosnahan (*President and CEO, Coalition for the Homeless*)

Miriam Buhl, Esq. (*Pro Bono Counsel, Weil Gotshal & Manges LLP*)

Karen Cheeks-Lomax, Esq. (*Chief Executive Officer, My Sisters' Place*)

Hon. Michael A. Cardozo (*New York City Corporation Counsel*)

Nicholas Dorman (*First Responder and Client of New York Legal Assistance Group, accompanied by Ann Dibble*)

Donna Froscio (*President, Women's Bar Association of the State of New York*)

Milagros Garcia (*Client of The Legal Aid Society of Rockland County, Inc., accompanied by Alexander Bursztein*)

Thomas M. Gordon (*Executive Director, Responsive Law*)

Klaus H. Jacob, Ph. D. (*Professor, Lamont-Doherty Earth Observatory, Columbia University*)

Seymour W. James, Jr. Esq. (*Past President, New York State Bar Association; Attorney-in-Charge of the Criminal Practice, The Legal Aid Society*)

Martha Krisel, Esq. (*Second Vice President & Access to Justice Chair, Nassau County Bar Association; Chief Deputy County Attorney for Special Projects, Nassau County*)

The Legal Aid Society

Huan Qiang Lin (*Client of The Legal Aid Society, Queens Neighborhood Office, accompanied by Tashi T. Lhewa*)

Cesar and Maria Lopez (*Client of Queens Legal Services, accompanied by Aisha Baruni*)

Catherine M. Lyle (*Foreclosure Counselor, Margert Community Corporation*)

Hon. Scott J. Mandel (*City Council President, City of Long Beach, Nassau County*)

David N.K. Nguyen, Esq. (*Director, Disaster Legal Services Program, Young Lawyers Division, American Bar Association*)

Mark L. Noferi (*Member of Committee on Immigration & Nationality Law*)

Hon. Richard Schaffer (*Supervisor, Town of Babylon, Suffolk County*)

Michael M. Weinstein (*Chief Program Officer, Robin Hood Foundation*)

Hon. Michael A. Cardozo

New York City Corporation Counsel

**TESTIMONY OF MICHAEL A. CARDOZO
BEFORE CHIEF JUDGE LIPPMAN'S HEARINGS ON CIVIL
LEGAL SERVICES**

October 1, 2013

Good morning, Chief Judge Lippman, Justice Eng, Judge Prudenti and President Schraver. It is an honor to be here today in my role as the Corporation Counsel of the City of New York to share with you some observations, from the City's perspective, about the impact of natural disasters like Superstorm Sandy on the legal needs of low-income New Yorkers, the experience of legal service providers in responding to those needs and lessons the Sandy experience teach us for the future.

Much of what we've learned, and about which I will testify today, is also drawn from the City's experiences after other crises in the last several years. While there are major differences between these events, what they share in common is that each has resulted in the need for urgent and substantial legal assistance, particularly for low-income people. Whether it was the man-made disaster of September 11th; the time-sensitive opportunity for immigrant children to gain status in this country; or the extreme weather events of Hurricane Irene, the earthquake in Haiti or the terrible destruction resulting from Superstorm Sandy, low-income people have been faced with the acute need for counsel and representation by attorneys, which by necessity must be on a no-fee or low-fee basis.

I want to begin by emphasizing that, as I see it, both the City and legal services providers have responsibilities for helping to ensure the availability of legal services during and after a crisis of this nature. The City has two important roles. First, it has the critically important function of providing communication to the public with current information, not only regarding important news developments about the disaster but also to provide specific information explaining how to obtain legal assistance for those in need. Second, the City also can be instrumental in helping to find emergency physical space for attorneys who provide the actual legal assistance.

The other key role, in the aftermath of this kind of natural disaster, belongs to legal services providers, several of which are affiliated with the City's major bar associations. Utilizing attorney volunteers from the private bar to supplement the work of their own staffs, they have been the key source of direct legal services to those in need.

For those entities to be able to provide such help requires funding, primarily for the training and supervision of attorneys, as well as the salaries of the staff attorneys who are or must become subject matter experts, and who form the backbone of the non-profit and legal services organizations poised to provide these services. This is appropriate, because City lawyers cannot provide such assistance due to a multiplicity of factors, including the

potential conflicts that arise in these types of matters. In that connection, I should also note that although large law firms are typically an excellent source of pro bono attorneys, we have seen that in certain kinds of crises -- such as those involving mortgage foreclosures and, as in Superstorm Sandy, insurance matters -- many of these law firm attorneys could not represent people in need because of firm representation conflicts.

Let me paint the picture of the legal services challenge presented by Superstorm Sandy: of the more than 840,000 people living in the neighborhoods that sustained the greatest damage from the Superstorm, virtually all of whom live within the jurisdiction of this Department, approximately 17% (or 142,800) were already living below the poverty line. Moreover, 80,000 residents in 400 Housing Authority buildings were affected by power outages and the loss of heat and hot water. In addition, for many homeowners affected by the Superstorm, who might not otherwise have been categorized as needing or qualifying for pro bono legal assistance, their homes were or are their most valuable asset. They had expected to convey this asset to their families, and without it, would be impoverished for years.

In the immediate aftermath of the Superstorm, these homeowners were not only displaced (either temporarily or permanently) from their

homes but many were left cash-poor. How would they, and the thousands of others needing pro bono or low cost legal assistance, find an attorney to help them get back into their home, obtain food stamps, deal with unemployment issues and scores of other legal problems? Where would those attorneys come from? And where would they physically be located?

From the City's perspective one of the ways it met these issues was to be sure its 311 call center and related website could advise callers whom to contact for legal assistance. This required, of course, that the City obtain such information quickly and efficiently, and then train its 311 operators about the crisis and the available resources. In addition, the City also helped to see that space was allotted to legal service providers at the Restoration Centers so that Sandy victims could speak in person with an attorney.

When the seriousness of the crisis became clear, several legal services organizations immediately recruited and directed primarily volunteer attorneys to locations where they could provide assistance on an immediate basis. A number of non-profit organizations and community-based groups, including the Legal Aid Society, Lawyers Alliance for New York, Legal Services-NYC, City Bar Justice Center, Brooklyn Bar Association's Volunteer Lawyers Project, Queens Bar Association's Volunteer Lawyers

Project, and the New York Legal Assistance Group were present and working incredibly hard under unusually difficult circumstances.

The City Bar Justice Center played a coordinating role among these groups. For example, it not only helped facilitate the dispatching of volunteers, but, as time went on and the need for pro bono legal services for Sandy's victims continued, it also hosted a monthly roundtable to raise the knowledge and understanding about insurance claims. It held several meetings with the other legal assistance providers throughout the early days of the crisis and served as a central focal point of communication. These various organizations' own staff attorneys worked with numerous volunteer attorneys at locations set up in neighborhoods most affected, including Restoration Centers co-located with federal, State and City emergency personnel as well as at public buildings, churches and schools.

Many of the legal services attorneys were viewed as "first responders" -- for example, FEMA asked them to go door-to-door to check on disabled and elderly residents, and they performed cleanup and garbage removal work. If it had to be done, they were doing it, even if it wasn't "legal" work.

The actual legal work that has had to be done as a result of the Storm has been varied. Attorneys have provided counseling, immediately after the Storm and continuing thereafter, about the victims' legal rights. This is the

"limited representation" model that can be offered in a clinic setting, and in this context meant, for example, helping people fill out FEMA and other government assistance forms. Moreover, administrative or judicial proceedings -- such as FEMA appeals, insurance disputes, or actions against contractors -- as well as re-building efforts by homeowners -- have been taken on by volunteer and legal services staff attorneys. Many of these matters are not yet resolved and many are likely to be protracted. I note that the City's Department of Consumer Affairs has been monitoring the contracting work undertaken after Superstorm Sandy, holding accountable through its licensing function the providers of services to homeowners attempting to re-build.

Legal services attorneys were able to tap into their and their volunteers' existing knowledge of areas such employment law, real estate law and landlord tenant law. But they also undertook to learn -- and then train volunteers in -- new or unfamiliar topics including preparation of FEMA applications for assistance; appeals of FEMA denials and insurance claims; and continuation of federal benefits such as food stamps and welfare payments. One of the significant products of this work was the development of a FEMA appeal template form that could be completed by homeowners

on their own, a form that has been made widely available throughout the country for others to use.

The need for training in many of these areas was acute, since many of the lawyer volunteers were unfamiliar with the areas where legal help was needed the most, such as insurance law. Experts were retained to provide that training, which was funded by a prominent foundation.

I cannot emphasize enough the difference that adequate funding makes in the legal work that needs to be provided to people under these circumstances. For example, in the wake of Superstorm Sandy, grants were provided to the New York Legal Assistance Group's Storm Response Unit to focus on the special needs of immigrants and their families, including through collaborations with the Mayor's Office of Immigrant Affairs, Catholic Charities, and the Federation of Protestant Welfare Agencies. Multi-lingual help was provided and referrals were made to caseworkers and a hotline, all of which provided help with FEMA and other disaster benefits applications, as well as housing, insurance and other public benefits. Other funding was directed to the Lawyers Alliance for New York to assist non-profit organizations affected by the storm. Their work included hosting free webinars on disaster relief and various rebuilding topics; support in five neighborhood clinics in Sandy-affected areas; and phone consultations

related to Sandy relief. Lawyers Alliance continues to provide direct legal assistance to non-profit groups on matters including real estate, employment law, government grants and loans, operating a disaster relief program, and insurance coverage.

On yet another front, the Center for New York City Neighborhoods was provided resources to fund housing counselors and legal service providers. In coordination with the City's Department of Housing Preservation and Development, this has included giving homeowners access to expert help securing critical relief and resources from FEMA, insurance providers and other public and private programs. They have also assisted individual homeowners in applying for forbearances and loan modifications while repairing and rebuilding their homes. Also in the housing area, we can predict that there will be a need for legal counseling under a program being developed with the State under which homeowners will be able to sell their homes to the government. Specialists at the Center for New York City Neighborhoods will be an invaluable resource to assist in the legal issues involving foreclosure or similar mortgage issues that are likely to arise.

Let me pause here to express, on behalf of Mayor Bloomberg and myself, the City's enormous thanks to all these legal service organizations and the volunteer attorneys who made such an extraordinary contribution in

this time of crisis. It was another shining example of efforts that former Chief Judge Judith Kaye, speaking after the events of 9/11, characterized as "the bar's finest hour."

New Yorkers should also thank the generous companies and charities that helped fund the important work of the legal services groups.

As I mentioned earlier, the City has a key role in communicating information to the public about legal services. Its 311 system, operated by the City's Department of Information Technology & Telecommunications, partners with City agencies to provide the "content" of information to the public. During and after Superstorm Sandy, its 311 operators provided information to people about referrals to bar associations and non-profit organizations, as well as the "lawhelp.org" website that is the most comprehensive online source of information about entities providing legal assistance. It is essential that in planning for future crises provision be made for the 311 and related web system to be supplied with information so that it can explain to the caller how to find a lawyer or a legal services organization that can help.

In addition government officials are also well positioned, particularly during a crisis, to help obtain space for lawyers to meet with clients, such as at a Restoration Center, or churches, schools and meeting halls.

Unfortunately, we all know that while it is likely that there will be another crisis, we don't know what type it will be, when it will occur, or where emergency legal help will again be needed. So we must remember, and be in a position to act upon, what we have learned from this crisis.

Specifically, we know that low-income individuals will be impacted more seriously than people who can more easily afford services of all kinds, particularly legal assistance. Communication needs to be enhanced to all members of the public, and it should include information about legal help. Attorneys poised to provide that assistance must be given adequate space in which to work and meet with clients. The legal problems that emerge during such a crisis necessarily can involve longer-term matters, particularly litigation or quasi-litigation matters involving disputes with insurance companies, landlords or employers. Legal services providers are in the best position to train volunteer attorneys, but they must be adequately funded.

Based on our experiences and observations, I would offer the following recommendations as we consider planning for future emergencies:

- We should continue to encourage members of the bar to be trained in, and to provide, volunteer service during times of emergency. The new mandate regarding the reporting of pro bono service and contributions sets the stage for such encouragement.

- Although the specific nature of the crisis will affect the kind of legal help needed, we should be able to identify now many of the general subject areas of law that will be needed. Support should be provided to legal services organizations to develop training materials, with the assistance of subject matter experts, that can be available "at the ready" and utilized "on demand", whether it be in insurance law, emergency housing and landlord/tenant issues, FEMA protocols or trusts and estates law.

- The court system should place a high priority on developing a more coordinated means of sharing information with the public -- perhaps with the assistance of the bar and City government communication resources -- regarding matters such as the status of the opening and closing of court parts, juror and witness responsibilities, and case schedules. I know that the Federal State Judicial Council, on whose Advisory Group I sit, is actively considering this issue.

- In light of my observations, and to implement some of the recommendations I have made, I suggest that consideration be given to creation, as soon as possible, of a working group comprised of government and court system officials, along with representatives of bar associations and legal services providers. Armed with the experiences gained from Superstorm Sandy and earlier crises, this group could start preparing now for

the inevitable need for legal services during and after the next crisis. With careful preparation in advance, resulting in a plan that can be implemented quickly, there is likely to be less chaos in the midst of an inherently chaotic situation.

Thank you for the opportunity to be part of the conversation about this complex and critically important topic. I would be happy to answer any questions if you would like to explore these issues in further detail.

Klaus H. Jacob, Ph.D.

Professor, Lamont-Doherty Earth Observatory,
Columbia University

**TESTIMONY FOR THE CHIEF JUDGE'S HEARINGS
ON
CIVIL LEGAL SERVICES
SECOND DEPARTMENT**

**Presented by
Klaus H. Jacob, Ph.D.**

**Lamont-Doherty Earth Observatory of Columbia
University, Special Research Scientist (Geophysics)**

**Columbia University School of International and Public
Affairs, Adjunct Professor**

Member, New York Panel for Climate Change (NPCC)

**Special Advisor, United State Department of Housing
and Urban Development (HUD) post-Sandy competition
"Rebuilding by Design"**

**Columbia University, LDEO Senior Research Scientist
(1968-2001, retired) (Geophysics).**

October 1, 2013

My name is KLAUS H. JACOB, Ph.D., I am retired from a full-time (1968-2001) research and teaching employment with Columbia University, and am currently part-time employed as a Special Research Scientist (geophysics) at Columbia's Lamont-Doherty Earth Observatory (LDEO) located at 61 Route 9W, Palisades, NY 10964; and as an Adjunct Professor at Columbia's School of International and Public Affairs (SIPA), located at 116th Street and Broadway, New York, NY 10027. My part-time duties include performing research on natural hazards and disasters, and lecturing about climate change and disaster risk management. I also serve, by appointment of the Mayor of the City of New York, on the New York Panel for Climate Change (NPCC); and on the U.S. HUD (Housing and Urban Development) Department's post-Sandy competition "Rebuilding by Design" as an expert advisor on its stage-2 Research Advisory Team.

Superstorm Sandy has been declared a major natural disaster. But "Natural Disaster" is a misnomer. Sandy was an extreme natural event. That this extreme natural event turned at some places into a social disaster was caused not only by the physical vulnerability of the NY-NJ metropolitan region's built environment, but also by the pre-existing socio-economic vulnerability of some of its neighborhoods.

It is a well-known truism in the professional discipline of disaster risk management that extreme natural events have different impacts on different sectors of populations.

- Extreme natural events are known to amplify pre-existing socio-economic stresses.
- Disaster vulnerability strongly correlates with marginal livelihoods or outright poverty.
- Disaster resilience on the other hand strongly correlates with healthy livelihoods and wealth.

Those sectors of society that exist at marginal livelihoods prior to the arrival of an extreme event tend to lack sufficient economic, social and legal resources to cope with the impacts. Those with access to such resources tend to recover quickly and/or can avoid getting into situations that require legal resolutions.

Those without access to such resources are often unable to recover, or unable even to merely regain the marginal level of livelihood they endured prior to the arrival of the extreme event. The consequences of economic default then often result in legal conflicts requiring resolution. Superstorm Sandy is just such a case in proof.

Often the direct physical damage is only one blow that families and households in some storm-affected neighborhoods sustain. An often equally consequential impact can emerge from the post-disaster changes in policies and administrative protocols. Take as an example a family that barely can maintain the ownership of a simple house in a near-shore flood-prone neighborhood, that struggles with not only the mortgage for its modest house, but also with paying the obligatory premium for flood insurance, say in the order of \$ 1,000 to \$1,500 per year for a simple one-family home. It is well known that post-Sandy FEMA base-flood-elevations have been raised by several feet, and mortgage holders are faced now, or will soon be faced with two options: to finance not only the repairs from Sandy-inflicted damage to restore the house to its pre-Sandy state, but to finance the additional construction costs and administrative burdens to upgrade their home to the new much more stringent National Flood Insurance regulations (i.e. conforming to higher base flood elevations); such upgrade costs can approach or exceed \$ 30,000 to \$ 150,000 for just a simple one-family home. If the family is not able to cover the combined flood repair and new FEMA flood regulation compliance upgrade costs and therefore fails to upgrade to the new regulations, then the consequences are likely to be dire: National Flood Insurance (NFIP) premiums are typically rising from the pre-Sandy \$1,000 or \$1,500 levels, to new premiums in the order of \$ 10,000 or more per year. This financial burden, in addition to the direct losses incurred from the Sandy flooding, will drive many families into defaulting on their mortgage payments and facing the nightmare of foreclosure on their homes. Any and all of the above steps in this disaster-spiral typically require legal advice and representation on matters beyond the control of the affected families.

Those with sufficient resources can simply pay for the professional and legal services they may require and proceed with their lives and livelihoods, or can avoid defaulting on mortgage payments in the first place, and hence may not require legal services at all. But those with limited resources face additional administrative hurdles and are likely not to afford the legal services they need.

The above example is for a family that under normal circumstances barely can afford to own a house. For those renting living spaces similar effects prevail as owners of rental spaces try to recover the Sandy-incurred costs and adjust rents to the new post-Sandy realities. Such changes can result in legal conflicts between landlords and tenants, including on issues of delayed repairs or services, or evictions related to Sandy-damage related complications.

This is the well-known spiral of deprivation after disasters that families with marginal livelihoods are well acquainted with. It often puts those just above the poverty line below it. It also hits those with less education and less proficiency in the English language, since it may not be their primary tongue, to a much greater degree than those that have better coping abilities and resources.

There is no doubt, from my professional and personal experience before and after Sandy, from New York and abroad, that those hardest hit by Sandy-type events, and with the least access to coping resources, need access to a variety of administrative and civil legal services so legal fees will not further cut into their storm-diminished marginal resources. Or they are deprived of legal services on matters they encounter that are beyond their control. They need low-cost or free Civil Legal Services to get them back onto their own feet. If deprived of such publically provided resources, many of the families may become permanently dependent on public social services and strain the latter unnecessarily. Their cases also will burden the legal system.

This is another phenomenon well understood in disaster risk management circles: preventive measures avoid unintended consequences and losses. While I am not familiar with a similar study about the social cost-effectiveness of preventive measures in legal services, [although I understand that the Task Force to Expand Civil Legal Services has done such studies to support civil legal services] I am thoroughly familiar with studies that show how cost beneficial preventive disaster risk reduction measures are in general: a study of the National Institute of Building Sciences (NIBS) showed that for every one dollar invested in preventive disaster risk mitigation will bring, on average, the benefit of 4 dollars of NOT incurred future losses. Preventive healthcare provides similar examples. It stands to reason that civil legal services as a preventive and assisting measure will have significant social if not outright economic benefits, not only for those

receiving the legal services, but also by reducing the demand for future court loads and related public legal costs.

Therefore civil legal services, in my professional and personal risk management experience, are not only a social and moral imperative, but are good, cost effective business and hence prudent public policy.

Respectfully Submitted,

A handwritten signature in black ink that reads "Klaus H. Jacob". The signature is written in a cursive style with a large initial 'K' and a long, sweeping tail on the 'b'.

Klaus H. Jacob, Ph.D.

Hon. Richard Schaffer

Supervisor, Town of Babylon, Suffolk County

Chief Judge of the State of New York : Hearings on Civil Legal Services

Testimony of Hon. Rich Schaffer, Supervisor, Town of Babylon

Before

Hon. Jonathan Lippman, Chief Judge of the State of New York

Hon. A. Gail Prudenti, Chief Administrative Judge

Hon. Randall T Eng, Presiding Justice of the Second Judicial Department

David M. Schraver, President of the New York State Bar Association

October 1, 2013

Thank you for the invitation to join you this morning to discuss this very important subject.

Our court system is the pillar of our society's commitment to value the truth, the individual, and justice more than it values politics, power or process. At the heart of that commitment is access, equal access without regard for wealth or social status. Effective legal representation should be considered a right that is available to people of all classes and backgrounds and not simply a luxury for those who can afford it.

Having a legal representative is vital to so many important issues that affect the underprivileged members of our community on a daily basis, whether it be keeping a roof over their heads, shielding them from those who prey on the less fortunate, keeping their children in a safe household, or simply providing an individual protection from harm. The availability of these essentials can hinge on the decision of a civil action.

Given the language and nuances of law, an attorney can be essential in making sure that their client knows the rights that are afforded to them and the way in which the judicial process works. Legal representatives can also provide alternatives to certain situations before an individual decides to take their issue through the court system. Having experienced counsel by your side is an invaluable asset that should be provided to all, not just to those can afford it.

In addition to the importance of legal services to individuals, it has a tremendous effect on government spending and efficiency. As a local official, I know the impact that leaving low-income individuals unrepresented has on all levels of government, as well as society. When someone does not have proper access to the legal system, their unmet needs invariably put a strain on local government and taxpayers. From housing to medical care to education, the long-term costs of an ineffective legal system can touch all aspects of a community.

In the wake of a variety of economic factors, whether it be the lingering effects of the recession or the recovery costs from Hurricane Sandy, every municipality is trying to cut costs wherever possible. If someone who cannot usually afford a lawyer is provided one, they can receive proper representation so that they are aware of their rights and other channels of refuge that are more effective in both practice and cost.

The Town of Babylon is an economically diverse community with a population of over 200,000 people. It is the most densely populated town in Suffolk County and like everywhere else in New York State, there is poverty. Civil legal service offices as well as law school programs help our residents in the many basic issues critical to their lives. Their work is valuable and essential to everyone in our town. During a large scale crisis like Sandy and its aftermath, civil legal services resources are needed to address the so-called everyday crises and the new crises facing families.

The ways in which the availability of legal representation to the less fortunate would be a benefit to our society as a whole cannot be understated. These services can raise awareness of legal rights, return custody of children to their parents, allow abuse victims to obtain restraining orders, lessen dependence on government assistance, limit improper foreclosures, improve quality of life in impoverished communities, increase workplace productivity and keep a check on those who seek to take advantage of the unaware and disadvantaged.

With the one year anniversary of Hurricane Sandy approaching, our residents are still weathering the storm. As with many other Long Island towns, we experienced extreme devastation, displacing hundreds from their homes. Many of these residents are still fighting uphill battles to rebuild their homes and reclaim their financial standing in the face of struggles with banks, contractors, insurance companies and red-tape bureaucracy.

There are many legal implications to these issues that some may not be aware of without proper guidance and representation. The complicated policies of insurance companies and banks make it difficult for even the average person to comprehend what they're signing their name to or what they are entitled to. Without a legal representative by their side, those who were hit the hardest by this disaster are left in a cloud of confusion. Many displaced homeowners faced long waits and red-tape in their fight with banks to release insurance funding for repairs. Furthermore, many faced complex legal issues involving landlord and tenant rights or deed transfers following the loss of a loved one.

When faced with the overwhelming prospect of rebuilding your home and livelihood following a major disaster, the last thing these residents need is a complicated legal battle without an attorney to represent them. It is impossible to know the extent of the cost to Sandy victims that may have lost out on funding or been denied assistance because of a lack of understanding of complex proceedings.

Given the damaged sustained by many homes as a result of the storm, many residents have entered into agreements with contractors for repairs. These individuals have the right to know whether they are getting a fair deal or being shaken down by improper practices. It is in times like these that some of the worst among us prey on those who have been hit the hardest. In the event of a dispute going to civil trial, the last thing these people would need is extensive lawyer fees on top of their already strenuous building costs.

Even though we in the Town of Babylon have done our best to accommodate residents that are rebuilding their homes during this difficult time, there are still complications that bog down many throughout the different levels of government. Without a lawyer present to help cut through the red-tape and navigate the bureaucracy, the process becomes even more unpleasant.

I believe we should explore the feasibility of creating a legal task force to assist residents in times of disaster. Made up of civic minded attorneys, applicants to the NYS Bar Association, civil legal service organizations who are at the forefront of crisis work for low income people every day and even law students, this team could be called on to provide informational seminars and one-on-one consultations to guide residents through the maze of legal issues that may arise following a major disaster.

Hurricane Sandy is just one of the many instances that show the need for qualified legal representatives for those who cannot afford them due to a variety of circumstances. There are so many among us who have experienced hardships, whether they be disaster-related, economic or otherwise, and it would be irresponsible to deny them legal guidance when they need it the most.

I fully support the efforts of The Task Force to Expand Access to Civil Legal Services in New York, and I look forward to continuing to work with you to ensure that the underprivileged have real and valuable access to our court system.

I thank you again for giving me the opportunity to participate in this hearing and to express my views and support on this very important issue.

Hon. Scott J. Mandel

City Council President, City of Long Beach, Nassau
County

Testimony Presented before the Hon. Jonathan Lippman's Hearings on Civil Legal Services

October 1, 2013

Scott J. Mandel, Esq. - President, Long Beach City Council

Good morning Chief Judge Lippman, Chief Administrative Judge Prudenti, Presiding Justice Eng and President Schraver, distinguished members of the Task Force and colleagues. My name is Scott Mandel and I am the President of the Long Beach City Council. Thank you for the opportunity to testify today regarding the impact of Superstorm Sandy, the need for civil legal services immediately after the storm's impact, and the continuing need for on-going civil legal services in the City of Long Beach.

The physical damage inflicted by Superstorm Sandy on the City of Long Beach was devastating. Countless homes and businesses, and parts of our municipal infrastructure, were either destroyed or heavily damaged. One of the earliest needs to emerge from residents who were struggling to cope with the wreckage around them was access to critical information, which was severely restricted after the storm. Restoring this access, and enhancing it (where possible) thus became one of the City's first and foremost priorities.

In the immediate aftermath of the storm, the City had to overcome substantial barriers in order to provide critical information and outreach to residents. Widespread power outages forced the City to go street-to-street, throughout our community, distributing leaflets which contained information on topics such as emergency shelters, access to medical services, availability of water and sewer services, food and clothing distribution centers, and more. This process continued for many weeks after the storm. Specifically, our Martin Luther King Center, which serves as a community outreach resource for our lower economic population, was severely damaged thus cutting off a central hub for information distribution in one of our most disadvantaged areas.

After these needs gradually subsided, another form of needed information took precedence; information relating to residents' legal rights, protections and entitlements on a broad array of matters ranging from living arrangements, repairs and reconstruction. In an effort to meet these needs, the City was fortunate to work with the Nassau County Bar Association, Nassau Suffolk Legal Services, Touro Law School, Hofstra Law School, and the Long Beach Lawyers' Association ("LBLE"), which is our community's local bar association, to provide several *pro bono* legal clinics housed in the Long Beach City Court and other locations in City Hall. The first of these clinics was attended mostly by low-income families and displaced tenants seeking legal advice regarding their landlords' obligations under their leases. Accordingly, much of the legal advice rendered during the first clinic revolved around the implied warranty of habitability, and other topics relating to leaseholds and low-income housing. By the time of the second clinic, residents had

begun the rebuilding process, and their questions tended to mirror their evolving concerns in this regard. Specifically, questions regarding the property/casualty insurance claims process, predatory contractors, and the FEMA claim reimbursement process, dominated the agenda. To assist with some of these questions, which were highly technical in nature, the City and the LBLA also arranged for FEMA representatives to attend the clinic. While attorneys were not always able answer to fact-sensitive questions posed to them, all residents were provided with a degree of insight on how to obtain the information they sought. Generally speaking, the sense of direction that attorneys were able to impart seemed to alleviate residents' concerns, particularly those residents who did not know how to begin to address to widespread and overwhelming destruction that they faced.

Without question, while the need for civil legal services is always of high value, when specifically addressing the needs of the residents of Long Beach after Superstorm Sandy, the need became, and remains to date, critical and on-going. Long Beach is home to a diverse population with various social-economic levels. While the devastation crossed all socio-economic levels, the crisis of those residents needing legal services who could not afford representation has become exacerbated due to the challenges of required paperwork, documentation and navigating the world of insurance coverage and FEMA processes. Organizations such as Nassau Suffolk Legal Services have consistently represented low-income residents of Long Beach, but post Sandy especially, the need to continue funding civil legal services organizations remains critical to our community. Providing legal counsel immediately following this crisis was necessary to address the needs of the residents of Long Beach. However, providing on-going civil legal services has proven to be essential and critical in allowing our City to move forward and for our residents, specifically those who simply cannot afford representation, to reclaim their lives.

Nicholas Dorman

First Responder and Client of New York Legal Assistance Group, accompanied by Ann Dibble



Yisroel Schulman, Esq.
President & Attorney-In-Chief

Testimony by Nicholas Dorman
before Chief Judge Jonathan Lippman's
Hearing to Expand Access to Civil Legal Services in New York

October 1, 2013

Chief Judge Lippman, thank you for the invitation to speak at today's hearing. My name is Nicholas Dorman. I grew up on Staten Island. When Superstorm Sandy hit in October 2012, I was living with my wife, Tanya, who is a teacher, and our 2 children in Great Kills. Our house, like so many of our friends' and neighbors', was destroyed by the storm. We took in at least 7 feet of flood waters from the bay and boats from a nearby marina crashed into our home and landed in our yard. Thankfully, my wife and children had evacuated to a friend's home in New Jersey before the storm and they were not physically harmed. But the impact to our home was so great that we have yet to return and may never be able to live there again. I am a member of the FDNY and was on duty during the storm and many of the days that followed. Through my family's own experience and my experiences on the job, I have seen firsthand the devastating impact Sandy had on Staten Island and throughout the City.

Before the storm, my wife, kids and I were a typical Staten Island family. We loved our home and our neighborhood. We always paid our bills, including our mortgage, insurance and taxes. But because of Sandy, our lives have been turned upside down.

After the storm, the first thing we needed was to find a new place to live. The four of us lived in my brother-in-law's basement for 3 months and have been renting a home in New Springville since then. My wife and I quickly started to do everything we thought we were



supposed to do after a disaster. We contacted FEMA and submitted a claim with our insurance company. At first, we tried to do everything ourselves. We weren't looking for handouts, but assumed our claims would be handled properly and that we would be able to get the assistance we were entitled to. But we learned very fast how wrong we were and how difficult it would be to try to navigate all of these issues on our own.

By mid-November, I was already extremely frustrated trying to deal with FEMA and insurance companies. I felt like I was getting the runaround instead of the money I needed and was entitled to. I received an email from Senator Lanza's office about a van from a law firm that would be at Hylan Boulevard and Armstrong Avenue the next day to provide free legal assistance to people who were having problems as the result of Sandy. I wasn't sure what to expect, but by this time I knew I could use help, so I went. That was when I first met a lawyer from the New York Legal Assistance Group, or NYLAG. I initially met with an attorney on NYLAG's Mobile Legal Help Center, which is a law office on wheels. I had never needed a lawyer before, but was glad to be able to talk with one. I explained my situation and the problems we were having. The attorney gave me some good advice about dealing with FEMA and promised that another NYLAG attorney would follow up with me soon. Since that first meeting, the lawyers from NYLAG's Storm Response Unit, especially Christopher Fasano, have helped me with many issues as my family tries to move on from Sandy.

For example, like many impacted homeowners, we still don't know whether we should sell our home, repair it or tear it down and rebuild. We have applied for the State's Block Grant program and hope to qualify for a buyout of the house, but don't know whether we will. In the meantime, we are still dealing with insurance companies to increase the payout on our claim and



with FEMA. We are also still responsible for the mortgage on our destroyed home even while we are paying rent at our current home. Our legal services attorneys have helped us obtain a mortgage forbearance and are helping us avoid a possible foreclosure while we pursue the buyout. NYLAG also introduced us to pro bono lawyers at a private firm who are helping negotiate with the insurance companies and NYLAG represented us in a property tax appeal.

Unfortunately, even now, almost a year later, my family and I keep facing new challenges. NYLAG is always there to help when we need them. They have helped us understand and tackle many of the issues we are dealing with as the result of Sandy. It has been extremely valuable to be able to consult with a civil legal services attorney to understand these issues and how they all impact one another.

I never thought I could lose so much so quickly. I now appreciate firsthand the importance of having high quality civil legal services. I am grateful that I have NYLAG in my corner, helping me and my family as we recover from Sandy.

Respectfully submitted,

NICHOLAS DORMAN

Cesar and Maria Lopez

Client of Queens Legal Services, accompanied by
Aisha Baruni

The Chief Judge's Hearings on Civil Legal Services in New York
Second Department Civil Legal Services Hearing

Testimony of
Cesar and Maria Lopez | Queens Legal Services Clients

October 1, 2013

Good Morning. Our names are Cesar and Maria Lopez, and we are here today to tell you why we believe more resources are needed to support civil legal services. We are clients of Queens Legal Services. We have worked with our attorney, Aisha Baruni, for more than two years. We hope that our statement will be heard by the government so that other families do not lose their homes just because they cannot afford a lawyer to help them.

Eight years ago, my wife and I purchased our home in Far Rockaway, Queens. We were very excited to own our home, which was newly built. We did not realize, however, that our new home had been poorly constructed, or that the two mortgages we were pressured to sign in order purchase the home had unfair terms. The seller, who also provided us the mortgage, made many promises—none of which were true. After we moved into our home, our family suffered job loss and then Maria was diagnosed with cancer and had to reduce work hours. Meanwhile, our monthly mortgage payments were much higher than we had been promised, and we fell behind. In 2009, the bank started a foreclosure case against us. We went to a lawyer, who told us not to do anything.

Two years later, when the bank scheduled the sale of our home, we learned of a free foreclosure clinic at the Queens Court. Through the clinic, we met Aisha Baruni of Queens Legal Services. Aisha worked very closely with us to fight the foreclosure and to try and save our home. She explained our rights and showed us how the banks and other lawyers had given us incorrect information. She and her team fought for us.

Last year, our home was flooded by Hurricane Sandy. We could not return for many months. We lost so many things, and did not receive anywhere near the support we needed to pay for the repairs from water, mold and structural damage. It has been very hard trying to rebuild our lives. We applied for FEMA, and got pennies. Once again, Aisha and Queens Legal Services helped us by filing a FEMA appeal. As a result of the appeal, we got critically needed funds.

Our work with Aisha has shown us how important civil legal services are to communities. Not only have we had a fantastic lawyer, but we have her whole team. We are now working with Queens Legal Services social workers to apply for affordable housing through HPD. We would not know about these programs without our civil legal services provider. Losing your home is just as bad, if not worse, than facing time in jail. We should have a system where talented lawyers who work at civil legal services providers are available to everyone who needs them. Our communities would be so much stronger with the help of so many great lawyers. Thank you.

Huan Qiang Lin

Client of The Legal Aid Society, Queens
Neighborhood Office, accompanied by Tashi T.
Lhewa

Introduction by Tashi Lhewa

Good morning Chief Judge Lippman and members of the Hearing Panel. Thank you for the opportunity to submit this statement. My name is Tashi Lhewa, and I am a Consumer Law Attorney with The Legal Aid Society's Queens Neighborhood Office. I also serve as a staff attorney for our Superstorm Sandy coordination and legal assistance efforts, and I am a member of UAW Local 2325, the Association of Legal Aid Attorneys. I am here today with my client, Huan Qiang Lin. Mr. Lin is one of numerous low-income New Yorkers who are still recovering from Superstorm Sandy.

In the aftermath of Superstorm Sandy, Legal Aid staff members have been providing comprehensive disaster relief legal assistance. We are assisting Sandy affected residents with their recovery efforts, including FEMA; insurance claims; housing, including assistance to homeless evacuees in the hotels and landlord-tenant, public housing, and homeowner/foreclosure help; small business and non-profit assistance legal assistance through our Community Development Project; and other matters such as transportation issues and school transfers. We have also targeted disaster relief services in the most affected communities by enlisting the Society's Mobile Justice Unit and using it to provide our services right in these communities. Though the Society was able to adapt and respond to the needs of the Sandy affected client community, the devastation has been so great that many continue to face homelessness, insurance denials, bureaucratic delays, and numerous long-term problems from the storm.

The Legal Aid Society was able to provide my client, Mr. Lin, with comprehensive assistance in his family's recovery from Superstorm Sandy. Mr. Lin will now share his family's experience.

Testimony of Huan Qiang Lin Chief Judge's Hearing on Civil Legal Services

Good morning. My name is Huan Qiang Lin. I am a Chinese immigrant and client of The Legal Aid Society. Prior to Superstorm Sandy, I lived with my wife and two daughters at our house in Coney Island. Similar to many New Yorkers, my family lost almost everything because of Superstorm Sandy. We would not have been able to recover if it were not for the efforts of The Legal Aid Society. I am here today to tell you my personal experience with Superstorm Sandy and about the help I received from The Legal Aid Society.

On October 28, 2013 when Sandy landed, my house was completely flooded as the water rose over 8 feet. All the doors, beds, furniture, water heater, boiler, oven, appliances, and other items were totally destroyed. We lost all power until November 16, 2013.

We had to evacuate when our house was flooded and my family was forced to live separately, because we could not afford a hotel or an apartment. My two daughters stayed at their classmate's house, my wife stayed at her friend's house, and I stayed at another friend's house. During this time I was very worried for my children who had to miss classes and were constantly

changing residences. My family was forced to live separately for a few months until we contacted The Legal Aid Society. We had not been receiving FEMA rental assistance for many months and I was about to start sleeping in my car when Legal Aid obtained \$7,000 in rental assistance for my family. This rental assistance allowed me and my family to be reunited.

My family is a low-income family. Our only source of income is the laundry business I run, and the rental income from the tenants who lived on the second floor of my house. My laundry business faced a sharp decline in business after Sandy. My tenants moved out of the house after the storm because we did not have any power for three weeks. I was facing so many problems with the loss of income, my family being separated, and difficulty repairing and rebuilding my house that I started to see a psychiatrist. This is the first time in my life I have visited a psychiatrist and I still continue to see him.

I filed a claim with my flood and homeowner's insurance company immediately after the storm. I have always paid my insurance premiums on time. The adjuster came to inspect the house in early November, after which I never heard from him. I called the flood insurance adjuster every week, but he would always say that there was no new development. I did not receive any insurance proceeds and was unable to make any repairs to the house. It was only after The Legal Aid Society intervened that I was able to obtain \$ 40,000 in flood insurance proceeds.

I have faced many hurdles in trying to recover from Sandy and the process has been made more difficult due to language barriers and my lack of knowledge about resources and the law. I was fortunate to receive assistance from a legal services provider, but there are numerous others victims of Sandy who still require legal assistance. I ask you on behalf of myself, and other Sandy affected New Yorkers, to increase funding for legal services in New York so that organizations like The Legal Aid Society can continue to do their great work and help other low-income families like mine.

Thank you.

Milagros Garcia

Client of The Legal Aid Society of Rockland
County, Inc., accompanied by Alexander Bursztein

Testimony of Milagros Garcia

Hearings to Expand Access to Civil Legal Services in New York

Presented before:

Hon. Jonathan Lippman, Chief Judge of the State of New York

Hon. Gail Prudenti, Chief Administrative Judge

Hon. Randall T. Eng, Presiding Justice of the Second Department

David M. Schraver, President of New York State Bar Association

**Supreme Court, Queens County
25-10 Court Square, Long Island City
October 1, 2013**

TESTIMONY OF MILAGROS GARCIA

My name is Millie Garcia. I live in the Ba Mar Community, a manufactured home park located on the shores of the Hudson River in Stony Point, Rockland County, New York.

I have two children. My daughter, Yanil, is 13 and my son, Lewis, who is 9. We have lived in our mobile home for more than five years. Rockland County is a very expensive place to live. For many families of modest means such as ours and many other families living at Ba Mar, owning a manufactured home is the only way we can afford to live in a place of our own.

Ba Mar is located right on the Hudson River. Hurricane Sandy devastated our community, destroying or damaging most homes in the park. Our home was flooded and we lost all our furnishings and most of our personal property. Because of the damage, all the utilities including water were turned off right after the storm to all the homes at Ba Mar. We had no choice but to evacuate to a shelter.

We were lucky in that the Stony Point Center, an interfaith conference and retreat center of the Presbyterian Church, located less than three miles from Ba Mar, offered to house all the Ba Mar families that needed shelter immediately after the storm.

Although we had a place to stay, we were desperate to go home. After the initial shock, it quickly became obvious that we needed to get the help to repair our homes and return there. An attorney from the Legal Aid Society of Rockland County, Alex Bursztein, came to see us at the Stony Point Center five days after Sandy. A representative from the Mental Health Association, who came to the Center to help us deal the issues created by the storm and removal from our homes, quickly realized that legal help would be essential for many of us. The Mental Health Association invited their community partner, the Legal Aid Society, to meet with us.

An attorney from the Legal Aid Society immediately began gathering information about our rights as disaster victims. He advised us about FEMA assistance. He participated in our meetings with FEMA and the Rockland County Office of Community Development, advocated on our behalf with those agencies and helped with a process of applying for FEMA housing assistance and for funds to fix our homes. The FEMA process was pretty confusing, especially when it came to our right to continue staying at the Stony Point Center after it became clear that the Center would be reimbursed by FEMA for its expenses in housing and feeding us. Our lawyer helped to clear up some of that confusion.

The civil legal services attorney also helped us with the owners of the mobile home park. At the first meeting with the owners in early November, they told us that we would have

to pay the lot rent even though we were unable to live in our homes. The owners threatened to bring evictions against those who did not immediately pay the lot rent for November. Our attorney negotiated an agreement with the owners that the rent for November would be waived for all residents of the park. As a member of the Steering Committee of the homeowners' group we formed this year, Ba Mar Community Organization, I also know that he was able to prevent evictions of those owners who were being evicted for non-payment of the lot rent even though their homes were destroyed by Sandy and they are still unable to live in them to this day.

Almost a year has passed since Sandy. Unfortunately our situation is far from settled. According to the new flood maps released by FEMA, many homes at Ba Mar including ours must be elevated. The cost of elevating individual homes is around twelve thousand dollars. We were promised that our homes would be raised with Sandy disaster relief funding as soon as possible after that funding was given to Rockland County. Unfortunately, despite the fact that millions of dollars in disaster relief funding was awarded months ago, the work on our homes has not begun. And we also still don't know for sure what the State of New York intends to do with the Ba Mar site. At various times we were told that the state might decide to close our community, a result we are desperate to avoid.

Our attorney has continued to meet with us regularly ever since the storm. We will need the help of the Legal Aid Society of Rockland County to continue our fight to stay in our homes and to have our homes properly repaired.

Thank you for working to make sure that civil legal services is there to help those in need.

Catherine M. Lyle

Foreclosure Counselor, Margert Community
Corporation



Chief Judge's Hearing on Civil Legal Services

October 1, 2013

Testimony

Submitted by: Catherine M. Lyle, Housing Counselor

To the Honorable Chief Judge Lippman and distinguished panelists:

Thank you for this opportunity to testify on the value and importance of the work of Civil Legal Services programs in New York State. My name is Catherine Marie Lyle and I am a Certified Housing Counselor at Margert Community Corporation, an agency approved to provide housing counseling services by the US Department of Housing and Urban Development (HUD), the New York State Homes and Community Renewal Neighborhood Preservation Program (NPP), and the NYC Department of Housing Preservation and Development (HPD). Margert Community Corporation is a community-based, charitable, nonprofit, affordable housing corporation that has been providing a wide variety of neighborhood preservation services, comprehensive housing counseling, and energy affordability assistance to low income tenants and homeowners, the elderly and persons with disabilities since 1980. While our primary service area is southeastern Queens, Margert provides direct assistance to the residents of Queens County, the five boroughs of New York City, and Long Island. We currently provide housing counseling services to more than 2,000 homeowners and tenants each year. As Margert's dedicated Foreclosure Counselor, I am deeply committed to assisting homeowners at risk of foreclosure, as well as educating and counseling homeowners.

During my three-year tenure with Margert, I have needed to collaborate frequently with Legal Services to seek and provide the remedies and relief homeowners require when confronted with home foreclosure actions and predatory loan scams. As an experienced housing counselor, I have come to rely on Legal Services as an invaluable and key resource in the struggle to save and maintain sustainable homeownership and affordable housing. Legal Services and Margert Community Corporation have partnered frequently on community outreach and engagement events – both large and small – as well as with referral services and direct *one-on-one* counseling for foreclosure and eviction prevention. We have worked together closely on specific foreclosure cases to assist and represent homeowners during settlement conferences, escalated case files wrongfully denied for modifications, summons & complaint actions, and communications with the Lender’s attorney.

For events of a larger scale, we provided general information sessions to the community through workshops. I am in communication with Attorneys at The Legal Aid Society on a daily basis to address case specific matters and to plan future events to better inform and assist the community. Simply stated, Legal Services plays a vital role in helping us educate, inform and serve the public. That is why we believe it is critical that adequate funding be provided to support Legal Services in their efforts to give *voice to the voiceless* and continue to offer their services to community-based nonprofits and individuals alike.

As you know, on October 29, 2012, Super Storm Sandy devastated many neighborhoods in New York City. My organization was one of the thousands of homes and businesses hard hit by the storm. For several weeks, we didn’t have electricity or heat but we had resiliency of spirit, resolve and dedication that the storm could not break us. During this time, Legal Services reached out to Margert to offer assistance to homeowners of the Rockaways by providing legal assistance with insurance issues, litigation and/or education for homeowners in need of legal help. In partnership with Legal Services and others, Margert presented the Far Rockaway Sandy Relief Clinic. The Legal Aid Society was able to

provide information on important topics such as FEMA appeals, appealing denied insurance claims, replacing lost contents, informing homeowners of their legal rights as related to flood and homeowners insurance as well as, dealing with subcontractors and other disaster-related fraud opportunists. With legal services as my partner, I was able to meet with homeowners who were facing imminent default due to the unexpected increase in expenditures resulting from Superstorm Sandy and/or loss of income. We were able to separate myth from facts pertaining to programs available to those adversely impacted, as well as, provide guidance to those unsure of how to proceed in repairing, rebuilding and re-establishing their lives during these difficult times. The lives of many homeowners will never be the same after this tragic event.

However, nonprofit organizations such as Margert Community Corporation and the Legal Aid Society played a key role in the recovery of our neighborhoods and communities. The need for legal services for low income New Yorkers is vital because they provide a sense of leveling the playing field for residents, and legal services provides that clarity to a process which may seem confusing to many.

I strongly believe that Legal Services is an essential part of maintaining a strong quality of life in our neighborhoods by providing essential programs and legal services in our communities. Margert Community Corporation believes in delivering services and resources that will provide long term sustainable success to all the communities we serve, and enriching our society in countless ways, both large and small. Every day, Margert Community Corporation and legal services produce client outcomes and significant accomplishments that make our world a better place.

Thank you for the opportunity to present my testimony before the court. We look forward to a long lasting collaboration with Legal Services in order to continue to be a great source of support for our communities.

Catherine M. Lyle

Martha Krisel, Esq.

Second Vice President & Access to Justice Chair,
Nassau County Bar Association; Chief Deputy
County Attorney for Special Projects, Nassau
County

Martha Krisel, Esq.
mkrisel@nassaucountyny.gov

Martha Krisel has been representing the County of Nassau since September of 2006 and serves as Chief Deputy County Attorney for Special Projects for the Office of the Nassau County Attorney. Examples of special projects include obtaining New York State accreditation as a Continuing Legal Education (CLE) provider for the Office of the Nassau County Attorney, coordinating post-Sandy, housing and mortgage foreclosure prevention initiatives in Nassau County, implementing Nassau County housing discrimination amendments, designing county-wide training programs and counseling in land use and all municipal issues. She is also responsible for the recruitment and retention of attorneys and law students and volunteer attorneys and paralegals for the County of Nassau. Krisel has served as counsel to the Nassau County Commission on Human Rights and to the Nassau County Planning Commission, and has served as a member of the Nassau County Board of Ethics (term 2005-2010).

Prior to joining the County Attorney's office, Krisel served as Village Attorney for the Incorporated Village of Rockville Centre from 1996 until 2006. As in-house counsel, she represented the Mayor and Board of Trustees and drafted all Village legislation. She also oversaw all litigation and managed outside counsel. She drafted and reviewed contracts, leases, legislation, resolutions, directives and policies. In addition, she trained all employees in the Village discrimination, harassment and retaliation policies, reviewed FOIL applications and ensured Village compliance with state and federal legislation. Prior to serving as Village Attorney, Krisel worked for the law firm of Seward & Seward, representing the Village, and she also taught at Hofstra Law School from 1989 – 1994. Krisel has also represented indigent children, criminals and the elderly at Legal Aid and Legal Services offices in New York and Massachusetts.

Krisel is a member of the Executive Committee of the Board of Directors of the Nassau County Bar Association, currently serving as Second Vice President and Access to Justice Chair. She has served as a member of the Nassau County Bar Association's Judiciary Committee. Krisel chaired the Environmental Law Committee of the Nassau County Bar Association from 2005-2007, and the Municipal Law Committee of the Nassau County Bar Association from 2003-2005. Krisel is a member of the New York State Bar Association.

Martha Krisel
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Rockville Centre, NY 11570
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mkrisel@optonline.net

ADMISSIONS United States District Court March 1989
 Appellate Division 2nd Dept. March 1981

EDUCATION State University of New York at Buffalo
 J.D. May 1980
 B.A. May 1976 (Cum Laude)

AWARDS

- **New York Law Journal’s Lawyers Who Lead by Example (2011)**
- **Nassau County Bar Association’s President’s Award (2009)**

**PROFESSIONAL
EXPERIENCE**

COUNTY OF NASSAU
Office of the Nassau County Attorney
Chief Deputy County Attorney for Special Projects
www.nassaucountyny.gov/agencies/CountyAttorney
Member of County Attorney’s Executive Legal Staff
September 2006 to present

Professional Program Development

- Coordinate and provide support to deputy county attorneys in ten litigating and transactional bureaus.
- Recruit and mentor attorneys, volunteer attorneys and paralegals, and law students.
- Design comprehensive Continuing Legal Education (CLE) programs for municipal attorneys; secured NYS Accredited Provider approval through March 2015.
- Develop and enhance county-wide training initiatives to curtail municipal liability.

Housing Initiatives

- Implemented Nassau County’s housing amendments to its Human Rights Law (adopted 2006); design protocol and training to ensure Nassau County’s compliance with its obligation to affirmatively further fair housing
- Counsel to Nassau County Commission on Human Rights 2006-2011.

- Created Nassau County and Nassau County Bar Association (NCBA) award-winning collaborative Pro Bono Mortgage Foreclosure and post-Sandy Task Forces and monthly NCBA clinics.

Land Use and Municipal Law

- Counsel Nassau County’s agencies in all municipal issues, including FOIL, procurement and workplace policies.
- Counsel to Nassau County Planning Commission 2009-2011.

**INCORPORATED VILLAGE OF ROCKVILLE CENTRE
Village Attorney**

November 1996 to June 2006

- In-house counsel; represented Mayor and Board of Trustees. Managed litigation and outside counsel; drafted and reviewed contracts, leases, legislation, resolutions, directives and policies; trained all employees in Village discrimination, harassment and retaliation policies annually; responded to FOIL applications; ensured Village compliance with state and federal legislation.
- Drafted innumerable amendments to Rockville Centre Code and represented Mayor and Board at public hearings.

LAW OFFICE of SEWARD & SEWARD

September 1993 to November 1996

- Represented Village of Rockville Centre in all matters.

HOFSTRA UNIVERSITY SCHOOL OF LAW

August 1989 to August 1994

Appellate Advocacy; Legal Research and Writing

- Instructed first and second year law students in legal research, writing and appellate practice.

HEALTH & WELFARE COUNCIL OF NASSAU COUNTY

Legislative Counsel, Public Policy Director

April 1990 to November 1991

- Coordinated Long Island’s not-for-profit legislative agenda.

LEGAL AID SOCIETY

Criminal Appeals Bureau

August 1986 to August 1989

- Researched, wrote and argued appellate briefs at the Appellate Division and Court of Appeals.

CAMBRIDGE & SOMERVILLE LEGAL SERVICES

Supervising Attorney

June 1985 to July 1986

- Represented individuals over age 60 in civil matters in court and at administrative hearings.

LEGAL AID SOCIETY

Juvenile Rights Division

April 1981 to June 1985

- Represented children in criminal and civil proceedings, including abuse, neglect, termination of parental rights, and custody matters.

RECENT LECTURES

- “Best Practices” Moderator and Panelist: Nassau County/Hofstra Annual Land Use Conference: 2011, 2012, 2013
- Fair Housing Updates Fall 2013
- Municipal Labor & Employment Issues Fall 2013

PROFESSIONAL MEMBERSHIP

Nassau County Bar Association

- Executive Committee 2011-2016
Current position: Second Vice President and Chair, Access to Justice; Slated for Presidency 2016
- Member, Board of Directors 2008-2011
- Chair, Pro Bono Mortgage Foreclosure Task Force 2007-present
- Chair, Environmental Law Committee 2005-2007
- Chair, Municipal Law Committee 2003-2005

Nassau County Board of Ethics

- County Executive appointment; approved by Nassau County Legislature
Term: 2005-2010

New York State Bar Association

- Presidential appointment to Committee on Attorneys in Public Service (CAPS) 2006-2010
- Member, Municipal Law Committee

**COMMUNITY
SERVICE**

Concerned Citizens of Montauk

<http://www.ccom-montauk.org/>

Member, Board of Directors

2007-present

Hofstra Bioethics Center

Member, Advisory Council

Appointed October 2012 to newly created collaboration of
Hofstra's law and medical schools

September 2, 2013

Testimony: Chief Judge Lippman's Hearings on Civil Legal Services

October 1, 2013

Martha Krisel, Second Vice President & Access to Justice Chair, Nassau County Bar Association

Good day, Chief Judge Lippman, Presiding Justice Eng, Chief Administrative Judge Prudenti and all my colleagues present today. My name is Martha Krisel. I graduated from SUNY Buffalo School of Law in 1980 and have been practicing law full time ever since. I began my career as an attorney for New York City's Legal Aid Society, where I worked from 1981 through 1989, with a one-year hiatus at Cambridge and Somerville Legal Services. Although I grew up only about ten blocks from here, I have never been in this courthouse before and it is an honor to have been invited to participate today.

For the last twenty years, I have practiced municipal law exclusively. I have been employed by the Office of the Nassau County Attorney, which represents Nassau County and its agencies in civil matters, for the last seven years. Nassau County has extremely diverse financial, racial and ethnic demographics. County Executive Ed Mangano's administration provides a vast array of services to the elderly, the physically challenged, the chemically dependent and mentally ill, veterans and public assistance recipients, just to name a few of its commitments.

I am here today as the Second Vice President of the Nassau County Bar Association (NCBA); with six thousand members, it is amongst the largest suburban bar associations in the United States. This year, I chair the NCBA's longstanding ProBono Committee, which – on my motion – was renamed the Access to Justice Committee at the NCBA's Spring 2013 Board of Directors meeting. I am very proud of the NCBA's commitment to access of justice, particularly the legal consultation clinics that are held on a regular basis at which the NCBA's volunteer attorneys provide guidance to innumerable Nassau County residents on issues ranging from senior citizen concerns to bankruptcy to mortgage foreclosure, and of course, most recently to Superstorm Sandy recovery issues.

My testimony today addresses the critical role of legal services in responding to disasters, such as Superstorm Sandy. My focus, however, is not limited to the need for legal services during the days and weeks following such a disaster. In fact, at the outset, the entire legal community was bursting with the best of intentions to do anything and everything to help. I address instead the ongoing need for increased access to legal services providers that is still very much present almost one year later, with no end in sight. This need is a result of the ever more complicated claims and litigation as the denials of coverage are issued. In comparison, the application/claims process was simple. Bear in mind the complex interplay between private insurance and FEMA reimbursement as well as the intertwined

nuances of the financial resources available through the SBA and New York State assistance. Nassau County's residents remain frustrated with delays in the processing of claims, confusing denials of claims, and federal and state disaster relief benefits that remain – in some instances - elusive.

Nassau Suffolk Law Services and the NCBA have collaborated and partnered through the Volunteer Lawyers Project to provide representation to thousands of clients in need since the beginning of pro bono initiatives. What I refer to as the triumvirate, a collaboration of government, the private bar and its volunteer attorneys, and Nassau County's not-for-profit legal services providers, has further advanced this capability.

Yet even In Nassau County, where the ability to immediately respond to Nassau County's residents' crucial legal needs in the aftermath of a disaster such as Superstorm Sandy is enhanced by the triumvirate already in place, legal service providers are particularly pivotal, as they handle the matters that are not easily resolvable and that must go to court.

In 2007, in response to the mortgage foreclosure crisis, then NCBA President Lance Clarke appointed me to spearhead a Mortgage Foreclosure Task Force. Over the next two years, the task force evolved into individual legal consultation clinics; these clinics have taken place on a monthly basis since May of 2009. The expansive range of assistance, however, is only possible because of the NCBA's

government partners and legal services providers. In response to New York State's 2009 legislation requiring settlement conferences for all owner-occupied residences, without regard to whether a loan was subprime, NCBA volunteer attorneys and Nassau County housing counselors work together in Nassau Supreme assisting defendants at the conferences. With the New York State Attorney General HOPP grants, attorneys are directly employed by the NCBA and Nassau Suffolk Law Services; they work in tandem with our volunteer attorney at clinics as well as at the settlement conferences. The clinic model is based on triage, where the volunteer attorneys direct attendees to housing counselors for advice but to Nassau Suffolk Law Services for representation.

With this paradigm firmly in place, when Superstorm Sandy hit, the NCBA was immediately capable of offering consultation clinics specific to disaster relief. The NCBA quickly learned that mortgage issues paralleled and dove tailed with Sandy issues, and now holds joint clinics as a result. As of September 23, 2013, the NCBA had held its 79th clinic and had assisted 6845 Nassau County residents; this number does not include those assisted informally on the phone or through email. The NCBA is holding its 80th clinic on October 7, 2013, and the 81st on Oct 21 in Long Beach – an area devastated by Sandy - to mark the “anniversary” of Sandy. To backtrack a little, within the first week following Sandy, then President Marian Rice arranged for the NCBA to provide training to its members on disaster relief

legal issues through webinars and written materials in preparation for the immediately scheduled Sandy relief clinics. Volunteer attorneys flocked to the NCBA; Pro Bono Counsel from New York City law firms and bar associations from non-impacted areas contacted the NCBA with offers to send reinforcement. As the months go by, however, Nassau County residents continue to struggle with myriad issues, ranging from private insurance denials, contract disputes with unscrupulous contractors and ongoing landlord-tenant issues, including constructive eviction issues and security deposits. Although the clinics will continue indefinitely, the reality is that a great number of thorny legal disputes are unresolvable through clinic consultations; this is where legal services providers are essential to handle litigation for those eligible for representation.

In sum, the surge of offers of pro bono assistance following a disaster tapers off, but the permanent need to continue to adequately fund legal service providers as the mainstay of access to justice continues. This is true even in Nassau County where our triumvirate is at the ready to face new challenges and where the NCBA has many years of experience in providing access to justice through consultation clinics.

As a separate but related thought, the Office of the Nassau County Attorney currently has approximately ten law school graduates volunteering or minimally stipended by their law schools to work with us. These students are well qualified

to staff legal services offices, through their clinical experience during law school. Jobs for law school graduates are scarce but ample opportunities to enhance access to justice exist. In my opinion, a viable supplement to legal service providers are two-year fellowships at entry level salaries comparable to those received by government and not-for-profit entry level attorneys. I encourage our profession to work collaboratively on this solution.

Attachments:

Nassau Lawyer; April 2013: Article by Martha Krisel “Access to Justice Committee”

Miriam Buhl, Esq.

Pro Bono Counsel, Weil Gotshal & Manges LLP

Testimony Before the Chief Judge's Hearings on Legal Services

Miriam Buhl

Pro Bono Counsel

Weil, Gotshal & Manges LLP

Intro

Weil, Gotshal & Manges was, and continues to be, extremely active in providing legal assistance to those affected by Superstorm Sandy. This work has taken a number of forms, from full representation of affected individuals and businesses to training lawyers from other firms and organizations on disaster relief legal topics. Weil lawyers even lent their expertise to the development of an interactive, online tool that helps a potentially limitless number of victims create their own legally sound FEMA appeals. Little, if any, of this work would have been possible without the close collaboration and support of civil legal services organizations that provided us with the opportunity and support to do great pro bono work for the benefit of those most in need.

I hope I make abundantly clear today how absolutely critical the stable state funding is to this effort. Financial support guarantees that civil legal services programs can help the millions of New Yorkers who are, indeed, eligible for the assistance – and the number of whom increases tremendously after a disaster such as Superstorm Sandy. One of the methods of helping is by unlocking the vast, otherwise untapped, reserves of pro bono support from private law firms.

Calls/organizing

Shortly after the storm, when the desire to help victims was great but the structure for doing so was inchoate, the City Bar Justice Center, Legal Services NYC, and Pro Bono Net joined together to convene organizing calls with lawyers from firms and nonprofit legal services programs across the region. We recruited experts from the Gulf Region to speak on the legal relief following Hurricane Katrina and to orient us on the challenges that lie ahead. These first calls were so successful that they developed into a standing biweekly call with leaders from across our legal community to discuss important issues and developments. Weil was proud to offer the use of our conference line to facilitate these calls, which continue to the present day.

Training/providing opportunities

Nonprofit legal services organizations were also essential to preparing lawyers to do relief work, as well as providing them with appropriate pro bono opportunities. Numerous legal services programs, including NYLAG, the City Bar Justice Center, The Legal Aid Society, Legal Services NYC, and many others organized trainings (including a FEMA Appeals training led by a Weil team) and developed materials that gave lawyers the knowledge and skills needed to serve Sandy victims. Pro Bono Net collaborated with these programs to produce webinars for pro bono lawyers as well as to make all of the materials, training videos, and volunteer opportunities centrally available online. The civil legal services organizations on the front line created screening and referral procedures, which law firms do not have as a component of our pro bono practice. The legal services referral infrastructure made the process straightforward, even when the legal issues were complex, and leveraged literally tens of thousands of law firm pro bono hours to assist those in need. Weil, for example, was able to take dozens of particularly complicated FEMA appeals cases from The Legal Aid Society. We were also co-counsel with

Legal Aid on a class action on behalf of nearly 400 households displaced by the storm and housed in New York City hotels.

Technology and FEMAappeals.org

With Pro Bono Net's innovative applications of technology, the New York team was able to engage the services of attorneys nationwide who volunteered to help Sandy victims. In collaboration with New York City's legal services programs, Pro Bono Net created FEMAappeals.org, a website with numerous resources for pro se individuals who need to appeal FEMA decisions. The site's centerpiece is an easy-to-use, interactive interview that asks a series of questions to gather the required identification and case-specific details and then transforms the information into an appeal letter that accords with FEMA guidelines. Weil attorneys, many of whom had developed FEMA expertise assisting victims of Hurricane Katrina and were now working on cases post-Sandy, provided essential substantive knowledge to build this valuable resource. In addition, we developed an FAQ section for the site that provides users with critical information, as well as important insights regarding best practices for communicating with FEMA. Our work was also key to setting up templates and providing feedback on early versions to ensure that the application produced comprehensive documents.

Conclusion

In short, the huge amount of law firm pro bono work generated by Superstorm Sandy was intertwined inextricably with – indeed, dependent upon – the work of civil legal services organizations. Legal services programs maximize the quality and quantity of assistance that the legal community as a whole can provide to those in need. The legal services community's leadership and coordination leveraged tens of thousands of hours of pro bono time from leading firms, thereby providing thousands of our low-income neighbors with critical legal assistance necessary to preserve their homes, jobs and families. As the legal community advanced our coordination and capacity enormously between Hurricane Katrina and Superstorm Sandy, we expect that we in the pro bono field will be that much better equipped to assist when the next disaster strikes – regardless of where or when – thanks to the skills and leadership of our legal services colleagues. Again, stable state funding is utterly essential to the success of this partnership. Millions of assistance-eligible New Yorkers can only be helped by pro bono attorneys if the civil legal services programs are in the position to facilitate our efforts.



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Seymour W. James, Jr. Esq.

Past President, New York State Bar Association;
Attorney-in Charge of the Criminal Practice, The
Legal Aid Society

**Testimony of Seymour W. James, Jr., Immediate Past President of the
New York State Bar Association
The Chief Judge's Hearings on Civil Legal Services**

October 1, 2013

The Legal Community Mobilizes to Provide Sandy Relief

Good morning,

My name is Seymour James. I am the Immediate Past President of the New York State Bar Association and the Attorney-in-Charge of the Criminal Practice of The Legal Aid Society.

Thank you Chief Judge Lippman for inviting me to address the Second Department Panel of the Chief Judge's Hearings on Civil Legal Services in New York.

It is my privilege to speak with you today about the collective efforts of the legal community in responding to what some have called the worst natural disaster ever to strike New York State, Superstorm Sandy. The storm was one of the most devastating storms to ever hit the New York metropolitan area and caused unprecedented damage and disruption. The flooding was extensive, leaving tens of thousands of New Yorkers without homes and those with homes without power and heat for weeks. Individuals, families, small businesses, and non-profit organizations in the "disaster zone counties" were severely impacted.

Virtually every New York City and Long Island legal services provider as well as law students, volunteer lawyers' projects, county bar associations, and a great many law firms, large and small, mobilized to assist those impacted by the storm.

So many organizations were involved that time will not allow me to identify each organization by name or to detail the myriad contributions each made – and in many instances - continues to make in Sandy relief. Instead, what I propose to do is acquaint the panel with the vast array of legal issues that arose, provide some information about the role played by pro bono attorneys and law students working with legal services organizations to provide critically needed services to the survivors of Superstorm Sandy.

Legal Issues

The core legal issues raised by Sandy included:

- Emergency food and governmental benefits
- Real Estate Matters (e.g., legal issues arising in ownership of Condominiums and co-ops)
- Landlord-tenant issues (Section 8 Housing issues; habitability; etc.)
- Contracts (e.g., fraud; breach of contract)
- Foreclosure (defense of foreclosure actions; modifications; forbearance; etc.)
- FEMA appeals
- Insurance Claims
- FEMA/SBA Assistance
- Bankruptcy/Debt
- Consumer Protection Issues (contractors, retainers, etc.)
- Health/Disability/Personal Injury/Post-Traumatic Stress Issues

The civil legal services community is well versed in the areas of housing, landlord tenant issues, community business development, benefits, consumer debt,

and bankruptcy issues. Although their staffs were well suited to tackle these bread and butter issues, as the members of this panel are aware, under normal circumstances the need for these services among the indigent and working poor far exceed the availability of legal services providers to meet that need. The shortage of available services was exacerbated by the increased need resulting from the devastating effects of the storm.

After the storm, large numbers of lawyers and law students wished to assist the survivors, but most were ill equipped to provide the needed assistance. However, the infrastructure of the civil legal services programs and their attorneys' knowledge of the substantive areas of law enabled them to train and supervise hundreds of pro bono attorneys and law students eager to provide assistance to the thousands of New Yorkers whose lives were harshly impacted by the storm.

Many of the legal services organizations utilized pro bono volunteers to supplement the work they were able to do in the affected communities in the areas of insurance, FEMA benefits and appeals. Because many of the major law firms were conflicted out of insurance claims cases and mortgage foreclosure cases, providers relied on pro bono assistance provided by small, solo practitioner and boutique law firms from across the State to assist in these areas.

I would now like to provide you with a few examples of how the legal services providers marshaled the services of pro bono attorneys to expand their reach into the affected areas and bring much needed services to the thousands suffering the effects of the storm.

The Legal Aid Society

Immediately after the storm, Legal Aid Society staff were assisting adversely impacted residents with FEMA and emergency food stamp applications and other legal needs in Red Hook, Coney Island, the Rockaways, the Lower East Side and Staten Island. Law firm and corporate volunteers soon complemented this effort, accompanying Society staff to devastated neighborhoods that had neither power nor heat and helping to provide disaster relief hotline assistance. By February, the Society staff and pro bono partners had assisted more than 5300 households in the evacuation shelters and hotels, at FEMA and community sites in the affected communities and through the Society's disaster relief hotline, providing assistance with issues as basic as food and shelter and as complex as employment and insurance. Supervised by Legal Aid staff, volunteers from the private bar answered hundreds of calls from disaster affected residents. Four hundred twenty five volunteers staffed close to 600 separate outreach and hotline shifts and pro bono volunteers continued to handle Sandy victims in FEMA appeals, private insurance claims and preserving shelter and public assistance. Months after Superstorm Sandy, homeowners and renters struggled to receive FEMA and insurance funds to repair their homes, replace essential possessions, and reclaim their lives. To address ongoing FEMA and insurance problems, The Legal Aid Society partnered with a number of law firms to assist residents and small businesses in Coney Island, Rockaway, Red Hook, Staten Island, and lower Manhattan neighborhoods.

City Bar Justice Center

In November, shortly after the storm the City Bar Justice Center began mobilizing pro bono attorneys to staff clinics in the storm ravaged Rockaways. At the first weekend clinic, 30 trained attorneys went to two sites on Saturday and

Sunday. The volunteers gave brief legal advice and provided information to additional people who stopped by to ask basic questions. Working with the Queens Volunteer Lawyers Project, the Justice Center continued to staff legal clinics on weekends to provide information on FEMA applications, insurance claims, disaster unemployment assistance, and landlord and tenant problems. In December, the volunteers began working at the NYC Restoration Center in Arverne and the focus had shifted to insurance and FEMA denials.

Touro Law students

Law student involvement in Sandy Relief efforts was tremendous. I believe that every NYC law school contributed student volunteers to the recovery effort as did law schools from across the nation. Using Touro Law School's TLC-Heart program as an example, law students made the following pro bono contributions:

- 100 students from various schools assisted pro bono volunteers and faculty in answering telephone calls for legal assistance in Long Island;
- 5 attorneys donated long term legal assistance
- 20 attorneys handled calls referred by the Touro hotline
- Law students fielded 1500 calls (60 percent flood insurance; 25 percent contractor issues; 15 percent misc.; and 50 percent of the calls also involved a FEMA disaster assistance claim)

Lawyers Alliance for New York

65 pro bono lawyers from 24 firms and corporations assisted Lawyers Alliance and nonprofit organizations in New York in a variety of ways in the wake of Hurricane Sandy. Illustrative of their Sandy relief efforts are the following:

- Prepared legal alerts on employment and insurance issues confronting nonprofit organizations following Hurricane Sandy;
- Prepared and hosted webinars on employment and leasing issues geared toward nonprofit organizations in need of assistance following Hurricane Sandy;
- Consulted with nonprofit groups at clinics in Far Rockaway, Coney Island, Staten Island, Lower Manhattan and Red Hook to address issues that the groups were experiencing as a result of the hurricane, including questions on leases, insurance, property damage, and FEMA and SBA loan applications;
- Helped incorporate, obtain tax exemption for and provide corporate governance guidance to organizations that were assisting with disaster relief efforts, from organizations that are organizing youth in Far Rockaway to groups that are working on disaster readiness and sustainable living principles in Staten Island to organizations focusing on propagating plants for post-hurricane restoration in low-income areas, among others; and
- Represented organizations that needed other legal assistance in the wake of the hurricane, including various lease issues and projects that would allow residents to better communicate and access services during future severe weather events.

New York Lawyers for the Public Interest

Approximately 15 pro bono volunteers from NYC law firms helped New York Lawyers for Public Interest to assist non-profit organizations affected by Superstorm Sandy.

Legal Services-NYC

Approximately 140 pro bono lawyers assisted staff at Legal Services-NYC by providing direct legal assistance at disaster clinics, research and legal advocacy as well as assistance with benefits and FEMA appeals. Supervised by associates, 30 paralegals from different law firms assisted homeowners with disaster aid. LS-NYC also enlisted the assistance of approximately 125 law students who helped staff and volunteers with research, legal needs assessments, client interviews and aid applications.

Technology

Many here today are familiar with Pro Bono. Net. a collaborative effort sponsored by 20 of the leading legal aid and pro bono organizations. Quickly realizing how important web based solutions would be in efforts to assist survivors, within weeks of the storm, an IBM corporate counsel approached Pro Bono Net about a potential donation of IBM's sophisticated collaboration tool, SmartCloud, to facilitate collaboration among legal services providers and pro bono groups. The corporate counsel arranged for IBM to grant Pro Bono Net 150 licenses, on behalf of the larger legal community, at no cost. Counsel also made it happen in record time, shortening a corporate approval time that usually takes months into a few weeks.

Thanks to the corporate counsel volunteer, Pro Bono Net was able to host on their website model FEMA appeals documents and other storm related materials that practitioners could use in assisting Sandy survivors with legal issues.

LawHelpNY also joined in the effort of using technology to keep providers and volunteers informed about the numerous legal clinics being offered,

advertising for pro bono volunteers, and serving as a repository for storm related model documents providers could use in assisting clients.

Conclusion: The Need Continues

As we approach Superstorm Sandy's one year anniversary the need for disaster relief legal services continues. I am very proud to say that the provider community remains committed. If disasters like Katrina, Lee and others are any examples, the legal recovery will take many more years. Pro bono volunteers continue to provide needed services, but our experience with Superstorm Sandy demonstrates that their services can only be fully utilized through collaboration with legal services providers, whose training and supervision are necessary to enable these volunteers to effectively handle the range of services needed.

Thank you for the opportunity to share with you a few examples of the important contributions law students and pro bono attorneys made to the Sandy relief efforts.

Training Attorneys in Disaster Relief

Staff from the CLE and Pro Bono Departments joined forces to put together a Continuing Legal Education (CLE) seminar on storm related legal issues. The CLE program included an overview of state and federal disaster relief programs.

Panelists included representatives from the American Red Cross, FEMA, Coast Guard, Small Business Administration, state Department of Labor and state Department of Financial Services. Panelists also included attorneys experienced in disaster related legal issues and representatives from The Legal Aid Society and Empire Justice Center. The live program, which took place at the State Bar Center, also was simultaneously webcast to more than 2000 viewers, including attorneys from 28 states and three other countries. The program and materials were archived and are available for viewing on the Association's Superstorm Sandy web page.

NYSBA also co-sponsored other disaster legal training programs with the Federal Reserve Bank and the Southern District of New York Chapter of the Federal Bar Association (FBA), the Eastern District of New York Chapter of the Federal Bar Association and the Network of Bar Leaders.

- **Collaborations with Local Bar Associations and the Legal Services Provider Community**

The Association also worked closely with local bar associations and legal services providers in the affected areas to ascertain the types of assistance needed and shared the information with attorneys and the public. To assist in this disseminating this information the Association developed a Superstorm Sandy webpage which featured information about free legal relief clinics offered in the affected counties; provided information about available state and federal disaster

resources; offered assistance to potential *pro se* individuals seeking to appeal FEMA denial of their claims for financial assistance; and provided information for attorneys about volunteer pro bono opportunities.

The website also allowed free access to archived training materials covering many of the substantive law issues that arise in disaster situations and contained FAQs addressing some of the most frequently asked questions.

The State Bar also was instrumental in helping local bar associations and legal services providers gain access to New York City restoration centers so that they could provide on-site legal clinics for victims. The Department of Pro Bono Affairs and LRIS participated in ad hoc legal services provider groups that coordinated efforts to help victims in New York City and on Long Island.

- **The Association Urged Chief Judge Jonathan Lippman to Invoke the Major Disaster Rule to Allow Out-of-State Attorneys to Provide Free Legal Services**

As the magnitude of the impact of Superstorm Sandy was realized and it became apparent that New York attorneys would benefit from pro bono assistance offered by out-of-state attorneys who had extensive experience in flood, hurricane and other natural disasters, President James consulted the Chief Judge regarding whether the Court should consider invoking the Major Disaster Rule (22 NYCRR 520.11[d]). The Chief Judge concurred and invoked the Major Disaster Rule which paved the way for experienced attorneys from New Orleans and other states to provide limited pro bono assistance to New Yorkers in the designated disaster counties.

Michael Weinstein

Chief Program Officer, Robin Hood Foundation

**Biography of
Michael M. Weinstein**

Michael M. Weinstein is the chief program officer at the Robin Hood Foundation, which makes grants of about \$150 million a year to fight poverty in New York City. Robin Hood is well-known for its rigorous evaluation of the programs that it supports. Mr. Weinstein is also the co-founder and chairman emeritus of Single Stop USA, Inc., a national organization that helps low-income Americans solve financial problems.

Mr. Weinstein holds a Ph.D. in economics from the Massachusetts Institute of Technology (M.I.T.). He served as a weekly economics analyst for National Public Radio's *Morning Edition* before joining *The New York Times*, where he served on the editorial board and as its economics columnist during the 1990s. He was the founding director of the Maurice R. Greenberg Center for Goeconomic Studies at the Council on Foreign Relations, while holding the Paul A. Volcker Chair in International Economics. He is president and founder of W.A.D Financial Counseling, Inc., a nonprofit foundation providing free financial counseling to poor families. Mr. Weinstein also managed the Institutes for Journalists at The New York Times Company Foundation (which trains journalists in complicated subjects about to hit the headlines) from 2001 to 2012.

Mr. Weinstein authored some 1,300 columns, editorials, news analysis articles and magazine pieces for *The New York Times* about health care, welfare, energy, social security, tax, budget, trade, inequality, environment, regulation, antitrust, telecommunications, education, banking and many other public policy issues. He has authored a number of books, and most recently co-authored a book about philanthropic strategy, *The Robin Hood Rules for Smart Giving*. Weinstein is currently writing an intellectual biography of Paul A. Samuelson, the first American Nobel laureate in economics and writes a syndicated column on public policy for Thomson/Reuters.

**Testimony of Michael M. Weinstein
Chief Program Officer at the Robin Hood Foundation
The Chief Judge's Hearings on Civil Legal Services
October 1, 2013**

Good morning and thank you for inviting me to address the chief judge and distinguished panelists on Expanding Access to Civil Legal Services in New York. I'm chief program officer at the Robin Hood Foundation, which makes grants of about \$150 million a year to over 200 community-based organizations to fight poverty in New York City. Our programs run the gamut of poverty fighting: pre-kindergarten programs, K-12 programs for students, job training for disconnected young adults, domestic violence shelters for abused women, health initiatives,

low-income housing, micro-lending. The list goes on. The one common element to all these programs: they work. Robin Hood is well-known for its rigorous evaluation of its grants.

Robin Hood also focuses on programs that help poor New Yorkers deal with civil legal matters. Alone and in partnership with Single Stop USA – a national organization that helps low-income Americans solve financial problems -- Robin Hood spends over \$8 million a year to help about 15,000 city residents handle civil legal disputes. Most of the cases involve housing disputes, access to government programs or immigration problems. Robin Hood's commitment to civil legal services for the poor predated Hurricane Sandy and that commitment continues well after Sandy.

Hurricane Sandy

Hurricane Sandy struck the Northeast region on October 29, 2012, destroying homes and apartments, triggering massive power outages and flooding subways, stores and office buildings. The storm affected almost 300,000 New Yorkers, took 49 lives, and damaged over 27,000 homes, leaving 2.1 million people without power immediately after the storm.¹

Within hours after the storm, and despite the fact that its officers were without power, Robin Hood launched a large-scale relief effort on behalf of families whose lives had been shattered. Robin Hood provided immediate cash to its community-based partners, thereby providing blankets, hot food, heaters and generators to the residents of Red Hook, Coney Island, the Rockaways and across the rest of the region.

Along with the material destruction, Sandy also triggered legal disputes over federal benefits, insurance claims, housing and employment. These legal issues hit hardest at the poor. In response, Robin Hood worked closely with the New York City's civil legal services organizations to help Sandy's victims. All told, Robin Hood made grants of \$8.5 million to help about 8,000 families in the tri-state area. The vast majority of those cases involved disputes with FEMA and denials of payment by private insurers.

Robin Hood supports many of the civil legal services programs in New York City that also receive Judiciary Civil Legal Services funding. These legal services organizations – including those provided by The Legal Aid Society and Legal Services NYC – help desperate families access public-benefit programs. The service organization also trained staff at Robin Hood's grantees to connect eligible residents to public benefits.

Civil legal services organizations provided disaster counseling at shelters for homeless and displaced New Yorkers, disaster centers and community-based organizations. The organizations also worked through mobile offices and citywide disaster relief hotlines. They focused efforts on the neediest neighborhoods, including those in Far Rockaway, Coney Island, Red Hook, Staten Island and the Lower East Side. And they focused on core needs: issues with FEMA and Disaster Unemployment Insurance claims; assisting with the replacement of

¹<http://www.fema.gov/disaster/4085/updates/six-months-after-sandy-new-york-communities-recovery>

medications and access to health care; obtaining food stamps and public assistance; providing civil legal aid in landlord-tenant, public housing, federal Section 8, and homeowner/foreclosure matters; assisting with loans and other small businesses matters; helping with school transfers and transportation issues; and providing legal assistance with family law and immigration matters. Robin Hood assisted these all-important efforts, including by funding a mobile unit run by Legal Aid to provide assistance to families in the hardest-to-serve regions like those in Far Rockaway.

Helping beleaguered families deal with legal issues was only one part of Robin Hood's relief efforts. Overall, we made grants of about \$73 million to hundreds of organizations throughout the tri-state area. By April of this year, nearly six months after the storm, Robin Hood had allocated 100 percent of the \$73 million that it had raised for Sandy Relief. All told, The Robin Hood Relief Committee has approved 542 Sandy-related grants to 390 organizations in the tri-state area that are helping our neighbors rebuild and recover. In total, 44 percent of the Sandy money went to organizations helping individuals and families in New Jersey, 38 percent to New York City, 16 percent to Long Island/NY state, and 2 percent to Connecticut. The vast majority of funds – 67 percent – went to housing-related programs designed to return families to safe and stable housing. More than 260,000 compassionate individuals from 90 different countries came together to contribute over \$50 million to Robin Hood's Relief Fund during 12-12-12 The Concert for Sandy Relief.

Sandy's impact endures. Flooding has left tens of thousands of New Yorkers without homes. Those who have homes face hugely expensive repairs. Many of the communities that were hardest hit were isolated and struggling prior to the disaster. Despite the arrival of billions of dollars in public and private emergency aid, they continue to struggle. The residents of these beleaguered communities – especially elderly, disabled and undocumented individuals, small business owners and renters -- need trained individuals to advocate on their behalf. But effective advocacy requires something more than trained individuals: better coordinated efforts among civil legal organizations than they have so far achieved. Such coordination, if achieved, would magnify the impact of the philanthropic investments - therefore better justify the philanthropic investments -- made by Robin Hood and other private funders.

More support is needed -- much more. As a part of the philanthropy community, Robin Hood knows that civil legal services organizations need public funding. I applaud the work of the chief judge over the last three years to hold public hearings on civil legal services to assess the extent and nature of the current unmet civil legal needs of low-income New Yorkers throughout the State, and identify the level of resources necessary to meet that need. The extensive reports including the chief judge's Task Force's findings on the continuing unmet need based on the hearing testimony, provided both orally and in writing, and your recommendations for additional funding are impressive. In addition, as an economist, I appreciate that the Task Force engaged in substantial study, research and analysis leading to non-monetary recommendations that provide a multi-faceted strategy for helping to close the justice gap, as well as recommendations for funding.

The work of legal services organizations often has had far-reaching effects – well beyond a specific case - such as changing public policy on issues concerning the low income New Yorkers. Hurricane Sandy showed us all that without the civil legal services community, much of the relief provided to impacted families would never have existed. Civil legal services form a safety net that ought to be strengthened and expanded. Increased support for these agencies is essential if those New Yorkers without resources are to be accorded equal justice under law.

Let me conclude by pointing to one glaring commonality of Robin Hood's Sandy and non-Sandy legal efforts: scarcity. For the poor, legal needs far outstrip legal services. They did so before Sandy. They do so now. As a funder of before and after Sandy, we at Robin Hood know that Legal Aid turns that down most of those who ask for help solely because the organization simply lacks staff. Like its shaping of Single Stop sites, Robin Hood continues to work on new models by which to help the poor in civil disputes. Most recently, we've been working with Robert Katzmann, chief judge of the U.S. Court of Appeals for the Second Circuit, to develop an Immigrant Justice Corps. The idea is to give fellowships to recent law school graduates and lawyers who have recently retired to expand available legal services for needy clients.

Going forward, Robin Hood hopes to partner with public and private organizations throughout New York to better help our neediest neighbors get the legal help they deserve.

David N.K. Nguyen, Esq.

Director, Disaster Legal Services Program, Young
Lawyers Division, American Bar Association

**Testimony presented before the Chief Judge of
New York's Hearings on Civil Legal Services**

David H.K. Nguyen, Esq., Director
Disaster Legal Services Program
Young Lawyers Division
American Bar Association

Testimony given on October 1, 2013, at the Queens County Supreme Court, Long Island City, New York, before the Chief Judge of New York's Hearing on Civil Legal Services.

Thank you for asking me to testify today. The ability for low-income disaster survivors to effectively recover from a disaster often depends on access to legal services. Many disaster survivors are not prepared to deal with the varying legal issues that confront them after a disaster strikes and cannot afford to hire a lawyer. Because of the limited resources for civil legal services and the extraordinary impact of disasters upon individual and families legal needs, pro bono legal assistance can and must work with providers and all organizations that service the poor to temporarily fill the gap during times of crisis to provide reprieve and much needed help during such a vulnerable period.

In today's testimony, I will stress the importance of civil legal services at the initial and long-term phases, give an overview of the American Bar Association Young Lawyers Division Disaster Legal Services Program, and highlight the needs of our disaster survivors. As director of the Disaster Legal Services Program I toured the area of destruction by Hurricane Sandy twice – once in early winter 2012 and second in January 2013. I met with FEMA officials, civil legal service attorneys, law schools, volunteers, and survivors. These experiences allowed our team and program to better prepare and respond to the legal needs of survivors in future disasters in the North Atlantic region and across the country. I am not a climatologist, but as director of this program for more than three years, I can assure you that we are experiencing more traumatic

disasters, often in communities not used to or prepared for disaster response and recover. As a result, our team is busy year round, not only just responding to disasters but also working with others to prepare and ensure that those most affected and vulnerable are able to seek this much needed legal assistance.

Not only are survivors seeking much needed assistance after a disaster strikes and within the year, and often, the years following, but many have complex legal issues that will last for years. Civil legal services agencies are the entities left to provide this long-term legal assistance. For example, Southeast Louisiana Legal Services was one of the entities providing legal assistance in the wake of Hurricane Katrina and the following disasters that hit the Gulf region in 2005. Southeast Louisiana had about 80 new clients in 2012-2013, eight years after Katrina, who were seeking legal assistance to recoup rebuilding funds for their damaged homes. The underrepresented low-income disaster survivors in the Gulf region are seeking assistance from SLLS for issues that are indirectly linked to the disaster, such as succession or probate matters, unpaid property tax bills, homes sold at tax sales as a result, and fines, demolition, and expropriation by the city for blighted properties. As one can expect, unfortunately, funds have dried up and SLLS only has one attorney on an Equal Justice grant to work on these kinds of cases.

From past experiences, there is no doubt that many New Yorkers will continue to need civil legal services resulting from the impact of Hurricane Sandy. Civil legal services agencies in New York have already responded to these needs compounding their current case load. As I have seen in years past and prior disasters, the long term legal needs of disaster survivors are met by civil legal service agencies. Unfortunately, our program does not have the ability to provide long-term pro bono services; civil legal services meet this need.

Disaster Legal Services is a partnership program between the American Bar Association Young Lawyers Division and the Federal Emergency Management Agency (FEMA). This program has been in place since the 1970s. The program has evolved over the years to emphasize and enhance collaboration among legal services providers and the emergency management community to deliver more and better pro bono services to those most in need. We now have a robust partnership with the Legal Services Corporation that enables the expansion of resources available to survivors. Virtually from the time that the Disaster Legal Services Program is instituted, Legal Services Corporation recipients in the disaster area are working with us to ensure that survivors are receiving legal help from the entity that can provide the expertise with their legal issue.

Very briefly, let me describe how this program operates. The entire program is operated on a pro bono/volunteer basis. We receive operational funding for meetings, training, etc.; however, no one on the team gets paid a salary or stipend except for the ABA staff liaison. Moreover, those that provide the legal assistance volunteer their time and expertise. And thankfully, most organizations we work with also donate their time and resources. FEMA will fund and reimburse for certain administrative costs.

When a disaster strikes, our team stands-by for direction from FEMA. Many disasters may not require the implementation of disaster legal services. Once FEMA makes an assessment that Individual Assistance is needed, the Disaster Legal Services Program and a wide range of other resources are available to the survivors impacted. Our team then works with local organizations, state and/or local bar associations, local legal aid organizations, or law firms to organize, host, and maintain a toll-free hotline. Volunteer attorneys are recruited to take cases and respond to a variety of legal issues. The top three legal questions that our program gets are

FEMA benefits and appeals, landlord/tenant and housing issues, and insurance claims. Although these are the top three, we also see a variety of other legal issues, for example, family law, bankruptcy, and employment. Survivors may not understand that disasters can cause a variety of legal problems that are not as obvious as others. More often than not, most questions are bureaucratic in nature – needing to know how to obtain lost identification or how to navigate city, state, or federal assistance.

Our volunteer attorneys are often private practice lawyers, but also include government, public interest, and non-practicing but licensed attorneys. Volunteers see the impact of the disaster and want to offer their time and expertise to those hit hard; however, as I will discuss later, these volunteers also have their own practices and families, so after some time, our volunteer numbers begin to decrease as the disaster becomes only a memory in most people's mind.

Depending on the degree of destruction and the density of the population impacted, our program may collaborate with other legal aid organizations to provide face-to-face legal assistance in the FEMA Disaster Recovery Centers. This provides survivors with a visual presence of our assistance, and this model has proved to be successful reaching out to more people and providing effective assistance. We do not take fee-generating cases. If the client can afford a lawyer, or if case can support a contingency fee, we refer the client to bar association legal referral panels.

In the fiscal year ending August 31, 2013, the Disaster Legal Services Program responded to over 6,400 disaster survivors of nine disasters in nine different states. Since 2007, the Disaster Legal Services Program has responded to 112 disasters in 37 states, and we have

tracked approximately 103,000 calls. I refer you to our website at:

http://www.americanbar.org/groups/young_lawyers/disaster_legal_services.html.

The Disaster Legal Services Program responded to Hurricane Sandy in New York, New Jersey, Connecticut, and Maryland. In New York, we collaborated with the New York State Bar Association to host and maintain the toll-free hotline. Because Albany was not impacted by the storm, the hotline was up and running within one week. Other states, especially New Jersey, had more difficulties. New York's toll-free hotline served over 3,000 survivors. Our program also collaborated with the New York City Bar Justice Center and the New York Legal Assistance Group to provide on-site Disaster Recovery Center assistance. Our records show that 54 individuals were served at this location. These numbers are very conservative as we know that not all survivor interactions were tracked.

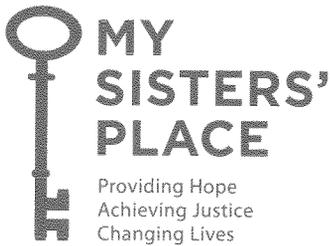
Unfortunately, our toll-free hotline and legal assistance through FEMA ended on April 30, 2013, which was far too early for a disaster of Sandy's magnitude and the density of the population affected in the North Atlantic. However, we had to cease our assistance because of the lack of volunteers. Although the state of New York invoked the Katrina Rule, the provision of legal services after a major disaster, to allow any U.S.-licensed attorney to assist with the legal response of Hurricane Sandy, the New York State Bar Association still had difficulties recruiting volunteers to continue providing pro bono legal assistance. Often times, our hotlines close because of lack of interest; however, in this instance, our program was unable to take additional calls because of the lack of volunteers. The State Bar had a total of 101 volunteers who helped throughout this period. At the beginning, there were 63 regular volunteers. Half way through, there were 54, and then towards the end the number dropped to 23 volunteers. Although the state bar was still receiving 26 calls that final week, it had difficulty placing those cases with

attorneys. As a result, the State Bar referred clients to civil legal service agencies who were already helping survivors impacted in their area.

Our program may cease, but civil legal services continue to meet needs even when funding is scarce. Without these much needed legal services for the low-income, not only will this vulnerable population struggle to recover, but they will continue to be unprepared for future disasters. Our program would not be able to effectively respond to the legal needs of disaster survivors without the collaboration and commitment of the civil legal services organizations and agencies; moreover, the long-term legal needs of survivors would never be addressed without the help from civil legal services.

Thank you for this opportunity to be present today.

Karen Cheeks-Lomax, Esq.
Chief Executive Officer, My Sisters' Place



September 17, 2013

Honorable Jonathan Lippman and The Task Force to Expand Access to Civil Legal Services
c/o Jessica Klein, Esq.
Sullivan & Cromwell
125 Broad Street, NY, NY 10004-2498

Re: My Sisters' Place- Request for Invitation to The Chief Judge's Hearings on Civil Legal Services, Second Department, on October 1, 2013

Dear Chief Judge Lippman and Members of The Task Force to Expand Access to Civil Legal Services,

I write to you as the Chief Executive Officer of My Sisters' Place ("MSP") to request an invitation to participate in the Second Department's Hearings on Civil Legal Services scheduled to take place on October 1, 2013.

There is a clear need to enhance the ability of MSP and similar civil legal services agencies to provide specialized legal services to victims of domestic violence and human trafficking. Our attorneys and those of our community partners provide these critical services to residents in Westchester County who are confronting legal problems involving the "essentials of life" who are not otherwise able to engage private counsel. Through the provision of services to these victims, we have become aware that many such victims are of low-income and marginalized people, often actively fleeing their abusers, a majority self-identify as African-American or Latina and, although women constitute the majority of our clients, we are serving increasing numbers of males as well as members of the LGBTQ community.

Domestic Violence and Human Trafficking are Widespread

Domestic violence is a serious criminal justice and public health concern globally and in the United States affecting one (1) in three (3) women worldwide.¹ In Westchester County alone, police write over 10,000 Domestic Incident Reports ("DIRs") each year,² which represents only a fraction of actual incidences of domestic violence, as 27% of women and 13.5% of men who are physically assaulted by an intimate partner report the assault to law enforcement.³

¹ *Violence Against Women Worldwide is 'Epidemic'*, BBC (June 20, 2013), <http://www.bbc.co.uk/news/health-22975103>.

² *October is Domestic Violence Awareness Month*, Westchestergov.com, <http://www3.westchestergov.com/news/all-press-releases/3900-october-is-domestic-violence-awareness-month> (last visited Sept. 13, 2013).

³ Catalano, S. *Intimate Partner Violence in the United States*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, December 2007, available online at <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1000>.

Immigrant Victims of Domestic Violence are Extremely Vulnerable to Exploitation

Unrepresented, low income, immigrant victims of domestic violence and human trafficking are among the most vulnerable to oppression, exploitation and abuse. Immigrant victims are at an increased disadvantage when they seek to escape abusive relationships because they often do not have access to shelter, social services, or legal services due to language barriers, limited information, cultural differences and fear of prosecution and/ or deportation by law enforcement authorities. The legal, economic, and social barriers are seemingly insurmountable without effective tools, support, and advocacy.

Lack of immigration status inhibits victims from reporting crimes or accessing civil legal services. Undocumented victims often remain in abusive relationships due to fear of deportation, threats of harm, and separation from their children. In addition to the usual controlling tactics, abusers often threaten their immigrant partners with exposure to law enforcement as well as actively mislead them about their rights. Without valid legal status, victims lack proper employment documentation and are therefore more susceptible to exploitation by employers and lack access to healthcare and other essential benefits necessary to leave the abusive relationship.

While struggling with the challenges to their daily lives, including securing safe and affordable shelter, addressing medical issues, gaining access to financial resources controlled by abusers and attending to the physical, mental and educational needs of their children, domestic violence and human trafficking victims are also forced to understand and respond to legal proceedings and needs. In order to successfully separate from these relationships, domestic violence and human trafficking survivors must navigate multiple and diverse legal systems, ranging from securing an order for protection against their abuser to complicated family law or immigration issues including child custody disputes and access to safe housing.

Access to legal services is crucial in enabling victims achieve independence and safety. Once safety and independence is achieved there is a significant decrease in the reported incidences of domestic violence.⁴ Studies suggest access to legal services are a critical in helping victims escape from abusive relationships and that access to counsel has helped to decrease the number of victims by as much as 21%.⁵

My Sisters' Place is the only Free Legal Service Provider to Domestic Violence and Human Trafficking Victims in Westchester County

MSP is Westchester County's only resource for free immigration legal services to victims of domestic violence and human trafficking, providing a continuum of free, holistic services in a linguistically and culturally appropriate manner. With valid legal status, victims are able to stay in this country legally with their children; work legally at regulated wages and under regulated working conditions so they can support themselves and their children; obtain healthcare to

⁴ Farmer, Amy & Tiefenthaler, Jill, *Explaining the recent decline and domestic violence*, Contemporary Economic Policy, (April 2003), at 21, 2.

⁵ Id.

mitigate after effects of physical and mental abuse; obtain housing supports so they can live in safe, habitable homes; and obtain food stamps and other government benefits.

Human trafficking clients often present similarly and initially as domestic violence clients. Human trafficking victims are particularly vulnerable to domestic violence after leaving the trafficking situation. In 2000, Federal legislation against trafficking was passed,⁶ followed by the 2007 New York State anti-trafficking law.⁷ Since 2007, the number of trafficking cases referred to MSP has increased dramatically and since 2009, over 150 cases have been referred with approximately 60% sex trafficking cases, 30% labor trafficking cases and 10% both. MSP has co-founded the Westchester County Anti-Trafficking Task Force to work with other community partners with a goal toward addressing these issues.

Despite our team of eight (8) attorneys and two (2) bilingual legal advocates who provide information, referrals, advice and counsel and direct representation to victims of domestic violence and human trafficking in the areas of family law and immigration law and our service as the victim advocate partner in the two (2) Westchester County Integrated Domestic Violence Courts and in the Westchester County Family Justice Center, victims of domestic violence and human trafficking are underrepresented and may go without access to legal services. More victims seek MSP's legal services than MSP can service immediately. A victim may have to wait for a legal consultation, screening, and safety planning. Due to the volume of cases and our staffing limitations, once we do an initial consultation and accept the case, it may be several months before we can pursue available legal remedies. A delay in seeking legal status delays a victim's access to other critical benefits such as Medicaid, food stamps, cash assistance, housing benefits and employment protections.

In the first six (6) months this year (2013), the CLS provided legal advice, brief services, and legal advocacy to over 500 victims and direct representation to over 100 victims in over 250 cases, including at the appellate level. Due to limited resources, we were forced to turn away 30% of the remaining victims seeking services.

Increased Funding Will Allow My Sisters' Place and Related Agencies to Protect Victims and Their Families with Vital Legal Representation

The funding to be provided by Judiciary Civil Legal Services can aid agencies like MSP to:

- provide direct legal services to many additional victims;
- educate and train civil legal service providers to serve clients with a greater understanding of the complex legal and psychosocial elements of domestic violence and human trafficking and an increased ability to assess when and if it is appropriate to seek judicial and legal remedies;
- offer pro bono opportunities to law students, active attorneys and attorneys maintaining Emeritus Status, and supervise such persons in connection with the provision of services to domestic violence and human trafficking victims; and

⁶ See, Victims of Trafficking and Violence Protection Act of 2000, H.R. 3244 § 112(a), 106th Cong. (2000).

⁷ See, Anti-Human Trafficking Act of 2006 (as added by L 2007, ch 74, sec 2 [eff Nov. 1, 2007]).

- build awareness and greater understanding with members of law enforcement, the judiciary, the legislature and community partners on the elements of safety planning for victims of domestic violence and human trafficking in connection with their pursuit of legal remedies

On behalf of the MSP Board of Directors, our staff and our clients, I would like to thank you and the Board of Legislators in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen Cheeks-Lomax', with a large, stylized flourish extending to the left and bottom.

Karen Cheeks-Lomax, Esq.
Chief Executive Officer



Hamra Ahmad, Esq.

Director

Center for Legal Services

My Sisters' Place

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Hamra Ahmad is Director of the Center for Legal Services at My Sisters' Place (MSP), a nonprofit organization working with victims of domestic violence, sexual assault, dating violence, stalking and human trafficking in seeking safety, self-determination, and justice through direct services, advocacy and community education.

Mrs. Ahmad joined MSP as a staff attorney in 2003 and implemented the Immigration Project, assisting battered immigrant women file self-petitions under the Violence Against Women Act, battered spouse waivers, U visas, T Visas as well as a host of other immigration issues. She is a leading expert in the area of Immigration and Domestic Violence and Human Trafficking in Westchester County, conducting trainings and presentations to law enforcement and social service agencies throughout the county.

Prior to joining My Sisters' Place, Ms. Ahmad implemented the Immigration Project of the Legal Aid Society of Minneapolis, in Minneapolis, Minnesota, providing a variety of immigration services to the large East African resettlement population. Ms. Ahmad received her J.D., cum laude, from the University of Minnesota Law School and her B.S. from the University of Wisconsin Madison. She is licensed to practice law in New York and Minnesota.

Mark L. Noferi

Member of Committee on Immigration &
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NEW YORK
CITY BAR

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September 24, 2013

The Task Force to Expand Access to Civil Legal Services in New York
c/o Jessica Klein, Esq.
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004-2498

Re: “Bridging the Gap: Immigration Issues Are Civil Access-to-Justice Issues”

Task Force to Expand Access to Civil Legal Services in New York
The Chief Judge’s Hearings on Civil Legal Services

Dear Ms. Klein and the Task Force,

My name is Mark Noferi. I am a member of the Immigration and Nationality Committee (the “Committee”) of the New York City Bar Association (“City Bar”), and chair its subcommittee on detention and representation.¹ On behalf of the Committee and its Chair, Professor Lenni Benson,² I submit this letter to the Task Force in connection with the Chief

¹ I am a Visiting Associate Fellow with the Center for Migration Studies (cmsny.org), an interdisciplinary research organization and think tank in New York. Previously, I taught Constitutional Civil Rights and Immigration at Brooklyn Law School and supervised immigrants’ rights cases at Seton Hall’s Center for Social Justice.

² Lenni B. Benson is a Professor of Law at New York Law School (http://www.nyls.edu/faculty/faculty-profiles/faculty_profiles/lenni_b_benson/) and directs its Safe Passage Project, which provides representation to

Judge's Hearings on Civil Legal Services (specifically the October 1, 2013 Second Department hearing in Queens).³ Please accept this letter as a written submission.

We applaud this Task Force's and Chief Judge Lippman's exemplary work to expand access to civil legal services and ensure equal access to justice in the Empire State.⁴ As City Bar President Carey Dunne testified, this Task Force's efforts have made New York a "nationwide leader in the provision of civil legal services to the poor."⁵ Since this Task Force began work, the New York judiciary increased legal services funding by \$25 million over two years, which City Bar called a "remarkable result" in these difficult times.⁶

We also encourage this Task Force (and the civil access-to-justice community broadly) to more fully incorporate civil immigration proceedings into its work, building upon this Task Force's study of other federal civil proceedings.⁷ To its credit, this Task Force has from the outset considered immigration proceedings as within its purview, and identified immigrants as a group "most in need of legal assistance."⁸ It is a particular need in New York State, comprised of 22 percent immigrants (4.3 million residents), the second-highest percentage in the country.⁹

We believe even stronger collaboration between the immigration access-to-justice community and broader civil access-to-justice community can benefit both. Indeed, we view these as one community, not two. Immigration issues are civil access-to-justice issues. Both seek to deliver legal services where the "essentials of life" are at stake—housing, family, subsistence income, health care and education.¹⁰ Deportation proceedings encompass all these essentials and more. Yet both also seek to frame the "justice gap" as impacting society beyond

unaccompanied minors in immigration proceedings. Among other publications, in 2012 she co-authored a report for the Administrative Conference of the United States that comprehensively studied immigration adjudication and provided recommendations to improve it. See Lenni Benson and Russell Wheeler, *Enhancing Quality and Timeliness in Immigration Removal Adjudication* (2012) ("Benson and Wheeler"), at <http://www.acus.gov/sites/default/files/Enhancing-Quality-and-Timeliness-in-Immigration-Removal-Adjudication-Final-June-72012.pdf>.

³ See Notice of Public Hearings, The Chief Judge's Hearings on Civil Legal Services, at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS_PublicHearingNotice-2013_1.pdf.

⁴ The Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York* 6 (November 2010) [hereinafter "Task Force 2010 Report"], at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>.

⁵ Carey Dunne, President, New York City Bar, *City Bar President Carey Dunne Testifies at Chief Judge's Hearing on Civil Legal Services* (Oct. 1, 2012), at <http://bit.ly/1a1l5qY>.

⁶ New York City Bar, *City Bar President Applauds Increase in Civil Legal Services Funding in Judiciary Budget* (Nov. 30, 2012), at <http://bit.ly/1a1loBY>.

⁷ The Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York* 20 (November 2012) [hereinafter "Task Force 2012 Report"] (articulating economic benefits of legal aid in Social Security hearings), at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT_Nov-2012.pdf.

⁸ Task Force 2010 Report at 11 (surveying residents about various legal problems, including immigration).

⁹ Jeanne Batalova and Alicia Lee, *Frequently Requested Statistics on Immigrants and Immigration in the United States*, Migration Policy Institute (March 2012), at <http://www.migrationinformation.org/usfocus/display.cfm?id=886#6b>.

¹⁰ See Task Force 2010 Report at 5.

individual cases. And both seek creative solutions to address the “justice gap,” as both immigration and civil access-to-justice receive increased public attention and financial support.

Since the Task Force’s 2010 report, the value of collaboration and mutual study has only increased. In the immigration field, increased enforcement, especially through federal partnerships with state and local police, has increased the need for representation in proceedings.¹¹ Yet also, innovative immigration projects, such as Second Circuit Judge Robert Katzmann’s New York Immigrant Family Unity Project (“NYIFUP”), can now serve as models for broader civil justice reform.¹²

With these broad principles in mind, we set out three points below. First, we encourage the Task Force to more fully incorporate civil immigration proceedings into its work, because of the enormous social and economic impact of New Yorkers’ inability to access immigration legal services. Second, we salute this Task Force for fostering a more holistic, accurate debate regarding costs *and* benefits of access to justice funding, and highlight City Bar’s similar work in the immigration field. Third, we encourage this Task Force to study and learn from innovative immigration projects, and specifically to support the NYIFUP as the Task Force advocates to increase access-to-justice funding.

* * *

City Bar’s advocacy for immigration access-to-justice naturally follows its longstanding position that lawyers provide value, both to those unable to adequately represent themselves and society at large. In 1959, four years before *Gideon v. Wainwright*,¹³ City Bar advocated providing appointed counsel to criminal defendants because it reflected society’s interest in “fundamental human rights.”¹⁴ In 2006, City Bar advocated a right to appointed counsel in civil proceedings, co-sponsoring the American Bar Association’s resolution.¹⁵ More recently, City Bar called for appointed counsel to all indigent individuals in immigration removal

¹¹ “[T]he Secure Communities program will likely result in a massive expansion of the immigration detention and deportation system in New York City and exacerbate problems with the criminal justice system.” *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 4 (July 2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>; see also *id.* at 1 (“ICE enforcement in New York City is terrorizing the city’s immigrant community”).

In 2010, this Task Force found that immigrants reported other civil legal problems at greater rates than immigration legal problems (e.g., deportation). Task Force 2010 Report at 8. It is unclear whether this remains true.

¹² New York City Bar Association, *City Bar Statement Praising New York City Council’s Efforts to Fund Immigration Public Defender System, and Urging Nationwide Action* (July 19, 2013), at <http://bit.ly/1dKcHh>.

¹³ 372 U.S. 335 (1963).

¹⁴ New York City Bar, Special Committee to Study the Defender System, *Equal Justice for the Accused* 24 (1959).

¹⁵ *ABA Resolution on Civil Right to Counsel*, 15 Temp. Pol. & Civ. Rts. L. Rev. 507 (2006).

proceedings,¹⁶ following its 2009 report arguing for appointed counsel to immigration detainees,¹⁷ and calls from other nonpartisan and bipartisan organizations.¹⁸

City Bar's Justice Center also represents immigrant detainees and helps them secure *pro bono* help from leading New York City law firms.¹⁹ Additionally, our Immigration & Nationality Committee, to expand the bar's expertise, is hosting a training session on representing immigrants at bond hearings, and providing free trainings to attorneys who may encounter immigrant children (partnering with several non-profit organizations). For example, with the Office of Indigent Representation, we are providing trainings in Manhattan and the Bronx this month, and in November, with the County Lawyers Association, we will provide in-depth training on immigration issues facing children in family court proceedings.

I. City Bar Encourages the Task Force to Further Incorporate Civil Immigration Proceedings Into Its Work, Because of Their Social and Economic Impact on New York State

First, we encourage the Task Force to further incorporate civil immigration proceedings into its advocacy to close New York's "access-to-justice" gap, because of the enormous social and economic impact on individuals and the state at large.

New York State is comprised of 22 percent immigrants (4.3 million residents), the second-highest percentage in the country.²⁰ The percentage is even higher in New York's Second Department (host of these hearings), which includes counties like Queens and Kings, the second- and fourth-strongest immigrant counties in the nation.²¹ There is significant overlap

¹⁶ New York City Bar Association, *Letter to Senate Judiciary Committee Advocating Appointed Counsel* (Apr. 24, 2013) ("City Bar Letter"), available at <http://bit.ly/105sqW0>; Carey Dunne, President, New York City Bar Association, *President's Letter: The City Bar Takes on Immigration Reform* (June 2013), at <http://bit.ly/1aF1c51>.

¹⁷ Association of the Bar of the City of New York, Committee on Immigration & Nationality Law, *Report on the Right to Counsel for Detained Individuals in Removal Proceedings* (August 2009) ("City Bar Report"), available at <http://www.nycbar.org/pdf/report/uploads/20071793-ReportontheRighttoCounsel.pdf>.

¹⁸ See American Bar Association Commission on Immigration, *Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases*, 5-11 (Feb. 2010) ["ABA 2010 Report"], at http://www.americanbar.org/content/dam/aba/migrated/Immigration/PublicDocuments/aba_complete_full_report.aut_hcheckdam.pdf; The Constitution Project, *Recommendations for Reforming our Immigration Detention System and Promoting Access to Counsel in Immigration Proceedings* (October 2009), at <http://www.constitutionproject.org/wp-content/uploads/2012/10/359.pdf>.

¹⁹ City Bar Justice Center, *Varick Removal Defense Project*, at <http://www2.nycbar.org/citybarjusticecenter/projects/immigrant-justice/varick-removal-defense-project>.

²⁰ Jeanne Batalova and Alicia Lee, *Frequently Requested Statistics on Immigrants and Immigration in the United States*, Migration Policy Institute (March 2012), at <http://www.migrationinformation.org/usfocus/display.cfm?id=886#6b>.

²¹ Forty-eight percent of Queens County's residents are immigrants (over 1 million foreign-born residents), making it the United States' second-strongest immigrant county. *Id.* New York's Second Department also includes counties like Kings, the fourth-strongest immigrant county in the United States (with 38 percent foreign-born, nearly 950,000 residents), Westchester (24.2 percent foreign-born, over 231,000 residents), Nassau (21.5 percent foreign-

between those unable to access civil legal aid and those specifically unable to access immigration help. This Task Force’s first report found that immigrant households are more likely to experience civil legal problems (including immigration issues), but less likely to take action.²²

Moreover, immigration proceedings and associated detention have recently exploded. Since the Task Force’s 2010 report, enforcement has increased and new information has come to light. As of August 2013, there were 50,529 pending cases in New York immigration courts,²³ with over 16,000 added in the last fiscal year.²⁴

This Task Force recommended additional funding for legal assistance in proceedings with the “essentials of life” at stake, i.e., housing, family, subsistence income, health care and education.²⁵ Immigration deportation proceedings involve all these and more, permanently—indeed, “all that makes life worth living,” as the U.S. Supreme Court said.²⁶ Someone who is deported, often a long-time US resident with a green card, loses his or her home, friends, family (even US citizen family), job, and property, and is sent to a “homeland” in which (s)he may have no ties and may be persecuted.²⁷

Deportation then has impacts beyond those who leave, on those who remain. Families are abandoned, economically and personally, to great human and social cost. Over a five-year period, the parents of over 7,000 US citizen children in New York were deported, with more every day. Indeed, 87 percent of the cases involving US citizen children ended in deportation.²⁸

Remaining family members then may lose their primary breadwinner, consequently lose housing, and may need public benefits to survive. Sadly, children of deported U.S. parents end up in foster care—5,000 in 2011.²⁹ Foster care for one child costs \$25,000 per year or more.³⁰

born, over 290,000 residents), and Suffolk (14.2 percent foreign-born, nearly 213,000 residents). See American Community Survey, available at <http://www.census.gov/acs/www/>.

²² Lake Research Partners, *Civil Legal Needs Among Low-income New York State Residents: Findings from a statewide survey of Low-income New York residents* 4 (Oct. 2010), in Task Force 2010 Report, Appendix 17, <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-Appendices.pdf>.

²³ TRAC Immigration, *Immigration Court Backlog Tool* (through August 2013), at http://trac.syr.edu/phptools/immigration/court_backlog/.

²⁴ TRAC Immigration, *U.S. Deportation Proceedings in Immigration Courts* (through August 2013), at http://trac.syr.edu/phptools/immigration/charges/deport_filing_charge.php.

²⁵ Task Force 2010 Report at 5 (“The Task Force recommends that this new funding be targeted to providing legal assistance to address the ‘essentials of life’: (i) housing (including evictions, foreclosures, and homelessness); (ii) family matters (including domestic violence, children, and family stability); (iii) access to health care and education; and (iv) subsistence income (including wages, disability and other benefits, and consumer debts.”).

²⁶ *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922) (Brandeis, J.); see also *Padilla v. Kentucky*, 130 S. Ct. 1473, 1486 (2010).

²⁷ City Bar Letter at 2.

²⁸ Moreover, the parents of over 10,000 US citizen children were detained without bond. NYU et. al., *Insecure Communities* at 3.

²⁹ *Id.* at 2, citing Seth Freed Wessler, *Thousands of Kids Lost From Parents In U.S. Deportation System*, COLORLINES, Nov. 2, 2011, available at http://colorlines.com/archives/2011/11/thousands_of_kids_lost_in_foster_homes_after_parents_deportation.html.

The impact extends beyond family. Immigrants who own businesses—and seventeen percent of small businesses are immigrant owned—may have to close the business, liquidate assets, and fire workers, resulting in significant economic loss.³¹

Moreover, immigration proceedings, unique among civil proceedings, routinely involve detention. Detention, a.k.a. incarceration, exacerbates the stakes and the need for counsel.³² It restricts personal liberty in the most severe way our society employs. Additionally, detention makes it harder to secure counsel, and then without counsel, harder to collect evidence and litigate a case.³³ Transfer to rural detention facilities outside New York compounds this problem.³⁴ And detention of course renders someone unable to engage in all the “essentials of life” listed above—family, housing, work to gain subsistence income, or education. Over a five-year period, the parents of over 10,000 US citizen children in New York were detained without bond.³⁵ Detention is also expensive, costing \$159/day and over \$58,000/year for one individual.³⁶ Additionally, 350 children in removal proceedings are detained at federal facilities in Westchester County.

Immigration proceedings are also incredibly complex, like the proceedings this Task Force cited if not worse.³⁷ As Justice Alito stated, “[N]othing is ever simple with immigration law.”³⁸ The Immigration and Nationality Act has sixteen categories for grounds of removal alone, all with parts, subparts, exceptions, and waivers, each with multiple elements. Qualifying for relief is even more complex, and requires extensive evidence. This Task Force, in studying federal benefits hearings (like Social Security), found that low-income New Yorkers “may not be aware of the programs or of their eligibility”; that “[d]etermining eligibility can... require navigation through a maze of complex rules and regulations”; and that “[p]roof of eligibility may require documents and/or information that are difficult for low-income persons to access or obtain.”³⁹ Similarly, in immigration proceedings, individuals without legal assistance (often also

³⁰ New York City Bar, *Why Right to Counsel in Deportation Proceedings Won't Break the Bank 1*, at <http://www.nycbar.org/images/stories/pdfs/committee/why-right-to-counsel-in-deportation-proceedings-wont-break-the-bank.pdf>.

³¹ City Bar Letter at 2, citing NALEO Education Fund, *Immigration Reform Must Provide the Integrations Services Immigrants and American Communities Need to Thrive Together*, 2 (2013), available at http://s143989.gridserver.com/2013/Images/CIRintegration_overview.pdf.

³² City Bar Letter at 2.

³³ *Id.* (detainees “face a Catch-22: they typically cannot escape detention by winning a bond hearing without the assistance of counsel, and they typically cannot find counsel, given the limited access to communication and information, until they escape detention”).

³⁴ *Id.*, citing City Bar Report at 7; Mark Noferi, *Cascading Constitutional Deprivation: The Right To Appointed Counsel For Mandatorily Detained Immigrants Pending Removal Proceedings*, 18 Mich. J. Race & L. 63, 105-08 (2012) (articulating impact of detention on ability to litigate proceedings).

³⁵ Moreover, NYU School of Law Immigrant Rights Clinic et. al., *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 3 (July 2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁶ National Immigration Forum, *The Math of Immigration Detention 2* (August 2013), at <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

³⁷ City Bar Letter at 2.

³⁸ *Padilla*, 130 S. Ct. at 1490 (Alito, J., concurring).

³⁹ Task Force 2012 Report at 20.

facing language and cultural barriers) are unlikely to even know what facts will help them make their case, let alone argue it in court based on complex statutory analysis.⁴⁰

Thus, individuals without legal assistance are detained and deported at far higher rates, to great negative effect on New York. Judge Katzmman called this the “immigrant representation crisis.” Sixty percent of those in detained in proceedings lacked counsel, according to Judge Katzmman’s 2011 study.⁴¹ A stunning 97 percent of those detained without counsel lose.⁴² Meanwhile, 74 percent of those not detained and able to find representation won their deportation cases.⁴³ Counsel matters.

For all these reasons, we strongly encourage this Task Force to advocate to close the “access-to-justice gap” in immigration proceedings, as well as other civil proceedings. City Bar, for example, has proposed appointed counsel in immigration proceedings.⁴⁴

Moreover, the lack of assistance in immigration proceedings undoubtedly has downstream effects on New York civil courts. Immigration decisions commonly lead to further civil consequences. In family court, parents detained or deported without counsel cannot show for family court hearings, with grave consequences.⁴⁵ Although immigrant children in family court may have appointed counsel, lack of immigration expertise often results in missed opportunities to help children obtain Special Immigrant Juvenile Status and thus a path to permanent resident status. Immigration decisions also have complicated consequences for benefits hearings, which provide benefits to various classes of noncitizens according to complicated criteria.⁴⁶ Legal assistance in immigration proceedings would likely help New York civil judges better resolve these matters as well.

II. This Task Force’s Articulation of Economic Impacts of Civil Legal Aid Changes the Debate, and Inspires City Bar’s Similar Work Regarding Immigration

Second, we salute this Task Force’s work to articulate costs and benefits of legal assistance, as fostering a more holistic, accurate policy debate on access to justice. This Task

⁴⁰ City Bar Letter at 2.

⁴¹ New York Immigrant Representation Study, *Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings*, 33 *Cardozo L. Rev.* 357, 363-64 (2011), available at http://www.cardozolawreview.com/content/denovo/NYIRS_Report.pdf.

⁴² *Id.*

⁴³ NYIRS, *Accessing Justice* at 363-64.

⁴⁴ New York City Bar Association, *Letter to Senate Judiciary Committee Advocating Appointed Counsel* (Apr. 24, 2013) (“City Bar Letter”), available at <http://bit.ly/105sqW0>; Carey Dunne, President, New York City Bar Association, *President’s Letter: The City Bar Takes on Immigration Reform* (June 2013), at <http://bit.ly/1aFic51>.

⁴⁵ Sarah Rogerson, *Unintended And Unavoidable: The Failure To Protect Rule And Its Consequences For Undocumented Parents And Their Children*, 50 *Fam. Ct. Rev.* 580, 587 (2012).

⁴⁶ Huyen Pham, *When Immigration Borders Move*, 61 *Fla. L. Rev.* 1115, 1117-18 (2009); see also Guide to Public Benefits for Immigrants (2009) (detailing criteria for benefit eligibility in New York), at <http://publicadvocategotbaum.com/documents/PA002ImmigrantGuidev11.pdf>.

Force has inspired City Bar’s similar work to articulate costs-benefits in the immigration field, as described below.

The economic benefits of legal assistance are historically ignored or under-researched compared to costs.⁴⁷ As a result, policymakers have too often considered only costs of civil legal assistance—and then naturally cut costs.⁴⁸ Criminal defender cuts are an example as well.⁴⁹

This Task Force’s work flips the script. For example, this Task Force found a 6-to-1 ratio of economic benefits to costs regarding legal assistance in federal benefits proceedings.⁵⁰ Similar results were found in domestic violence and eviction proceedings.⁵¹

Work like this leads the way for cost-benefit analysis to be a positive, not negative, talking point for increased civil legal assistance. Chief Judge Lippmann, City Bar President Carey Dunne, and City Council Speaker Christine Quinn, among others, have made this point eloquently. As Justice Lippmann said, “[F]or every dollar invested at the local and state level,” it’s a “benefit from a fiscal perspective to local and state government and obviously society as a whole.”⁵² Similarly, Carey Dunne said, “Increasing access to justice by funding legal services for the City’s poorest residents actually benefits the entire City’s economy.”⁵³ Speaker Quinn testified, “[T]he people who need the services are not going to go away... they’re simply going to end up in a worse situation with worse choices, which is only going to be a greater drain on the local governments.”⁵⁴

With a true accounting of both costs and benefits of legal assistance, policymakers can be more fully informed when deciding to fund access to justice. Indeed, although fairness should

⁴⁷ John P. Gross, *The True Benefits Of Counsel: Why “Do-It-Yourself” Lawyering Does Not Protect The Rights Of The Indigent*, 43 N. Mex. L. Rev. 1, 32 (2013) (“Typically, the “cost” of providing counsel is viewed as simply the amount of money that will have to be paid to the attorneys who provide the representation. This view ignores the costs associated with not providing counsel and the economic benefits that counsel can provide.”).

⁴⁸ *Id.* at 33-34.

⁴⁹ Justice Policy Institute, *System Overload: The Costs Of Under-Resourcing Public Defense* (2011).

⁵⁰ Task Force 2012 Report at 18-25; see also Dr. Elizabeth Becker, Senior Vice President, NERA Consulting, *Report to the Task Force to Expand Access to Civil Legal Services in New York* (Oct. 1, 2012), at Appendix 11, p. 675-87, <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS2012-APPENDICES.pdf>.

⁵¹ Report of Jeffrey L. Baliban, Navigant Consulting, to the Task Force to Expand Civil Legal Services in New York, Presented At The First Judicial Department Hearing (September 26, 2011) (domestic violence legal assistance), at Appx. 8, 13:2-26:5, and Appx. 12, p. 824 et. seq., at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011_Appendices.pdf; Geeta Singh, Cornerstone Research, *Testimony at the Chief Judge’s Hearing on Civil Legal Services* (September 26, 2011) (eviction legal assistance), at Appx. 8, 40:25-53:3, and Report, at Appx. 12, p. 917 et. seq., also at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011_Appendices.pdf.

⁵² Justice Jonathan Lippmann, Appellate Division of the First Department of New York (Sept. 26, 2011), 38:5-8.

⁵³ Carey Dunne, President, New York City Bar Association, *President’s Letter* (June 2013), at <http://www.nycbar.org/component/content/article/93-president-page/1785-presidents-page061713>; see also New York City Bar, *2013 Policy Recommendations for New York City’s Next Mayor* 39 & n. 89 (May 2013), at <http://www.nycbar.org/images/stories/pdfs/mayoralreport04302013.pdf>.

⁵⁴ *Id.* at 37:4-10.

always be the primary concern—as Learned Hand said, “Thou shalt not ration justice”⁵⁵—costs will inevitably enter the debate. If so, policymakers should have the full picture. Foundations like MacArthur and Pew Charitable Trusts are funding research in this area as well.⁵⁶

The immigration community is following this Task Force’s example. For example, City Bar’s Immigration & Nationality Law Committee is currently preparing a report to more specifically articulate these benefits in the immigration context.⁵⁷ Appointed counsel in immigration proceedings would likely reduce the costs of taxpayer-supported immigration detention;⁵⁸ increase administrative tribunal efficiency at the hearing level, and reduce costly appeals to the federal Circuits;⁵⁹ and economically benefit society, by reducing social costs such as foster care and increasing the economic contributions of those not detained nor deported.⁶⁰

Similarly, the New York Immigrant Family Unity Project is citing economic benefits as support for immigrant representation.⁶¹ As Judge Katzmman’s report said, “[p]ut simply, the City

⁵⁵ Address at the 75th Anniversary Celebration of the Legal Aid Society of New York (Feb. 16, 1951). See also The Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York 2* (November 2011) [hereinafter “Task Force 2011 Report”] (“of course, no dollar amount can be placed on the life-changing impact that the provision of civil legal assistance can have for vulnerable low-income families and individuals”), at http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf.

⁵⁶ MacArthur Foundation, *The Power of Measuring Social Benefits*, at <http://www.macfound.org/programs/social-benefits/>; The Pew Charitable Trusts, *Pew-MacArthur Results First Initiative*, at <http://www.pewstates.org/projects/pew-macArthur-results-first-initiative-328069>.

⁵⁷ New York City Bar Association, *City Bar Statement Praising New York City Council’s Efforts to Fund Immigration Public Defender System, and Urging Nationwide Action* (July 19, 2013) at <http://bit.ly/1dKcHh>. (“Counsel also provides economic and social benefits that outweigh its costs. Appointing counsel in these [immigration] cases pays for itself...”).

⁵⁸ New York City Bar, *Why Right to Counsel in Deportation Proceedings Won’t Break the Bank 1*, at <http://www.nycbar.org/images/stories/pdfs/committee/why-right-to-counsel-in-deportation-proceedings-wont-break-the-bank.pdf>.

⁵⁹ *Id.* at 1-2. For example, each appeal to a federal Circuit court costs the government nearly \$18,000 for judges to hear and government lawyers to litigate. U.S. Dep’t of Justice, Office of Immigration Litigation, *What Does it Cost to Regulate Immigration? Three Measurements to Calculate Costs 6* (July 2011) (estimating, for FY 2009, that each appeal to a federal Circuit costs \$9,993 for a Circuit court to hear, and \$7,865 for Department of Justice Office of Immigration Litigation lawyers to litigate), available at http://www.justice.gov/civil/docs_forms/ImmigrationBulletin/July_2011.pdf.

⁶⁰ New York City Bar, *Why Right to Counsel in Deportation Proceedings Won’t Break the Bank* at 2. Cardozo Law School estimated the costs of foster care in New York at nearly \$36,000 a year. Cardozo Law School, *NY City Council, Immigration Justice Clinic, And Other Groups Announce Program For Immigrants Facing Deportation* (July 19, 2013) (“where no parent remains, U.S. citizen children must be placed in foster care at a cost of nearly \$36,000 per child per year—ten times the cost of providing deportation defense”), at <http://www.cardozo.yu.edu/news/ny-city-council-immigration-justice-clinic-and-other-groups-announce-program-immigrants-facing>.

⁶¹ Cardozo Law School, *NY City Council, Immigration Justice Clinic, And Other Groups Announce Program For Immigrants Facing Deportation* (July 19, 2013) at <http://www.cardozo.yu.edu/news/ny-city-council-immigration-justice-clinic-and-other-groups-announce-program-immigrants-facing>.

and State of New York bear a heavy cost as a result of the immigrant representation crisis.”⁶² The report continued,

“the local community... bears the cost of these deportations in very tangible ways: when splintered families lose wage-earning members, they become dependent on a variety of City and State safety net programs to survive; the foster care system must step in when deportations cause the breakdown of families; and support networks to families and children must accommodate the myriad difficulties that result when federal policies are enforced without regard for local concerns.”⁶³

Because deportation spans *all* the “essentials of life” involved in various civil contexts—housing (as in eviction proceedings), family (as in custody or parental termination proceedings), work (as in unemployment proceedings)—the economic benefits of avoiding deportation are likely even more pronounced than other civil cases, with secondary impacts on those who remain. (Detention temporarily impacts those essentials of life as well.) Yet crucially, because deportation impacts all these essentials, the articulation of economic benefits from avoiding deportations can assist advocates in all those other civil legal proceedings.

III. We Encourage This Task Force to Study and Support the NY Immigrant Family Unity Project as a Model for Expanding Civil Access to Justice

Third, we encourage this Task Force to review and support the New York Immigrant Family Unity Project (NYIFUP) as part of its work to expand access to civil legal services. We also highlight other ways in which this Task Force, and the broader civil access-to-justice community, can learn from innovative immigration projects and studies.

On July 19, 2013, Speaker Quinn, Judge Katzmann, and others announced the City Council’s decision to fund \$500,000 to the New York Immigrant Family Unity Project, a pilot project to represent detained immigrants in proceedings.⁶⁴ The New York Times called it the nation’s “first immigration public defender system.”⁶⁵ City Bar praised it as “a model for what Congress should enact nationwide, to support justice, economic fairness and efficient

⁶² New York Immigrant Representation Study Report: Part II, *Accessing Justice II: A Model for Providing Counsel to New York Immigrants in Removal Proceedings* 1 (2012) (“*Accessing Justice II*”), available at http://www.cardozolawreview.com/content/denovo/NYIRS_ReportII.pdf.

⁶³ *Id.*

⁶⁴ Cardozo Law School, *NY City Council, Immigration Justice Clinic, And Other Groups Announce Program For Immigrants Facing Deportation* (July 19, 2013), at <http://www.cardozo.yu.edu/news/ny-city-council-immigration-justice-clinic-and-other-groups-announce-program-immigrants-facing>. The NYIFUP is a joint effort between Judge Katzmann, the Vera Institute, Cardozo Law School, the Northern Manhattan Immigrants’ Rights Coalition, and the Center for Popular Democracy.

⁶⁵ Kirk Semple, *City to Help Immigrants Seeking Deportation Reprieves*, N.Y. Times (July 18, 2013), at http://www.nytimes.com/2013/07/18/nyregion/city-to-help-immigrants-seeking-deportation-reprieves.html?_r=0; Mark Noferi, *The First Immigration Public Defender System: New York City 2013*, Law at the Margins (Aug. 1, 2013), at <http://www.lawatthemargins.com/perspectives-the-first-immigration-public-defender-system-new-york-city-2013/>.

administration of the courts.”⁶⁶ NYIFUP has distributed a request for proposals to implement this funding, and hopes to begin representation this fall. It has already received inquiries from other cities interested in replicating the model.⁶⁷

We encourage this Task Force to study the NYIFUP’s work, and consider recommending it for additional state grant funding. As the Task Force noted in 2011, its advocacy resulted in 56 grants awarded to civil justice providers from Judiciary funding.⁶⁸ Like the New York City Council, New York State could find it economically and socially valuable to fund representation in federal immigration proceedings, because of all the impacts described above.

Certainly too, the immigrant representation crisis extends well beyond the five boroughs. The size of the immigrant populations in other counties, such as Westchester, Nassau, Suffolk, and others, has caused an explosion of need for services.⁶⁹ Or, for example, New York Law School’s Safe Passage Project, directed by our Committee chair Professor Lenni B. Benson, brings students and volunteer attorneys to immigration court each month and screens every child at removal hearings. This past year, the Project trained over 300 attorneys, placed over 100 cases and trained more than 200 students. But like other civil contexts, more pro bono attorneys and students, and resources for non-profit organizations, are needed.⁷⁰

That said, limited funding leads to creative solutions. As NYIFUP tests creative solutions to the immigration access-to-justice problem, it may serve as a model in serving low-income populations, that this Task Force and others can learn from.

For example, NYIFUP poses an opportunity to test cost-effective mechanisms to fill the access-to-justice gap. The Task Force recommended that “mechanisms be put in place to evaluate the cost-effectiveness of client services and civil legal services delivery systems.”⁷¹ NYIFUP, through its partner Vera Institute, will analyze data from the project to assess its efficacy. Other civil assistance projects can learn from its example.

Additionally, the NYIFUP, and immigration proceedings generally, provide an excellent opportunity to test the efficacy of non-lawyer legal assistance. The Task Force established a new

⁶⁶ New York City Bar Association, *City Bar Statement Praising New York City Council’s Efforts to Fund Immigration Public Defender System, and Urging Nationwide Action* (July 19, 2013), at <http://bit.ly/1dKCtHh>.

⁶⁷ Amy Connors, *A historic step in access to justice for immigrants facing deportation*, Vera Institute for Justice (Aug. 15, 2013), at <http://www.vera.org/blog/historic-step-access-justice-immigrants-facing-deportation>.

⁶⁸ Task Force 2011 Report at 1.

⁶⁹ New organizations serving immigrants have sprung up to meet the need. Additionally, law school clinics serving immigrants have been started—in addition to clinics in the five boroughs’ law schools, Albany, Cornell, Hofstra, and Pace have clinics that directly represent immigrants in proceedings. Additionally, Pace’s new Community Law Practice, which employs recent law school graduates in a “low bono” model, undertakes significant immigrant representation in Westchester and nearby. See <http://www.law.pace.edu/pace-community-law-practice>.

⁷⁰ The following organizations regularly volunteer at the immigration courts: Catholic Charities of New York, The Door, the American Immigration Lawyers Association, Legal Aid, Human Rights First, Kids in Need of Defense, and Safe Passage Project of New York Law School.

⁷¹ Cardozo Law School, *ibid*.

initiative to examine the increased use of supervised non-lawyer advocates.⁷² City Bar has similarly begun to examine their use, in a report this summer entitled *Narrowing the Justice Gap*.⁷³ Non-lawyer advocates already practice in immigration courts, pursuant to a formal accreditation program by the Board of Immigration Appeals.⁷⁴ Yet little data exists to test whether non-lawyers in fact ameliorate the justice gap, or rather do more harm than good.⁷⁵ Increased funding for the NYIFUP might further the study of this and other civil justice issues, as responding organizations creatively propose different strategies to the NYIFUP.

More broadly, recent studies of immigration adjudication contain lessons for civil and administrative adjudication. Like other civil cases, the absence of legal assistance in immigration proceedings affects the fair administration of justice. Immigration courts are now enormously backlogged, with the average case in New York immigration courts pending for 588 days (over a year and a half).⁷⁶ As the Task Force found in other civil cases,⁷⁷ immigration judges blame the lack of legal assistance, resulting in more continuances and more time and effort by the court to assist unrepresented parties.⁷⁸ An Administrative Conference of the United States study thus recommended increased legal assistance as a way to foster meaningful pretrial conferences, thus narrowing issues for review at trial (much like federal civil courts) and increasing adjudicative efficiency.⁷⁹ Other civil proceedings could adopt these recommendations as well.

* * *

In conclusion, we salute the work of this Task Force. We hope this testimony regarding immigration proceedings will facilitate an even greater impact by this Task Force's work.

⁷² Task Force 2012 Report at 36; Task Force 2010 Report at 6.

⁷³ New York City Bar, Committee on Professional Responsibility, *Narrowing the Justice Gap: Roles for Nonlawyer Practitioners* (June 2013), at <http://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf>.

⁷⁴ Mark Noferi, *Response to Invitation to Comment: ABA Task Force on the Future of Legal Education, Subcommittee on Delivery and Regulation* (Theme F) (Feb. 8, 2013), at http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/taskforcecomments/201302_mark_noferi_comment.authcheckdam.pdf.

⁷⁵ Mark Noferi, *Cascading Constitutional Deprivation: The Right To Appointed Counsel For Mandatorily Detained Immigrants Pending Removal Proceedings*, 18 Mich. J. Race & L. 63, 125-26 (2012); cf. Molly M. Jennings and D. James Greiner, *The Evolution Of Unbundling In Litigation Matters: Three Case Studies And A Literature Review*, 89 Denv. U. L. Rev. 825, 832 (2013) (“[p]erhaps, like a small dose of antibiotics, a small amount of lawyering can be ineffective, or even harmful....”).

⁷⁶ TRAC Immigration, *Immigration Court Backlog Tool* (through August 2013), at http://trac.syr.edu/phptools/immigration/court_backlog/.

⁷⁷ Task Force 2010 Report at 3 (“when there are substantial numbers of unrepresented New Yorkers in court, the overall quality of justice suffers, because courts are less efficient when resources have to be diverted from matters involving represented parties to try to assist unrepresented parties”).

⁷⁸ City Bar Letter at 3, citing Lenni Benson and Russell Wheeler, *Enhancing Quality and Timeliness in Immigration Removal Adjudication* 58-59 (2012) (“Benson and Wheeler”), available at <http://www.acus.gov/sites/default/files/Enhancing-Quality-and-Timeliness-in-Immigration-Removal-Adjudication-Final-June-72012.pdf>.

⁷⁹ Benson and Wheeler at 58-59.

A final note. With so much overlap between immigration proceedings and other civil proceedings, the main difference may be that (nearly) all involved in immigration proceedings are noncitizens.⁸⁰ To its credit, though, this Task Force has never drawn that distinction in its study and calls for access to justice.⁸¹ Nor do we. Access to justice reflects our American values, and should not be (and in most cases, is not) dependent on the citizenship status of those involved. As City Bar points out, there is no citizenship test for appointed counsel in America, whether in civil, criminal, or other proceedings.⁸² That said, legal services organizations receiving federal Legal Services Corporation funding are prohibited from serving the undocumented, which City Bar continues to oppose.⁸³ This restriction exacerbates the access-to-justice gap in all civil proceedings, and makes increasing access to justice for immigrants even more crucial.

Respectfully submitted,



Mark L. Noferi

⁸⁰ About one percent in immigration proceedings are estimated to actually be US citizens. Jacqueline Stevens, *U.S. Government Unlawfully Detaining and Deporting U.S. Citizens as Aliens*, 18 Va. J. Soc. Pol’y & L. 606 (2011).

⁸¹ See Task Force 2010 Report at 11 (surveying issues in immigration proceedings).

⁸² New York City Bar Association, *Letter to Senate Judiciary Committee Advocating Appointed Counsel 3* (Apr. 24, 2013), available at <http://bit.ly/105sqW0>.

⁸³ See e.g. Barry J. Kamins, President, New York City Bar Association, *Letter Asking Congress to Repeal Legal Services Corporation Restriction* (Jan. 24, 2008), at <http://www.nycbar.org/pdf/report/City%20Bar%20Ltr%20Re%20LSC%20Restrictions%20Draft%2012-13-07.pdf>.

Thomas M. Gordon
Executive Director, Responsive Law

Testimony on: **Allowing Innovation to Meet Unmet Legal Needs**

Thomas M. Gordon,
Executive Director

Testimony to the
**Task Force to Expand
Access to Civil Legal
Services in New York**

September 27, 2013

Responsive Law thanks Chief Judge Lippman and the Task Force for the opportunity to present its testimony. Responsive Law is a national nonprofit organization working to make the civil legal system more affordable, accessible, and accountable. **Responsive Law urges the Task Force to expand the range of legal services available to New Yorkers using the legal system by recommending a broad expansion of who may provide legal services, a change in the scope of restrictions on the unauthorized practice of law, and the removal of restrictions on outside investment in law practices.**

Responsive Law would like to express its appreciation to the Chief Judge and the Task Force for their ongoing commitment to access to justice. Merely holding these hearings on an annual basis demonstrates this commitment at as high a level as we have seen from any court in the country, and the Chief Judge's public support of equal access to the law has kept attention focused on this issue.

The Task Force has already made many significant recommendations to help those who can't afford legal help. Increased funding for legal services¹ and greater participation in pro bono efforts² will help those whose problems can only be solved by a lawyer. Efforts to simplify court procedures³ will help demystify the justice system for the overwhelming number of self-represented litigants.

Access to justice is a problem of both supply and demand. Demand for legal services is relatively fixed. As long as we live in a nation

¹ The Task Force to Expand Access to Civil Legal Services in New York, Report to the Chief Judge of the State of New York ("Task Force Report") 2012, p. 18

² Task Force Report 2012, pp. 32-36

³ Task Force Report 2011, pp. 40-41

governed by laws, people will need assistance in understanding those laws and solving disputes over their application. The Task Force has found that low-income New Yorkers face 1.5 million legal problems a year.⁴ Courts can alleviate some of the demand for legal assistance from these people by simplifying procedures, but even if procedures are simplified, people will still face legal matters pertaining to housing, employment, family law, and consumer issues—among others—and will continue to need assistance in understanding the substantive law that pertains to their situation.

With less ability to change the demand side of the access to justice equation, we're left trying to fix the supply side. As Professor Gillian Hadfield ably pointed out in her testimony to the Task Force last year, increased funding for courts and for lawyers serving those in need can only address a small part of the supply. Extrapolating from Hadfield's calculations, every lawyer admitted to practice in New York would have to work 240 hours of pro bono per year to address all of the legal problems faced by low-income New Yorkers.⁵ Looking at it another way, the annual budget to pay for lawyers to assist this group would be \$7.2 billion—about three times the entire annual budget of the New York court system⁶

And, as Hadfield notes, these figures apply only to “erupted” problems. Problems for which a person recognizes the need for a lawyer are only the tip of an iceberg that includes numerous legal needs that have not yet reached crisis level.⁷ Just as medical problems should not be left untreated until a patient reaches the emergency room, legal problems should not be left unaddressed until a person faces eviction, foreclosure, or other critical situations.

⁴ Summary of Testimony of Gillian Hadfield to Task Force, October 1, 2012 (“Hadfield Testimony”), p. 3, based on Task Force Report 2011 data

⁵ Based on data in Hadfield Testimony, pp. 2-3: (1.5 million problems x 24 hours per problem)/150,000 lawyers = 240 hours per lawyer. Of course, the burden would be much greater for the small subset of lawyers who both are located in New York and who have competence in the areas of law where help is most needed.

⁶ Based on data in Hadfield Testimony, pp. 2-3: 1.5 million problems x 24 hours/problem x \$200/hour = \$7.2 billion

⁷ Hadfield Testimony, p. 3

Since increasing the supply of legal help using existing types of resources—that is, lawyers in existing settings—is not enough to meet demand, the only way to sufficiently increase supply is with new types of legal help. All of Responsive Law’s recommendations would allow innovative models of legal service delivery to thrive, creating new, affordable avenues to legal access for those who currently have none.

Expanding Who May Provide Legal Services

Responsive Law applauds the creation of the Committee on Non-Lawyers and the Justice Gap to consider what role non-lawyers can play in providing legal services. We encourage that Committee to move rapidly toward a more expansive role for non-lawyers in the provision of legal services while not erecting excessive barriers to the provision of services by those who may already legally do so.

One well-known approach to non-lawyer assistance is the nascent model of limited-license legal technicians in Washington. As Washington has yet to license any legal technicians, it is too early to determine the effect of such licensure on legal access in the state. However, the creation of a new profession is not the only way to ensure the competence of service providers.

Many people, such as those who work in advocacy around the issues of housing or family law, already have knowledge about particular areas of the legal system that is sufficient to provide competent advice to clients. In fact, these advocates will often be more competent to provide legal advice in their field than most lawyers. Any licensure scheme for non-lawyers should take this existing expertise into account when setting the requirements to obtain a license. Requirements for classroom training, such as those proposed in Washington, may be necessary for those without any background in the areas covered. However, for those who already work in these fields, such requirements are superfluous. Furthermore, they would raise the cost of obtaining licensure, perhaps to an extent that would leave licensees unable to provide services at a price much below what a lawyer would charge.

Any licensing scheme should also be careful not to accidentally prohibit services that are currently available. For example, housing advocates who currently provide information about family court

proceedings or financial advisors who provide assistance with consumer debt issues should not be required to get additional certification to continue providing their services. Otherwise, the loss of service providers due to additional licensing requirements would potentially offset the additional services that are made available.

Ensuring that UPL Restrictions Are Used Only To Protect Consumers

No discussion of allowing non-lawyers to perform legal services would be complete without discussing the impact of statutes prohibiting the unauthorized practice of law. The stated justification for UPL laws is generally twofold: protecting consumers from people fraudulently presenting themselves as lawyers, and protecting consumers from incompetent services. To the extent that UPL laws serve to protect lawyers from competition, consumers suffer as a result of less competition and higher fees for services.

UPL laws should be amended to clarify that they are meant to protect consumers from fraud, not to protect lawyers from competition. Responsive Law recommends that two provisions be added to New York's UPL laws. First, there should be no cause of action for UPL against those who provide services for free, unless those people falsely claim to be a lawyer. People and organizations providing free information, advice, and services are a valuable resource to those without access to the legal system, and those people and organizations should not have their actions discouraged by UPL restrictions. On the contrary, social service agencies, and even individual good Samaritans should be encouraged to provide legal help to those who need it. There is little motive for such organizations to give poor advice. Furthermore, even legal help that does not rise to the level of that provided by a competent lawyer is still more useful than no legal advice at all, which is what most people can afford.

Second, UPL causes of action should require a complaint from a customer and a finding of actual harm to that customer. This finding of actual harm cannot be based merely on the fact that someone paid a non-lawyer to provide services; it must be based on harm caused by the services themselves. Without such a requirement, UPL laws can be used to protect lawyers from competition, rather than to

protect consumers from incompetence. Many non-lawyer innovators in delivering legal services—both online and bricks-and-mortar—cite UPL prosecutions as one of the main obstacles to their businesses. With a requirement-of-harm provision added to UPL law, these providers of innovative law-related services will be able to provide affordable services to customers without fear of running afoul of UPL laws, so long as their services provide value to their customers.

Allowing Outside Investment in Law Practices

An increase in the supply of legal help need not come only from non-lawyers. There may be ways for lawyers in the private sector to deliver their services more efficiently, bringing the cost of a lawyer within the means of even lower income New Yorkers.

Unfortunately, prohibitions on fee sharing between lawyers and non-lawyers have prevented much of the innovation that could result in more affordable legal services. There are numerous lawyers and non-lawyers who have ideas for improving the way legal services are delivered but who lack access to sufficient capital to implement those ideas. Without outside investment, Henry Ford would have been limited to producing a few Model Ts and FedEx would be operating a mom-and-pop delivery service out of Memphis. Entrepreneurship brings innovation to markets, but without outside investment entrepreneurship is stifled.

The justification for the prohibition on fee sharing is that it will bring undue influence on lawyers to put financial concerns ahead of the welfare of their clients. This justification unfairly assumes that financial pressure is unique to firms with outside investors. Sole practitioners are under pressure to pay their bills and lawyers at large firms are under pressure to meet their required billable hours. Outside investment would, at worst, change the source of financial pressure. It would not create such pressure where none exists.

Regardless of the financial setup of their firm, lawyers are still expected to adhere to the Rules of Professional Conduct and to deal with their clients ethically in the face of financial or other outside influence. The experience of other countries that allow outside investment, such as the United Kingdom and Australia, demonstrates that it is not the ethical trap that many American lawyers fear. For

example in Australian law firms with non-lawyer partners, the Australian rules of professional conduct protect professional independence by making lawyer partners in such firms responsible for ensuring compliance with ethics rules and liable for any violations of lawyers' ethical duties.⁸ Neither Australia nor the UK has reported any increase in unethical behavior by lawyers in firms receiving outside investment.

Conclusion

Access to justice requires more than just access to lawyers. The innovative solutions that will address the unmet need for civil legal services statewide will only be possible if the regulations governing the delivery of legal services and the business of law are brought into the 21st century. Allowing innovators to create new services and new service models will not only benefit lower-income New Yorkers, but also will help address the unmet needs of middle-income New Yorkers, most of whom are also unable to afford meaningful access to the legal system.

Through the work of this Task Force and Chief Judge Lippman's leadership, New York is already recognized as a leader in the access to justice movement. We hope that the Task Force will recommend the reforms we propose, and thus continue to lead the way in implementing the bold changes that are necessary to ensure an accessible, affordable, and accountable legal system.

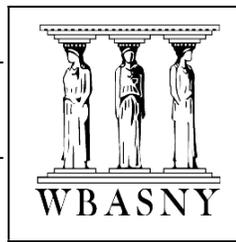
⁸ Legal Profession Act of 2004 (Australia), Sec. 168. (Available at http://www.austlii.edu.au/au/legis/nsw/consol_act/lpa2004179/index.html.)

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Written testimony on behalf of the
Women's Bar Association of the State of New York (WBASNY)

to
the Chief Judge of the State of New York
Hearings on Civil Legal Services

By
Donna Frosco, WBASNY President
September 25, 2013

On behalf of the almost 4,000 members of the Women's Bar Association of the State of New York ("WBASNY"), thank you for the opportunity to submit this testimony regarding funding for access to civil legal services. WBASNY's members are private practitioners, public interest attorneys, State and Federal judges and law professors. Since our formation in 1980, the mission of our association has been, and continues to be, the advancement of women in society and women in the legal profession and the equal administration of justice with a focus on issues relevant to women, children and families.

For the thousands of clients served annually by members of the WBASNY, civil legal services is more than just a metaphor for accessing justice -- it is often the only option available for those who would otherwise never get to court, even as an unrepresented or *pro se* litigant. Civil legal services provide not only avenues to representation and to alternative dispute resolution, but also provide access to services that unlock gateways to a safety net that the least able among us, many of them women and children, would never find.

A significant number of WBASNY's members work for organizations that receive funding to provide civil legal services from New York State. In fact, an informal telephone survey conducted in 2009 by The Legal Project, Inc. revealed that more than 70% of attorneys working at the major civil legal services programs across the state are women. In addition, the survey estimated that the majority of clients served are women. The Legal Services Funding Alliance estimates that more than two-thirds of legal services clients are women, many mothers with young children. As a result, the funding insecurities facing legal services providers and the effect on their clients are of tremendous concern to our Association.

WBASNY commends Chief Judge Lippman's commitment to this issue, as evidenced by the creation of this task force and the allocation of \$40 million in judicial funds for civil legal services this year. However, we also recognize that this funding, as well as funding from other sources, remains precarious. Therefore, we reiterate the need for a reliable source of adequate funding for civil legal services, as well as a predictable process for timely disbursement of these funds.

Stable funding will reduce turnover among civil legal service providers and allow programs to affirmatively plan to meet the growing, and increasingly complex, needs of the communities they serve. Stable funding not only allows organizations to develop programs that emphasize early intervention and reduce the stress on our over-burdened court system, but also to develop best practices that can then be replicated by both large and small scale venues throughout the State.

Funding cuts for civil legal services, combined with budget cuts to the court system, have exacerbated the difficulties confronting poor people seeking justice. In addition, the percentage of New York's population living in poverty is increasing – more than 40% of women who head families currently live in poverty -- leaving ever more citizens without the means to pay for private counsel and in need of greater access to *pro bono* or reduced fee civil legal service programs and innovative dispute resolution mechanisms. The Legal Project, for example, reported a 40% increase in clients seeking representation within their domestic violence program last year and expects to exceed those numbers this year. In addition, budget cuts to the court system have caused significant staff reductions, leaving fewer court personnel to assist increasing numbers of unrepresented litigants through the judicial process. As a result of reductions in hours of court operations, less time is available for judges to spend on each case. As a result of funding cuts to children's centers, more litigants are bringing children into the court room. It is not hard to imagine the chaos that the combination of these circumstances can create in our courtrooms on any given day. While our judges and court staff are to be commended for their commitment to minimizing the consequences of these circumstances, we must recognize that they are not conducive to the effective administration of justice.

As the Task Force's 2010 Report recognized, civil legal assistance can reduce litigation costs and relieve court congestion. Although not appropriate for every circumstance, where appropriate, Alternative Dispute Resolution programs can be effective in this regard, as they can offer parties the opportunity to frame their dispute in a constructive manner and to work together, with a mediator, to resolve the dispute, clarify rights and responsibilities or restructure relationships. Increased emphasis on alternative dispute resolution in appropriate matters can resolve more disputes at lower cost and with higher participant satisfaction. Even when matters are not fully resolved in the alternative dispute resolution process, issues are often identified and narrowed so as to facilitate swift resolution by the courts. Increased funding might be used to provide earlier training for judges regarding the value of alternative dispute resolution.¹

In Western New York, for example, the Community Dispute Resolution Centers run by Child and Family Services' Center for Resolution and Justice offers a cost-efficient, consumer friendly program that mediates disputes involving divorce, special education, landlord tenant relationships, and contracts. Farther downstate, the Richmond County Community Dispute Resolution Center notes that since budget cuts made an already tight budget even leaner it has significantly impacted in their ability to provide additional hours of service. Decreased funding has drastically affected the Center's ability to recruit and train new volunteer mediators, which is highly significant, given their volunteer-based model of operation. Lack of funding has also severely curtailed the service's outreach to the community and the courts.

¹ "The Role of Law Schools in Educating Judges to Increase Access to Justice". Pacific McGeorge Global Business & Development Law Journal, 2011, Volume 24, Number 1, pp 161 - 199.

Despite budget cuts, the Volunteer Lawyer for a Day Programs in various disciplines provides *pro bono* representation to *pro se* litigants throughout New York in consumer debt, housing, uncontested divorce proceedings, family court proceedings. In addition to the services provided to the litigants, these programs provide beneficial training for law students, law graduates, and early-career attorneys. The NY State Access to Justice Program supports collaboration with NY City Law Schools and partnerships with Diversity Bar Associations, thus providing networking opportunities for many lawyers that would not otherwise occur.

It also bears repeating that the provision of civil legal services has a positive effect upon New York's economy, bringing federal benefit payments into New York and reducing reliance upon state-funded social services. For example, the Mental Health Association of Erie County has received annual funding of approximately \$240,000 to represent approximately 300 individuals with mental illness each year, resulting in more than \$180,000 in retroactive federal benefits, not to mention ongoing future benefits. However, funding cuts of 20% necessitated the elimination of a full-time employee to the program, creating a wait list of deserving clients and incurring costs to local social services programs in the interim. Simply put, the cost of providing adequate civil legal services pales in comparison to the economic and human costs of failing to meet the basic legal needs of our citizens.

WBASNY commends this Task Force for its continuing efforts to address this problem and offers its continued support for adequate and stable funding to achieve the fundamental ideal of justice for all.

Mary Brosnahan

President and CEO, Coalition for the Homeless

Biography of Mary Brosnahan

Mary Brosnahan, President and CEO of the Coalition for the Homeless, joined the Coalition in 1989 as Director of its New York office and in 1990 was appointed Executive Director, in which capacity she oversees the organization's direct service, policy and advocacy activities. Today, the Coalition runs 11 stellar direct service programs, as well as its groundbreaking advocacy, with a budget of \$11.6 million and a full-time staff of 80.

In 1980, the founders of the Coalition brought the landmark right-to-shelter case for homeless men, Callahan v. Carey. In 1981 the City and State entered into a consent decree in which it was agreed that, "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The Eldredge v. Koch case extended this legal requirement to homeless single women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults.

The Legal Aid Society is counsel to the Coalition for the Homeless and homeless women and men in the Callahan and Eldredge cases. The Legal Aid Society is also counsel in the McCain/Boston litigation in which a final judgment requires the provision of lawful shelter to homeless families.

Ms. Brosnahan is a frequent contributor to newspaper opinion pages, appears regularly on both local and national television and is viewed by many as a leading voice on behalf of the visibly poor. *The New York Post* named her one of the "Fifty Most Powerful Women in New York," and *The New York Observer* noted that if "compassion were an industry in New York, Ms. Brosnahan would be its chief executive officer."

In recognition of her work on behalf of the homeless, Ms. Brosnahan has been awarded honorary doctorate degrees from King's College and the Collage of Mount Saint Vincent. Her alma mater, the University of Notre Dame, presented her with the Thomas A. Dooley Award for outstanding work on behalf of humanity.

Testimony of Mary Brosnahan President & CEO of the Coalition for the Homeless Civil Legal Services Task Force Hearing

My name is Mary Brosnahan and I am the President and CEO of the Coalition for the Homeless. I joined the Coalition in 1989 as the Director of the New York office and have led the Coalition since 1990.

The Coalition for the Homeless, founded in 1981, is the nation's oldest advocacy and direct services organization. Now in our third decade, the Coalition continues to steadfastly advocate for proven, cost-effective solutions to the catastrophe of homelessness. The Coalition also protects the rights of homeless people through litigation to enforce the right to emergency

shelter, the right to vote, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

Every day, the Coalition for the Homeless provides crisis services, eviction prevention, rental assistance, job training and special programs for children to more than 3,500 people. Through our integrated array of 11 direct service programs, we work to ameliorate suffering as well as help individuals and families overcome long-term barriers to employment and permanent housing.

I am here today to testify to the importance of current funding for civil legal services programs and the need for increased funding to ensure that they can meet the unprecedented demand for legal assistance to indigent New Yorkers.

Homelessness in New York City has reached its highest level since the Great Depression. Tonight, a record 51,000 New Yorkers will sleep in emergency shelter – including more than 21,000 children. Each day, our waiting room is packed with families and individuals who have been wrongfully denied access to basic, decent shelter – either at entry-point eligibility offices, or when their shelter is terminated through the Bloomberg Administration’s sanction process. Our Crisis Intervention team works to stabilize families with vulnerable children – some of whom have been relegated to sleeping in subway trains, hospital waiting rooms or 24-hour fast food restaurants for days on end. We are able to ameliorate their suffering by providing food, formula, diapers, clean clothing, sanitary facilities and funds to travel to/from critical appointments. We also work closely with these families to help assemble documents necessary to overturn the City’s wrongful determination that they are not legitimately homeless, and therefore will not be provided life-saving shelter.

This is difficult, arduous work – and, as amazing as our Crisis team is in stabilizing these families and gathering the documentation proving that the apartment the City insists is safe and available for the family is neither, we very frequently turn to our colleagues at The Legal Aid Society to intervene; either to represent a family at a fair hearing or Article 78 proceeding or to enlist the family as a representative plaintiff in larger class-action litigation.

I cannot overstate the how invaluable the CFH-Legal Aid partnership has been in saving the lives of the most frail among us. Because the Coalition is the court-appointed monitor of the single adult shelter system, we are uniquely positioned to seek out those who have been threatened with expulsion from shelter – oftentimes for something as simple as missing an appointment with a caseworker.

But what good is it to engage a shelter resident on the verge of eviction to the streets – or someone who was turned away at the front door of the shelter system on a bitterly cold evening – if we are not equipped to provide those clients (for whom talking, pleading, sometimes begging a frontline bureaucrat or senior City official is ultimately ineffective), the recourse of legal representation? Once again, such help from Legal Aid often takes the form of personal representation to overturn unfair decisions by City workers. But when rafts of similar new denials or terminations begin to emerge, Legal Aid is always at the ready to represent our clients

as lead plaintiffs on motions to enforce the basic tenants of the right to shelter, assistance, and services.

Put simply, protecting the lives and limbs of our most vulnerable citizens each and every day is the tangible significance of our NGO-legal services partnership.

I would also like to briefly touch on the work we did in tandem following Hurricane Sandy. Since the first days after Hurricane Sandy hit, civil legal services organizations worked side-by-side with groups like the Coalition to provide disaster relief legal assistance to homeless and displaced New Yorkers – from vast, makeshift disaster drill-floors in the Bronx to crumbling low-income neighborhoods in the Rockaways.

The Coalition for the Homeless and The Legal Aid Society conducted extensive outreach to displaced families and individuals, first in the patchwork of evacuation shelters and continuing to this day in hotels, YMCAs, SROs, and shelters. We've seen firsthand that Hurricane Sandy exposed and exacerbated the ongoing housing affordability crisis in New York City.

Immediately after Hurricane Sandy hit, both the Coalition for the Homeless and The Legal Aid Society conducted extensive outreach to displaced families and individuals – first in the patchwork of evacuation shelters and continuing to this day in hotels, YMCAs, SROs, and shelters. We have seen firsthand that Hurricane Sandy exposed and exacerbated the ongoing affordable housing and homeless crisis in New York City.

Before the Hurricane touched down, a record 48,000 homeless people were already sleeping in City shelters each night, including more than 20,000 children. Thousands more were living in unstable housing situations, including illegally-converted and dangerously overcrowded apartments. Many of these marginally-housed families were situated in the low-income coastal neighborhoods most heavily impacted by Sandy.

As we approach the first anniversary of Sandy, nearly 200 households displaced by the hurricane are still living in temporary hotels and shelters administered and paid for by the Federal Emergency Management Agency (FEMA) and the City of New York. Thousands more remain in their affected communities, either in hazardous conditions or doubled- and tripled-up with family and friends. The majority of these families were struggling to survive on meager incomes even before the storm.

In April 2013, we learned that the Department of Homeless Services (DHS) intended to terminate its emergency hotel program, which would have relegated hundreds of vulnerable households – already homeless from the storm – to the streets. The Legal Aid Society along with its pro bono partner Weil Gotshal & Manges LLP immediately went to court to stop DHS from terminating the hotel program. This critical injunction forced DHS to make use of available federal funds to provide a two-year rent subsidy program for the plaintiff households. With the stability provided by the injunction in place, many of these families have since been able to move into safe permanent affordable housing. If not for free legal assistance, these families would have been made homeless again.

Ms. V.T. is just one example of a Coalition client who was saved by civil legal representation. Ms. V.T., her husband and four children lost their Coney Island apartment in Sandy and were sent first to an evacuee shelter and then to a hotel. As a victim of Sandy, Ms. V.T. was offered a public housing apartment, but could not move in because repairs to make the unit habitable were not completed. The injunction prevented V.T.'s family from being tossed out to the streets. We were then able to intervene with the New York City Housing Authority to expedite the repairs, so that she and her family could finally move into safe, affordable housing.

Without the Society's civil legal aid, Ms. V.T. and thousands more Sandy evacuees would be homeless – relegated to a shelter system which is already packed to historic capacity. The Coalition for the Homeless' partnership with The Legal Aid Society also ensures that funding for civil legal assistance is leveraged effectively and efficiently. The Coalition provides vital social service and non-legal assistance to indigent New Yorkers, to address serious problems as they arise. The Legal Aid Society's resources can then be targeted to those cases in which – but for the provision of civil legal services – the problem cannot be resolved.

While I have focused largely upon the Coalition's relationship with The Legal Aid Society, there are hundreds of not-for-profit organizations that partner with and rely on the services that only civil legal services organizations can provide to their clients. Record homelessness, coupled with a disaster of Sandy's magnitude, have rendered the resources of civil legal services providers inadequate to help many of those in need. Therefore, I strongly urge that additional resources be provided for civil legal services providers.

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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. Randall T. Eng, Presiding Justice of the First Department
Hon. Gail Prudenti, Chief Administrative Judge
David M. Shraver, President of the State Bar Association

SECOND DEPARTMENT HEARING

October 1, 2013

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

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

As you know, with a staff of more than 1,800, including more than 1,100 lawyers and more than 700 social workers, paralegals, investigators, and support and administrative staff, The Legal Aid Society provides comprehensive civil, criminal, and juvenile rights legal assistance to low-income families and individuals in literally every community in the five boroughs of New York City. During the past year, The Legal Aid Society provided these legal services in more than 300,000 cases and legal matters for New Yorkers in desperate need of legal help. Many of our clients are referred to The Legal Aid Society by the constituent services staffs of State elected officials or by community-based organizations serving every district of the City. Indeed, since its founding in 1876, The Legal Aid Society has been a vital part of the social fabric of the City.

We are mindful of the continuing financial challenges that the State is facing. At the same time, the current continuing difficult economic conditions are having an especially harsh impact on low-income New Yorkers and the need for the civil legal help for these struggling families and individuals has increased significantly. 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 the urgent need for civil legal aid.

As the Chief Judge's civil legal services task force found in its comprehensive 2010, 2011, and 2012 reports, the legal help provided by civil legal services programs also saves State and local governments millions of dollars each year and brings millions of dollars of federal

benefits for clients into the New York economy – and is thereby a proven, tested and wise investment.

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

The situation is even more extreme at The Legal Aid Society because low-income families and individuals seek our assistance as the safety net when all other safety nets have failed. During the last year, with essential support from the Judiciary Civil Legal Services funding, we provided individual civil legal assistance that benefited nearly 120,000 low-income New Yorkers in literally every zip code in the City – in addition to law reform representation benefitting all two million low-income children and adults in the five boroughs. However, since the economic downturn began several years ago, we have only been able to help one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. With the Judiciary Civil Legal Services funding, over the past year, we had been making progress in reducing this access-to-justice gap – until the devastating impact of Superstorm Sandy dramatically increased the numbers of families and individuals seeking our civil legal aid. Below, we summarize our ongoing disaster relief civil legal assistance.

Superstorm Sandy - The Civil Practice as First Responders: Beginning in the immediate aftermath of the storm, staff members of The Legal Aid Society have been providing comprehensive disaster relief legal assistance at the shelters for homeless and displaced New Yorkers, at the disaster centers, at community-based organizations, through the Society's Mobile Justice Unit, and through the Society’s special citywide disaster relief hotline. We have targeted disaster relief services in the most affected communities in Far Rockaway, Coney Island, Red Hook, Staten Island, and the Lower East Side.

Among the Society’s core disaster relief legal services are providing legal help with FEMA and Disaster Unemployment Insurance claims; assisting with the replacement of medications and access to health care; obtaining Food Stamps and public assistance; providing civil legal aid in landlord-tenant, public housing, federal Section 8, and homeowner/foreclosure matters; assisting with loans and other small businesses matters; helping with school transfers and transportation issues; and providing legal assistance with family law and immigration matters.

Our staff has provided these comprehensive direct legal services in more than 5,800 individual matters for New Yorkers who were impacted by the storm.

Thousands of additional New Yorkers have been helped through the affirmative litigation that we have brought to assist large numbers of affected families and individuals. For example, together with pro bono counsel at Weil, Gotshal & Manges LLP, we commenced a class action in State court to prevent the summary termination of hotel placements for more than 1,000 children and adults who were Sandy evacuees. With the protection of the injunction that we obtained, literally hundreds of evacuees were able to relocate to permanent housing with newly provided federal disaster relief rent subsidies. Then when

the injunction was no longer in place, our staff worked literally around the clock with the Coalition for the Homeless and New York Communities for Change to help relocate the remaining 150 households to alternative housing with emergency aid from the Red Cross and faith-based groups.

Likewise, working with pro bono counsel at Gibson, Dunn & Crutcher LLP, we filed a still-pending class action in federal court to challenge the failure to provide sufficient access for Sandy survivors to apply for disaster relief food stamp benefits, particularly for New Yorkers with disabilities living in remote areas like Rockaway and Coney Island. These Sandy survivors were told that they had to apply in person during a limited number of days at a City office in Fort Greene in Brooklyn and a school in Staten Island.

Key Pro Bono Support For Superstorm Sandy Disaster Relief Legal Assistance:

Working together, our Legal Aid Pro Bono program and our Civil Practice implemented a comprehensive disaster relief pro bono legal assistance effort to enhance the Civil Practice's client services in the aftermath of the storm. Within days, the Society's Pro Bono staff marshaled the resources of over 50 law firm, law school, and corporate pro bono partners to help with our legal aid for Sandy survivors. The Pro Bono staff recruited and deployed over 420 volunteers, who were supervised by Legal Aid staff and provided outreach assistance in affected communities, staffed our disaster relief hotline, conducted outreach at the evacuation shelters with our Mobile Justice Unit, and called nearly two thousand potential disaster food stamps recipients to be sure they were aware of the program's existence and deadlines.

Disaster Preparedness Conference: In order to focus on the continuing long-term effects of Superstorm Sandy and to enhance preparedness for the inevitable next disaster, in partnership with The City Bar Justice Center and ProBono.Net, later this month, we are convening a legal services and pro bono conference one year after the storm entitled *Disaster Lawyering: Delivering Legal Aid Post-Sandy*. A Lessons Learned panel will discuss effective and ineffective strategies implemented, surprises in the aftermath of Sandy, and how providers handled non-legal work. A Pro Bono panel will discuss the integral role pro bono law firms played in the legal services community's ability to handle a dramatic increase in caseload due to Superstorm Sandy. A third panel discussion, Year Two: Anticipated Legal Issues, will focus on issues surrounding long-term housing for those unable to return to their destroyed homes, disputes with landlords, mold, infestations, and rezoning and rebuilding efforts.

Particularly with this backdrop of an increased need for civil legal assistance as a result of the continuing impact of Sandy, the Chief Judge's initiative to conduct these hearings in each of the four Departments, appoint a task force to make recommendations to meet the unmet need for civil legal assistance, and, based on those recommendations, allocate funding for civil legal services in the Judiciary's budget is exactly the breakthrough that is needed in these extreme economic times. The Chief Judge's initiative is literally bridging the gap in access to justice for the most vulnerable New Yorkers who are in desperate need of our civil legal aid.

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

APPENDIX 14:

**Written Statements Submitted at the Fourth Department
Hearing Held on October 3, 2013**

Written Statements Submitted at the
Fourth Department Hearing on October 3, 2013

Ursula M. Anderson (*Client of Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc., accompanied by William W. Berry*)

Diane Butler (*Client of Legal Assistance of Western New York, Inc., accompanied by David Pels*)

Cynthia Bynum (*Chair, Empire State Alliance of Paralegal Associations, Inc.*)

Hon. Michael V. Coccoma (*Chief Administrative Judge for Courts Outside New York City; Supreme Court Justice, Sixth Judicial District*)

Emily A. Dinsmore (*SUNY Buffalo Law School, J.D. expected May 2014*)

Joseph Fruscione (*Vice President & Commercial Branch Manager, M & T Bank*)

Kenneth M. Gossel (*Deputy General Counsel, National Fuel Gas Distribution Corporation*)

Kerisha Hawthorne (*SUNY Buffalo Law School, J.D. expected May 2014*)

Richard Hesse (*Client of The Legal Aid Bureau of Buffalo, Inc., accompanied by Marc J. Connors*)

Catherine M. Mackay (*Director, Cattaraugus County Department of the Aging/ NY Connects*)

Dean Makau W. Mutua (*SUNY Buffalo Law School Dean, Distinguished Professor and Floyd H. and Hilda L. Hurst Faculty Scholar*)

The New York State Unified Court Law Libraries Association

C. Kenneth Perri (*Executive Director, Legal Assistance of Western New York, Inc.*)

Hon. Mark C. Poloncarz (*County Executive, Erie County*)

Miguel Santos (*Consumer Advocate, National Grid*)

Dennis C. Walczyk (*Chief Executive Officer, Catholic Charities of Buffalo*)

Dean Makau W. Mutua

SUNY Buffalo Law School Dean, Distinguished
Professor and Floyd H. and Hilda L. Hurst Faculty
Scholar

**TESTIMONY FOR CHIEF JUDGE LIPPMAN'S CIVIL LEGAL
SERVICES FOURTH DEPARTMENT HEARING
OCTOBER 3, 2013**

**DEAN MAKAU MUTUA
BUFFALO, NEW YORK**

Thank you Chief Judge Lippman and the members of the hearing panel for conducting these hearings on the importance of – and urgent need for – civil legal services in our Fourth Department community – and around the State. I note that this is the fourth year the Chief Judge is presiding over hearings on access to civil legal services and that it is the second time that I am here to offer the perspective of a law school dean. Let me thank you, Chief Judge Lippman, for asking me to appear again before this panel, and for gracing our school again so soon after your inspiring keynote address at our Commencement in May.

Equal access to justice underpins our democracy. It is the key to equality before the law, without which there can be no democracy. As the Reverend Martin Luther King, Jr. said, “injustice anywhere is a threat to justice everywhere.”

I am continually impressed by the commitment of the SUNY Buffalo Law students, faculty, and staff to serve our community by working with needy clients to help victims of domestic violence, secure health care and other basic benefits for the elderly, ensure that low income families have access to affordable housing, provide mediation services to those who could not afford them, counsel unrepresented debtors regarding their rights as consumers and help them through the legal process, and act on behalf of non-profit environmental groups to protect environmental and

ecological resources, to list just a sampling of the legal services we at SUNY Buffalo Law School deliver to increase access to justice in the Fourth Department. Together with Chief Judge Lippman's efforts to establish consistent and reliable funding for civil legal services and the work of the Task Force to Expand Access to Civil Legal Services in New York to offer innovative, alternative resources to deliver civil legal services, this state's law schools and students are continuing to expand the work they have done for decades in partnership with the legal community, striving to bridge the justice gap.

I believe that to ensure equal access to justice for all, law schools must educate future members of the legal profession that it is incumbent upon them as members of the bar to engage in lifelong pro bono service. I want to commend the Task Force to Expand Access to Civil Legal Services in New York for convening this May the second conference in two years focused on candid conversations among law school deans, administrators, professors, community partners, and law students to proactively plan how New York law schools can best educate students and instill a core value of the legal profession – pro bono service to the community. The long-term success of that work will depend on focused efforts not only within law schools – but on partnerships with our colleagues, legal services providers, pro bono coordinators at law firms, members of the bar, bar examiners, bar association leaders and judges.

At this year's conference, topical work groups scrutinized a host of issues, including

- * new models of post graduate programs with law school involvement, like incubators and community practices that provide opportunities for recent graduates to be part of practices that serve low income residents;

* Curriculum reforms including practical skills training, more clinical options, and redesigned core first and second year courses that specifically address access to justice;

* Implementation strategies and best practices for the 50 hour pro bono service bar admission prerequisite;

* how service providers, both legal and social, and law school students and faculty clinics spearheaded relief efforts to aid victims of Hurricane Sandy that are now “models of collaboration” and how these models can be fostered and sustained; and

* How changing technology can help close the justice gap.

The conference report will share the exciting results as part of the Task Force’s annual report on these hearings, and help highlight the continuing, pressing need for increased access to civil legal services. Chief Judge Lippman will receive recommendations on models, best practices and proposals for new or revised rules and policies that will facilitate efforts to close the justice gap flowing from the work of the conference participants and follow-up efforts.

Meeting for the first time at this year’s conference was the Statewide Law School Access to Justice Council. The Council is comprised of representatives appointed by the deans from each of New York’s 15 law schools. The Council will work to enhance communication and collaboration among the law schools, the legal services providers and the bar to maximize our efforts and resources to deliver legal services to those in need. Among other issues, the Council is studying the feasibility of an online clearinghouse that would serve as a central location for law schools, providers and bar associations to post pro bono opportunities for students to improve efficiencies and collaborations for all of us – and better serve those in need of legal services. It is anticipated that technological innovations can reach individuals who otherwise would not have access to

law school sponsored assistance programs, legal services providers or a courthouse to obtain critically needed civil legal assistance.

The deleterious consequences resulting from the contraction of our economy continue to impact our most vulnerable citizens. In metropolitan centers, individuals seeking legal assistance often have a number of legal services providers, bar association programs, and clinics and service programs at local law schools to approach. In rural communities, there are fewer options. It is likewise vital to remind ourselves that the existence of local service providers is not a guarantee that legal assistance will be available – in far too many cases, those in need are turned away because there are simply not enough hours in the day for the dedicated professionals, students and volunteers who provide free legal assistance.

The newly enacted requirement for law students to perform 50 hours of supervised pro bono service as a prerequisite to bar admission is certain to both help with this gap, and imbue young lawyers with this important civic responsibility they implicitly undertake upon admission to the bar. The fact that nearly 40% of lawyers who are members of the New York State Bar Association report that they are solo practitioners or are members of a firm with ten lawyers or less underscores the critical role of pro bono service in training our students. Individuals who engage in a solo practice or practice in a small firm often are the community's first responders for people facing acute difficulties in maintaining their life styles. Likewise, our law schools are responding by expanding our clinical and experiential learning programs to both provide some direct service to otherwise unserved clients, and give students the skills and training they need to provide effective legal representation to those in need.

The hands-on training SUNY Buffalo law students receive in the experiential programs offered through clinics, externships and practica combine the study of law with supervised practical work where students deliver services to people facing legal challenges that could have life altering consequences. Our service learning opportunities assist people of

all ages, from children to the elderly, who are in need of legal counsel and cannot afford to retain an attorney. Our clinics and practica are staffed by faculty members who train our young lawyers to handle the panoply of issues to preserve or regain their rights in matters relating to family relations, health care, financial issues, criminal matters, environmental injustices, and affordable housing. In addition, we have clinics that focus on environmental and economic policies and issues that directly affect daily life in our communities. We also have clinics that are run by and staffed by our law students and faculty where our students are trained by local legal services providers in our community, including the Western New York Law Center, Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, the Erie County Bar Association's Volunteer Lawyers Project, Legal Aid, and Neighborhood Legal Services. They work with clients under attorney supervision. Together, this work on behalf of our law faculty and students fulfills a fundamental goal of our profession – to serve the public. While we have had a strong history of public service among the majority our students, the new pro bono bar admission requirement ensures that each and every student will be inculcated with the ethic of public service at the outset of their professional lives, which surely will further bridge the justice gap.

The decisions issued by the United States Supreme Court at the conclusion of its 2012-2013 terms reinforce the importance of instilling our law students with a social conscience. Many of the Court's recent rulings implicate civil legal rights that will have real life consequences for our citizens. Alexander Hamilton told us, "The first duty of society is justice." As the Dean of SUNY Buffalo Law School, I will continue our work to ensure that our most vulnerable neighbors have equal access to justice. I applaud the Chief Judge – and the legislative and executive branches – for working to promote this bedrock principle of our democracy. Thank you.

Emily Dinsmore

SUNY Buffalo Law School, J.D. expected May
2014

Emily A. Dinsmore is a third-year student at SUNY Buffalo Law School, where she participated in the school's Mediation Clinic. Currently, she is the Editor-in-Chief of the Buffalo Law Review. In addition to her duties on the Review, Emily is an Editor on the Buffalo Journal of Gender, Law and Social Policy, and she volunteers as a Student Ambassador for the Admissions office.

Emily is a graduate of Cornell University, where she obtained a B.S. in Biological Studies. After graduating from Cornell, she completed a two-year commitment with Teach for America in Phoenix, Arizona. Prior to starting to law school, Emily worked as a paralegal at a boutique Intellectual Property firm in Buffalo, NY.

**TESTIMONY FOR CHIEF JUDGE LIPPMAN'S CIVIL LEGAL SERVICES
FOURTH DEPARTMENT HEARING
OCTOBER 3, 2013
EMILY A. DINSMORE
BUFFALO, NEW YORK**

Thank you for inviting me to this hearing. Access to civil legal services is a key component of our justice system, and I'm honored to have the opportunity to share my experiences with you.

SUNY Buffalo Law School, in line with its public interest tradition, has provided many opportunities for students to meet and exceed the pro bono requirement. Through the clinic, practicum, and externship programs, my classmates have worked in a variety of agencies, courts, and law departments across western New York and beyond.

This past spring, I participated in the Mediation Clinic. Under the guidance of our professor, Steven Sugarman, five other students and I were able to observe many mediations and court-mandated settlement conferences. In addition to our observations, we were able to co-mediate several small claims disputes, and I co-mediated two custody disputes as well.

This experience was especially meaningful for me because I grew up with the clinical program, so to speak. My mother, Suzanne Tomkins, is a clinical professor here at SUNY Buffalo Law School, and I have spent countless hours stuffing envelopes, staffing tables, and running supplies for various events over the years. As such, I grew up with the understanding that my duty as a citizen and community member is to help those in need.

Even with that background, I didn't always fully grasp the influence my mother's work was having. Now, however, I see that this school's clinics really have a two-fold impact on the community. First, and perhaps most obviously, students in the program directly help people in need. I agree with Albert Einstein that, "in matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same." In my work in small claims court, I saw the palpable differences between persons represented by counsel and those proceeding pro se. Even in a court with a limited scope and relatively relaxed procedure, pro se litigants were at a distinct disadvantage. Forms, procedure, and even vocabulary could provide potentially insurmountable hurdles. When we were able to successfully mediate, however, the litigants were able to obtain justice as they defined it and move on with their lives, whether or not they were represented by counsel.

As much as students help the community, though, our direct efforts while in law school are only one part of the puzzle. The true impact is that we, the students, will not stop providing pro bono services when we graduate. I've spoken to many of my mother's former students, and each of them has left her clinic with the same message she gave her daughters: those of us with the ability to help others *must* do so. As a member of the first class subject to the pro bono requirement, my individual efforts may be but a drop in the bucket. I take comfort, however, in knowing that as each successive group of graduates becomes imbued in the value of service, more and more members of the bar will share this commitment.

**TESTIMONY FOR CHIEF JUDGE LIPPMAN'S CIVIL LEGAL SERVICES
FOURTH DEPARTMENT HEARING
OCTOBER 3, 2013
EMILY A. DINSMORE
BUFFALO, NEW YORK**

In closing, I would like to state that I'm proud to be part of a law school whose administration, led by Dean Mutua, has supported its clinical program and assisted its students to make strides in the community, and I'm proud to be part of a state that has adopted the pro bono requirement advocated by Chief Judge Lippman and the other members of the panel. Thank you again for allowing me to speak before you today.

Kerisha Hawthorne

SUNY Buffalo Law School, J.D. expected May
2014

Biography

Kerisha Hawthorne is a third year law student at S.U.N.Y Buffalo Law School. Ms. Hawthorne received her Bachelor of Arts degree in English and Psychology from S.U.N.Y. Geneseo in 2011, graduating Summa Cum Laude and a member of the Phi Beta Kappa National Honor Society. Currently, she serves as the Co-Chair of Fundraising for the Buffalo Public Interest Law Program and Submissions Editor for the Buffalo Public Interest Law Journal. Committed to public interest work, Ms. Hawthorne has taken part in the SUNY Buffalo Law School's Clinical Legal Education Program where she participated in the Healthy Homes Legal Practicum. Through this practicum she did her required weekly field work at Neighborhood Legal Services in Buffalo in spring 2013. Ms. Hawthorne has also interned with the New York State Division of Human Rights in Rochester, NY and the Legal Aid Bureau of Buffalo, Inc.

**TESTIMONY FOR CHIEF JUDGE LIPPMAN'S CIVIL LEGAL SERVICES
FOURTH DEPARTMENT HEARING
OCTOBER 3, 2013
KERISHA HAWTHORNE, 3L STUDENT, SUNY BUFFALO LAW SCHOOL
BUFFALO, NEW YORK**

I extend sincere appreciation to Chief Judge Lippman and the members of the hearing panel for conducting these hearings to discuss unmet civil legal needs. My name is Kerisha Hawthorne, and it is an honor to have this important hearing at our law school, where I am a proud member of the student body and an active participant in serving those in need. Today, I want to share with you my experiences advocating for low-income individuals through the law school clinical program and my thoughts on the bar admissions requirement of 50 hours pro bono service.

Before I delve into my experiences advocating for low-income individuals through the law school clinical program, I would like to give you some background. I came to law school wanting to bridge the gap between the legal system and low-income individuals. Growing up in a low-income community, I did not know much about the legal system or the legal profession until I entered college at SUNY Geneseo. In fact, it was this lack of knowledge about the profession that stirred my desire to enter the legal field. Throughout college I was very involved in various service opportunities and spent my summer before law school working with the New York State Division of Human Rights. So going into law school, I knew that a career in public interest law would be a good fit for me because I enjoyed advocating for disadvantaged individuals, and I wanted to make the legal system more accessible to people coming from similar communities as me.

However, as I made my way through my first year of law school I began losing sight of that goal. I got caught up in the first year frenzy of wanting a large firm career. The flurry of on-campus interviews and networking events with large firms, and the pressures of paying back my loans, made large firms with a large paycheck appealing. And in fact, the summer after my first year I did end up in a large firm. It was a great experience but a part of me knew it wasn't the right fit for me.

In my second year, I participated in the Healthy Homes Legal Practicum through our law school's Clinical Legal Education Program, and it was this experience that reminded me why I came to law school. It reminded me that I wanted to use my degree to advocate for disadvantaged individuals, specifically low-income individuals. The Healthy Homes Legal Practicum is a four credit course with a service learning field placement designed to give students the opportunity to advocate for Buffalo residents who are most impacted by unhealthy housing. In addition to educating me about various housing hazards and the importance of environmental justice, the practicum gave me an opportunity to advocate for low-income individuals through my field service hours at the Neighborhood Legal Services. At

Neighborhood Legal Services, I worked with clients facing various housing hazards such as lead paint chips, mold, rat infestation, lack of heat and more. I conducted client interviews, provided referrals, and drafted legal documents for clients with no other access to legal help.

My experience at Neighborhood Legal Services and in the Healthy Homes Legal Practicum gave me an opportunity to make a difference while in law school. I was able to get out of the classroom and do real world work. I was able to be a part of something that was bigger than me and my desire to get a law school diploma. This opportunity has truly enhanced my law school experience and allowed me to use my legal education in a meaningful way.

Through the Healthy Homes Legal Practicum, I was also able to complete my 50 hours pro bono requirement. The 50 hours pro bono requirement is a great initiative to encourage service among law students and to provide legal assistance to low-income individuals. In law school, it's very easy to forget the people in our community who depend on public interest attorneys and pro bono work to have their legal needs met. However, initiatives like the 50 hours pro bono requirement and the law school's Clinical Legal Education Program are great ways to service communities in need and encourage pro bono work among law students.

One truism guides much of life: "To whom much is given, much is expected." This committee and its work have my utmost respect. I thank you for holding these hearings and working to increase access to justice for disadvantaged individuals.

Hon. Mark C. Poloncarz

County Executive, Erie County

Written Testimony of Mark C. Poloncarz, Esq.
County Executive, Erie County, New York
Commenting on Legal Service Need in Erie County
Dated as of September 25, 2013

I wish to thank the Honorable Jonathan Lippman for conducting his fourth annual series of public hearings to evaluate the continuing unmet civil legal service needs in all parts of the state including Erie County and to assess the level of resources necessary to meet those needs. I want to thank you for securing unprecedented funding for legal service and for your new *pro bono* requirement for newly admitted attorneys. These new resources will go a long way in providing low income persons with the representation that is surely needed in civil matters.

Prior to being elected as Erie County's Comptroller in November of 2005, I practiced law for a number of firms in Buffalo, the last being Kavinoky Cook LLP. During my practice I saw firsthand those with low income or little resources struggle through the myriad of legal hurdles here in Erie County, including representing a number of *pro bono* very low income individuals in bankruptcy and landlord/tenant law matters.

Erie County is a vibrant county made of a major urban core, significant suburban towns and a vast rural expanse. The County's 2012 population is estimated to be 919,086. The legal system in Erie County includes: 34 Town and Village Courts, 3 City Courts (over 15 Judges), 6 Family Court Judges (plus 9 Support Magistrates and 6 Court Attorney Referees), 5 County Court Judges, 1 Surrogate's Court and 24 Supreme Court Parts.

Like much of New York State, Erie County is not without its problems. Unfortunately, the City of Buffalo was rated the 11th most dangerous city in America (FBI's Preliminary Annual Uniform Crime Report for 2012). Buffalo is ranked the 3rd poorest city in America with populations over 250,000 (U.S. Census Bureau date) and has the 3rd highest rate of child poverty nationally (National Center for Children Living in Poverty, 2011 Census data). Furthermore, poverty in Erie County is not just centered in our urban center.

In fact, one quarter of Erie County's population receives some form of public assistance (2013 Erie County Department of Social Services ("DSS") Statistics). Between 2007 and 2011 the percentage of persons below the poverty level in Buffalo was 29.90% compared to 14.50% for the New York State. Medicaid enrollees in Erie County from 2008-2013 steadily grew at more than 4% per year to the point that twenty-two percent (22%) of all residents are on some form of Medicaid. More distressing, thirty percent (30%) of all children in Erie County receive Medicaid assistance. Furthermore, DSS statistics reveal that poverty is not limited to one area in Erie County, it is countywide.

New York State places a huge fiscal burden on counties to cover the cost of Medicaid, and the delivery of Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program ("SNAP" or as more commonly known "Food Stamps") and other public assistance programs. Over the years, state unfunded mandated programs and services that are to be delivered by the counties has grown. At the same time, counties have to operate within a two percent (2%) tax cap which leaves officials in the difficult position of being required to provide more services with little way to pay for them other than to decrease or cut non-mandated services. It is under these circumstances, while I applaud and encourage legal services to be provided to low income individuals, Erie County is not in a position to take on an additional mandated burden of funding civil legal services for low income or needy individuals.

However, Erie County does provide legal assistance in some instances. Through the Department of Social Services, Erie County provides an attorney in Article 81 cases for those who do not have a suitable relative or friend that can act as a Law Guardian.

An attorney will be provided at a reduced cost for petitioners in child support matters when the petitioner utilizes the Support Collection Unit. In addition, Erie County provides the Legal Advocacy for the Disabled [LAD] Unit. The LAD Unit is dedicated solely to assisting low-income persons with the Social Security Administration's Disability application process. LAD receives referrals from within the Department of Social Services and from community agencies. If a case is opened, the paralegal works in conjunction with the applicant and the Social Security Administration, assisting at all steps of the application and appeals processes. LAD re-reviews

all submitted applications at every level of the decision making process in order to determine the merits of the claim for future appeals.

In Erie County, we are lucky to have several private agencies and hundreds of private practice attorneys that provide no cost or low cost services to low income people or those in need. Whether a person finds their home is being foreclosed upon, in bankruptcy, small claims court case or a land lord tenant problem or a divorce, there are resources available here in Erie County. A self-help center has been placed in the Supreme Court Building and both the State Bar and the Erie County Bar Association have on line resources.

There are also brick and mortar resources such as Neighborhood Legal Services, Inc. NLS is a not-for-profit agency with three offices throughout Western New York. NLS provides free legal services in the areas of domestic violence, disability, housing, public benefits and other areas to persons with low-income and persons with disabilities.

Another wonderful organization is Legal Services for the Elderly, Disabled and Disadvantaged of WNY. It is their mission to provide free legal services for the elderly, disabled and low-income persons in Western New York. Their primary goal is to use the legal system to assure that our clients may live independently and with dignity.

Here in Erie, we also have the Volunteer Lawyers Project, whose mission is to provide quality free civil legal services for low income people and smaller not for profit groups and to involve volunteers to do so. The VLP recruits, trains and coordinates the work of over 800 volunteer attorneys in the areas of unemployment benefits, bankruptcy, estates, landlord/tenant, foreclosure, immigration as well as several other areas.

The Western New York Law Center is another legal services organization funded by the Office of Court Administration that plays an important role in providing services to Erie County residents. They provide representation to homeowners whose homes are being foreclosed on, and run a consumer clinic for residents who have legal problems with debt collectors. The Western New York Law Center through the Attorney Emeritus program also provides counsel to the Buffalo Erie Niagara Land Improvement Corporation, which is the land bank we started in Erie County to deal with the problem of vacant properties left by the foreclosure crisis.

However, even with those services available, I know that there is a great need to assist those that don't know where to turn when civil legal issues arise, who to trust or even communicate with because of language barriers. Future partnerships should be forged with law libraries and law schools to provide additional resources, as Erie County is home to the State University of New York at Buffalo Law School. It is my understanding that the Say Yes to Education has worked to provide legal services with the private bar, volunteer lawyers and law students in the Syracuse area. I would hope that this program could be expanded here in the City of Buffalo.

Access to qualified and effective attorneys means the ability to access justice. Low income individuals, regardless of where they live, should have the right to quality civil legal services just as much as those that can afford it. Justice should be blind to income and economic status as well as to guilt or innocence.

Once again, I applaud the work of the Hon. Jonathan Lippman and this committee for locating new funding sources and creative ideas and solutions. However, providing civil legal services or to help fund these services cannot be added to the fiscal burden by New York State on Erie County, we simply do not have the financial resources. Erie County cannot take on another state mandate and pay for another state program.

Catherine M. Mackay

Director, Cattaraugus County Department of the
Aging/ NY Connects

Buffalo, NY
October 3, 2013

Chief Judge's Hearing – Testimony – Cathy Mackay, Cattaraugus County Dept. of Aging/NY Connects

Welcome and Personal Introduction...

I am both pleased and honored to share not only my personal testimony, but also my strong desire to further advocate for the legal needs of the poor, isolated, or frail elderly across the rural communities of NYS. I've been doing this a long time, and I can honestly say, I have never seen a greater need for legal assistance. Every year I'm required through the State Office for the Aging as well as federal regulations tied to the Older Americans Act funding to present a public hearing. This forum gives me an opportunity to review current trends, examine data, showcase achievements, collect feedback from the community, and perhaps most importantly, take a cold, hard look at the numbers...the funding (or lack thereof), what I did with these dollars, and what unmet needs still exist.

In this year's report, I went over 5 year trends with my legislators. We looked at areas with unusual activity or heightened, steady growth. This year...I highlighted that legal need. Legal referrals went up an unprecedented 60% in one year. Yes, you heard that correctly...60% in ONE year. And trust me, there are going to be more and more senior citizens walking through my door every day. Why? They're isolated. They live an hour and a half from Buffalo. Even if they do still drive or have access to transportation, that transportation doesn't typically include a trip to Buffalo. If it weren't for Legal Services for the Elderly (LSED) or STLS (LAWNY), they would have no affordable, accessible legal representation. But it's not like their issues are life threatening...they're only issues like, oh...access to health care, elder abuse/fraud, housing/weatherization, income & benefits, LTC planning...you know, just those things that provide them with stability, personal safety, quality of life...those things that allow them to remain living in the community, in their own homes, in the least restrictive setting, in the most cost-effective way.

When I was forced to make drastic cuts to my budget these past few years, I was encouraged to cut legal funding. So I showed my local lawmakers the data. I showed them how the marriage of legal services and long term care planning, much like a warm home delivered meal or a personal care attendant, divert those tax dollars from a more costly institutional setting due to unwarranted early admittance and allow for the opportunity of lower-income older adults to remain in their own homes-paying taxes or shopping locally-using their limited resources for their own informal support systems. To make a long story short...I didn't have to cut my funding. In fact, I increased it...but only because I have wonderful local support. Federal Older Americans Act Title IIIB monies never increase. I have to get more and more creative to continue to meet the growing need. This OCA money allowed me to help SO many more seniors this past year. I had a woman who almost lost the majority of her meager social security benefit due to an error at the SSA. She was recently helped through this long arduous process by LSED. She came into my office last week just to thank us again...to sit in my office and weep, tears of joy, for literally saving her life and her livelihood.

We actually had a local write up on a case where LSED assisted in getting money back to a Cattaraugus County senior citizen from a telephone scam. (add short details here) So believe me, I'm not being overly dramatic when I say these legal services save lives. What would I do without LSED or STLS?? I really have no idea. We recite the pledge every time we meet in our legislative chambers...and every

time, when I mouth those words, “and justice for all”...I am keenly aware of what important work happens in my office every day.

I am also keenly aware that it could easily go away if I don't continue to advocate for this fundamental right. The right to an attorney...the Supreme Court ruled that people accused of a crime deserve the right to an attorney, whether they can afford one or not. Most of the seniors walking through my door needing help or some sort of justice...well, most aren't criminals. The fact that they need to be a criminal in order to get an attorney...well, now THAT'S criminal. I am so grateful for those attorneys that work for little to nothing to make things right for the isolated, frail elderly of my community. Those attorneys that go above and beyond...making home visits, putting in extra, unbillable time...they truly are heroes. And this year I made sure my whole community knew it (show Bill's STAR award). Thank you for your time.

Cathy Mackay

Diane Butler

Client of Legal Assistance of Western New York,
Inc., accompanied by David Pels

**Testimony for the Chief Judge's Fourth Department Civil Legal Services Hearing
October 3, 2013**

Good Morning. My name is Diane Butler. I am the mother of three daughters ages 28, 26 and 11 years old. I have five grandchildren. Until 2012 I had a small house cleaning business. I am also a survivor of domestic violence. And, most recently, I became a survivor of breast cancer.

For approximately five years after my youngest child was born her father engaged in acts of domestic violence against me. He was controlling and he was violent. It never occurred to me that a person of my limited income could get a lawyer to help me get out of this situation. Then in May 2009, he was arrested and sentenced to six months jail time for Aggravated Unlicensed Operation of a Motor Vehicle. I thought this was my opportunity. He was out of my home and I told him that I did not want him to return. He began writing to me several times a week telling me that: "I'll never let you go...you are mine and that's the way it is! I'll kill anybody that touches you – believe that." I received a telephone call from the jail from a counselor telling me that: "you have a very angry man on your hands and he wants to control the situation and can't let go from here." By good fortune, I was directed to the Net Domestic Violence Program. An advocate there met with me and assisted me in filing petitions with Family Court seeking custody and an order of protection. The advocate also referred me to the LawNY office in Bath. There was a way to get legal representation even for someone of low income like me.

That began what has become a four year relationship with the LawNY office in Bath. I did not want to be in the same room as my former partner, even if it was a courtroom. Having an attorney by my side made the process less stressful and helped me navigate through the complex Family Court process to obtain what I was seeking from the court: safety for myself and my daughter and safe contact for my daughter with her father because she wanted contact with him. My attorney helped me get a two year stay-away order of protection, full custody of my daughter with supervised visitations to her father.

My need for a lawyer did not end there. The following year when my abuser's mother filed a petition in Family Court seeking grandparent visitation LawNY again represented me. Although I agreed to her having some visitation with my daughter because that is what my daughter wanted, my lawyer helped me be assured that she would be safe during visitations by getting a provision in the order prohibiting her grandmother from allowing any unsupervised contact between by daughter and her father.

For a number of years I had a nagging concern. What would happen to my little girl if I were not around to take care of her. Anybody can be hit by a car crossing the street. Her father was not an option as far as I was concerned. He rarely even exercised the supervised visitations he was entitled to. He could not provide safe and appropriate care for my daughter. My daughter's father took himself out of the picture in the fall of 2011 when he was arrested for firing a rifle at State Troopers. By the following year he would be convicted on counts of attempted murder and sentenced to 40 years to life in prison. It was also in early 2012 that I received a diagnosis of breast cancer. Again the fear: who will take care of my daughter if... By now I knew where to turn. This time, LawNY helped me to get pro bono counsel to help set up standby guardianship for my little girl, as I faced chemotherapy treatment. I believe that knowing that a plan for my daughter's care was in place helped me be less anxious and be better able to fight against the cancer in my body.

As a result of my cancer, I was no longer able to work. I had no choice but to seek public assistance for myself and my daughter. Although I had I provided proof of my medical condition and had been granted an exemption from the public assistance work rule requirements, the Department of Social Services threatened to cut off my assistance unless I attended employment related group training sessions. Because of the chemotherapy I was receiving, my immune system was compromised making it a health risk for me to be in the presence of large groups of people. When I told this to my caseworker she simply rudely dismissed the fact that I was seriously ill. It was not until a paralegal from LawNY

intervened on my behalf that I was allowed to keep my benefits without risking my health. When I confided to the paralegal that I was feeling particularly stressed because my application for SSI had been denied twice, she told me that LawNY had an attorney that could help me. LawNY agreed to represent me at my SSI hearing. My attorney at LawNY was able to convince the Administrative Law Judge assigned to hear my case to issue a favorable decision, without even holding a hearing, based upon the medical evidence that we provided.

While I was undergoing chemotherapy, my daughter's father, who was then in jail awaiting trial, thought it would be a good idea to drag me back into Family Court in two separate proceedings. First, he filed seeking visitation with my daughter at the jail. Dealing with this while I was so ill was very difficult. Again, LawNY represented me. His attorney argued for a visitation schedule that would have required my daughter to spend hours in the waiting room at the jail and argued that his mother should be allowed to supervise the visits. If either of these conditions had been put in place I would have been extremely stressed out during visitations. My attorney successfully argued on my behalf for a more restricted visitation supervised by one of my adult daughters. This I could live with. As it turned out, my little girl's father could not. You see it was all about control for him – he did not get his way – and after just one visit he withdrew his petition, ending the visitations. The second petition he filed from jail was a petition seeking to reduce his child support obligation. I had to laugh when I received this petition. He had yet to pay dime one of support to me. LawNY represented me. At that point, I was not up to facing a court proceeding and perhaps the greatest benefit of having representation was that my attorney got permission from the Support Magistrate for me not to attend the proceedings. Because he was incarcerated, his support obligation was terminated, but I was granted a judgment for something over six thousand dollars plus interest. Given the length of his state prison sentence I don't expect to ever see that first dime of child support.

I am just one low income person, but as you can see I have needed a lot of legal representation. I have never had the income or resources to hire an attorney. Over the course of the last four years I have had a lawyer represent me in half a dozen Family Court proceedings. A lawyer has helped me obtain SSI benefits. There are a lot of people like me. I know that most of them also face a lot of legal problems. I'm afraid that many of them do not have access to the legal representation that I have received.

I know this about access to representation in civil matters. But if time permits I like to tell you about one of the darkest moments in my life and how my connections with Legal Services eventually put a positive spin on it. I told you earlier that with the help of LawNY I got an order of protection against my daughter's father. Well, some months after the order was issued I was shocked to discover that he had moved himself and his girlfriend into my home while my daughter and I were away. Initially I was in shock and afraid to confront him. However after spending a few days with relatives, I took action. I made a criminal complaint stating that my order of protection was being violated. To my horror I was arrested for allegedly violating the Order of Protection that required him to stay away from me. You see he told them I had allowed him to move into my house. Right, I let him and his girlfriend move in.

Despite the absurdity of that claim I was arrested and charged with violating an order issued to protect me. LawNY was not able to represent me, they only do civil representation, but they took my calls over the year that these charges were over my head and gave me the encouragement to continue to refuse to take a plea until the charges were eventually dropped. Now for the positive spin. You may know that in the last legislative session a bill was passed that prohibits charging the protected party with violating the Order of Protection issued to protect them. Before the bill was passed, the domestic violence advocates who lobbied for this bill asked LawNY if they knew of anyone who had been affected by the issue who would be willing to have their story told to the legislature as part of their lobbying efforts.

LawNY contacted me. Sure I'd share my story if it could help prevent other victims of domestic violence from being victimized by the system as I was. I don't know if my story helped convince some legislators

to vote for the bill or not. I like to think that it did. You can't imagine how empowering it is for a domestic violence survivor like me to feel that I might have played some part in making the system safer for victims in the future. Thank you for the opportunity to speak today.

Ursula M. Anderson

Client of Legal Services for the Elderly, Disabled or
Disadvantaged of Western New York, Inc.,
accompanied by William W. Berry

Buffalo, NY
October 3, 2013

Chief Judge's Hearing on Civil Legal Services
Written Hearing Testimony of Ursula M. Anderson

I wish to thank the honorable Jonathan Lippman for this opportunity to speak to the plight of many of the Elderly, Disabled and Disadvantaged in need of legal assistance but who are either unable to pay for it or don't know about state funded legal services or both. Their needs all too often revolve around retaining and maintaining their homes and property they have worked hard for as well as other situations that threaten their survival and well-being.

But first, I wish to pay tribute to the tremendous and helpful service provided by Legal Services for the Elderly, Disabled and Disadvantaged.

Three years ago I applied for a loan from a federally funded agency in order to repair the roof on the home I had worked hard for all my life, located in an isolated, rural area. They disallowed the contractor I wanted and sent a contractor of their choosing, who was seldom seen and who used unskilled workers. On one occasion after stripping the old shingles they left the roof uncovered over a rainy holiday weekend, which resulted in flooding in my kitchen. The contractor could not be reached and when I called the consultant at the loan office on the first workday following this incident, I was rudely given to understand I was an ungrateful nuisance. The ceiling was not repaired by them.

Worse was to happen. Six months later, in the dead of winter, the entire roof failed leading to flooding in my house. The living room ceiling collapsed, paneling fell off the walls and some of my furniture and belongings were ruined. As a result I contracted pneumonia which led to congestive heart failure and ultimately to a heart attack which almost took my life. At the time countless calls to the loan agency and contractor were unanswered. After inquiring about the cost of legal help I realized I couldn't afford it, which in hindsight makes me think how helpful a list of pro bono attorneys would be to others in similar situations. However, by some miracle the Cattaraugus County Office of the Aging suggested that I meet with their legal consultant from Legal Services for the Elderly, Disabled or Disadvantaged based in Buffalo, NY. This I did. He and his staff have been

attentive and helpful and gave me peace of heart and mind and a chance to recover physically that I otherwise would not have had. Nevertheless, even with their input and assistance, the stonewalling continued. It took another year before the loan agency agreed to fund repairs, because they claimed they weren't responsible, as I had signed off on the job.

In this regard, what really happened is an example of how the elderly and disabled are cheated.

It was a Friday afternoon just after the so called job was finished when the loan agency consultant came with a form for me to sign. I asked to see it and he said it wasn't necessary but my signature was required for without it no one would be paid. Well, pediatricians of my vintage are known for their kind hearts and excessive pro bono services, this is why so many of us find ourselves short of money in our old age and feel humbled at having to ask for help after a lifetime of service to others. However being within this tradition of kind hearts and not wishing anyone not to be paid I signed that form and later learned it stated I had personally inspected the job and found it to be satisfactory.

Given my obvious disability climbing a ladder is impossible and combined with having no knowledge of roofing it is clearly ridiculous and cynical to have expected me to sign off on such a job. Clearly he deceived me. Incidentally he walked around the outside of the house where he could see nothing other than the edges of the shingles because his arthritis prevented him from getting on a ladder. To add insult to injury a lien was placed on my home for this loan from HELL.

Putting all of this into the frame of my own experience it amounts to nothing less than personal abuse and physical harm, plus contempt for the honorable intent of federal and state loan agencies that fund these programs.

Overall four issues emerge to be addressed.

1. Correction of the pervading mindset that perceives the elderly, disabled and disadvantaged, particularly women who live alone, as targets to be exploited for financial gain.
2. The lack of oversight of local federal and state agencies that administer financial aid.
3. The extensive need for legal resources, both pro bono and funded for those being exploited.

4. Defined penalties for those doing the exploiting.

Time doesn't allow for me to address the specifics of these items but as a long time and international researcher I am more than willing to contribute my expertise to those who will be involved in defining solutions.

Ursula M. Anderson
MD, DPH, DCH, FAAP, DSC(HC)
www.drursulaanderson.com

Richard Hesse

Client of The Legal Aid Bureau of Buffalo, Inc.,
accompanied by Marc J. Connors

Richard Hesse – Client - The Legal Aid Bureau of Buffalo

Background Info:

At the time of my legal troubles, I was and am still suffering from chronic obstructive pulmonary disease which I have had for many years. I also have lymphoma and a blood disease. In 2008, I lost my job as a farm hand when the farm I was working at closed down. Since I have been sick, I have not been able to find work and we have been living off my wife's SSD. My wife has a bad heart and has been disabled for years. I now receive SSI which is \$974.00 a month. We were able to pay all of our taxes up until I became so ill that no employer would even give me a second interview.

Testimony:

Since my wife and I received SSD and SSI as our sole means of support, we began having trouble paying all of our bills, including our county taxes. Back in June or July of 2012 we tried to work a payment out with the county. We told them we had \$1,000 to put down and could make monthly payments. We owed a total of \$10,344.78. We needed to pay off 2008 and 2009 taxes to get our house out of the County *In Rem* auction which was to be held on March 5th, 2013. The amount we were told we owed for 2008 and 2009 was about \$5,300.

The County told me to send the money and I could make what monthly payment I could. Shortly after that he received a letter that said my home was going into county tax foreclosure. I called the County again and spoke to someone else who told me that whoever I spoke to first had miss-spoken. I was told that because of my large delinquency they could not do payment arrangements.

In November of 2012, we tried to contact different attorneys and agencies to try and get some help. We went through the phone book looking for a lawyer to help us. They all wanted large amounts of money just to see us. If we had that much money, we could have just paid our taxes. We tried calling some non-profit organizations but they only help people behind on their mortgage payments and we did not have a mortgage. We called many different places and no one said they could help us until we spoke to The Legal Aid Bureau of Buffalo.

The Legal Aid Bureau was able to help us free of charge. They filed an answer on our behalf and an Order to Show Cause to stop the sale of our home. Our Legal Aid Attorney, Marc Connors, worked very hard and was able to negotiate a down payment that we could afford as well as a payment plan that we have been paying on since February of 2012. Our final down payment was \$1,500 and our monthly payment ended up being \$250 a month for the next two years.

Legal Aid was the only agency willing to try to help us. Without their help, we would have lost our home. People like me and my wife would be out on the streets if it wasn't for Legal Aid and their wonderful program.

Dennis C. Walczyk

Chief Executive Officer, Catholic Charities of
Buffalo

Chief Judge's Hearings on Civil Legal Services

Fourth Department

University at Buffalo Law School

October 3, 2013

Testimony of
Dennis Walczyk,
Chief Executive Officer
Catholic Charities of Buffalo

Good afternoon and welcome to Buffalo.

Chief Judge Lippman and esteemed panelists, my name is Dennis Walczyk, and I've been the CEO of Catholic Charities of Buffalo since 2003. I am honored to be able to testify today about the need for civil legal services in rural areas. Thank you for this opportunity.

My brief testimony will hopefully inform you about the very special partnership role that providers of civil legal services play with Catholic Charities in rural communities and will urge you to continue to do everything you can to expand the financial support for these programs to ensure that people in rural areas have access to justice.

Catholic Charities of Buffalo serves all eight counties which form the Eighth Judicial District, including Erie, Niagara, Orleans, Genesee, Wyoming, Chautauqua, Cattaraugus and Allegany. Our mission is to

empower all individuals and families to achieve and maintain meaningful, healthy and productive lives. Like our legal services counterparts in the rural counties of Western New York, we are advocates for those in need, particularly those who are poor and most vulnerable.

As the largest and one of the longest serving providers of human services in the region, Catholic Charities is uniquely qualified to understand and respond to the needs of rural poverty in the Western part of New York State. We provide a myriad of services including: adoption counseling and assistance; emergency financial assistance; a full array of mental health counseling; domestic violence programming; immigrant and refugee assistance; school intervention services and senior services. With a budget exceeding \$37 million dollars, we served over 134,000 clients in Western New York during 2012.

The rural areas of the WNY region are vast. There are many impoverished communities which place a significant demand on Catholic Charities' resources. The distances between villages and towns present special transportation and service delivery issues for poor and disabled people throughout the region. When traveling throughout the region the signs of poverty can be both very obvious and very well hidden. Resources are scarce and access to them is often very difficult for poor people in rural areas.

Each day throughout this vast region our outstanding case managers and social workers assist people with a variety of complicated issues and emergent needs. In the six primarily rural

counties of Allegany, Cattaraugus, Chautauqua, Genesee, Orleans and Wyoming, we provided Emergency Financial Assistance to 7,490 individuals, Counseling Services to 947, Kinship Care Services to 140, and have continued Intervention Services to 276 perpetrators of domestic violence who are referred to us by this judicial system. Overall we served over 27,000 clients in the western counties outside of Erie last year. When programming and expertise is in short supply, we run the risk that these critical needs will go unattended. In responding to the needs in rural areas we rely heavily on partnerships with many other human services providers throughout the region in order to be able to provide the broadest possible and most holistic support of the individuals and families that require our assistance. Each human services agency partner fills a niche which complements or enhances the services which we provide. Our partnership with the legal services providers enhances the overall quality of life for these individuals and families in very critical ways.

We are increasingly aware of the growing need for trained legal services attorneys and paralegals to assist people when social workers and case managers are faced with legal issues beyond their expertise. Legal matters relating to housing, domestic violence, public benefits, homelessness, health insurance, family law, child support, unemployment insurance, mortgage foreclosure, disability benefits, disability rights, access to health care, employment discrimination, wage and hour claims, and numerous other issues are brought to our attention each day.

We rely on legal services providers to accept our referrals regarding these matters and to meet the legal needs of our clients. We

also rely on their community legal education materials and training to inform our staff and clients about the rights of low income people. We know, however, that the legal services providers in our region are understaffed in rural areas and are in need of additional funding to support expanded services in these critically underserved rural areas.

I come here today as a representative of a major regional WNY provider of human services with a longstanding history of serving rural areas. It is in this capacity that I urge you to do everything possible to expand the funding for legal services providers so that we may all be more effective in serving the needs of the poor in rural communities in Western New York. Without support for legal services in rural areas we simply cannot be fully effective in our regional anti-poverty strategies.

I want to thank you again for the opportunity to testify on these very important concerns.

Miguel Santos

Consumer Advocate, National Grid

Testimony
Hon. Chief Judge Jonathan Lippman

Civil Legal Services in New York State
Panel on Civil Legal Services

Oct. 3, 2013

University of Buffalo School of Law

Good afternoon, chief Judge Jonathan Lippman, Hon. Henry J. Scudder, Chief Administrative Judge A Gail Prudenti and Past President, Vincent E Doyle III. Thank you for the opportunity to testify on the importance of civil legal services in New York. My name is Miguel Santos. I work for National Grid, a utility company. National Grid is an electric and gas company that connects customers to energy sources through its networks. In the northeast, we connect more than seven million gas and electric customers to vital energy sources, essential for our modern lifestyles. I am a consumer advocate for the company. I like to say that “I work with customers no one knows what to do with.” My focus customer bases are those customers with special needs. This is why I work weekly with the various legal services as it pertains to customer utility service to try to prevent utility service termination.

The reason why I am here today is to speak on the importance to provide Legal Services to poor rural residents. The rural community is a very different environment. People tend to forget that New York State, in particular, upstate New York, is an agricultural State. New York State is the second largest apple producing state in our country. New York State also produces much dairy products such as milk, cheese and yogurt. New York State also produces large quantities of corn and grapes for Welch’s and to produce large quantities of New York State wines.

Who would have known, our Erie County Fair is the second largest fair in the country. I give this information to remind ourselves that New York State has large areas with rural communities.

Take a drive into our rural communities throughout upstate New York and you can see poverty. From Amsterdam, Geneva and all over rural New York State. Our schools are failing our younger residents. Social Services for our impoverished rural residents are sorely lacking. Rural residents are a strong breed of people. They deal with social

problems head on with pride. They are a strong community but there comes a time where folks just don't know how to work out their problems.

Rural communities do not have access to many social agencies as you can find in urban areas. These hard working people are not accustomed to rely on social programs. They want to work out their problems but they need the assistance of a variety of social organizations to help them resolve their issues.

Seniors, whose children had to leave the area because of lack of jobs find themselves without the family network to help them along. Seniors don't know how to access the services they need for health care and financial assistance.

People are suffering in silence when others take advantage of those who appear weak. I as a consumer advocate, meet on a regular basis with various civil legal services to discuss Elder Abuse and homelessness in our county. Although I am a Consumer Advocate for a utility company, I find myself helping endangered poor rural residents connect with local social agencies to help them apply for food stamp since some people are hungry and don't know that there is assistance. Others suffer under domestic violence and don't realize that there is help out there to stop the violence. People don't know what Legal services are available to them or they are afraid because they can't possibly afford a lawyer.

Legal services agencies help improve help improve the quality of life for those who are fortunate enough to find these services. Legal services programs bring resources into our community that keep them safe and protect our most vulnerable customers by assisting them to gain access to social financial programs such as HEAP, direct voucher, and other financial assistance offered by the government. These types of assistance allow customer to remain in their homes which reduces homelessness. By providing legal services, rural residents can remain in their homes and fill the labor pool needed for the jobs market within their communities. Many of these jobs provide us with the food we enjoy each time we sit at our dining room tables.

For those who lose their jobs or cannot keep up with expenses because they work part time at minimum wage, many cannot access the various assistance programs; some residents are denied unemployment benefits or government assistance. This is where legal services provide a vision of hope and make their magic work to guide their clients through the process to gain the assistance they need and sometimes where denied. Services offered by Legal Services assist in preventing even larger issues that can impact the entire community.

Supporting funding for civil legal services makes sense from an economic point of view, as civil legal services programs bring federal and other dollars into our state. Legal services programs provide the services that avoid such income disruption that helps keep their community in tact. These types of services keep people in their homes who then support the local economy. Without services from legal aid, more rural communities lose populations in search for assistance programs in urban environments. This creates a spiral affect that leads to lay offs, foreclosures and community collapse which affects the state economy since rural communities play a major role in our state standard of living. The housing stock in many rural communities is growing worse and worse since home owners and landlords cannot afford to maintain these old housing stock. Let alone the heating and electrical units that help them through the winter.

Non profit community agencies, in particular legal services programs, are part of the fabric that holds our economy together and in particular, keep many of our residents safe.

As I work with customers with their utilities, I find myself working through other social ills first by referring customers to the few agencies that are available in their communities. Much attention is given to the poor urban environments, as it should be, but let us remember that rural folks suffer some times even more because they suffer in isolation. Lack of transportation to get to social agencies is a major problem. For some, traveling to our urban communities is VERY stressful since they are not accustomed to urban car patterns and crowds of people. Some rural folks do not have access or know how to

obtain free cell phones. Social agencies have a difficult time making contact with rural agencies because many do not have phones and transportation.

Public transportation is not in existence for many and many of the elderly do not have their children around to drive them to agencies or even to the doctor when they are ill.

No, many people in the rural areas suffer isolated. This is ashamed when we live in the Richest Country in the world. The impact legal services have in assisting customer's access social programs to help pay utility bills and purchase food benefits the local economy. Low income families spend most of their money in their communities which then support the secondary merchants. As a result, the majority of the benefits flow right into the local economy which helps maintain our state's economy.

Thank you for your time.

Should you need any additional information, I can be reached at 716.831.7312

Joseph Fruscione

Vice President & Commercial Branch Manager,
M & T Bank

Testimony by

Civil Legal Services in New York State
Submitted to:

Hon. Chief Judge Jonathan Lippman

Panel on Civil Legal Services

October 3, 2013
University at Buffalo School of Law
Buffalo, New York

Chief Judge Jonathan Lippman and Members of the Panel: Thank you for the opportunity to testify on the importance of civil legal services in New York, in particular for our rural customers and how those services benefit the local business community. My name is Joe Fruscione and I am the Branch Manager of One M&T Bank.

M&T is a Buffalo, NY based Regional Bank with retail locations across the state. In the Buffalo Region we have over 70 retail branches, a residential mortgage lending group and a commercial Lending office. M&T has approximately 6,000 employees in the Buffalo Region. In addition to traditional bank services, M&T has a Charitable Foundation that supports various organizations. Even in difficult economic times, M&T has maintained its active role in supporting the needs of our

communities. M&T has long held the view that healthy communities are the foundation of successful businesses. This belief lies at the heart of M&T's community banking philosophy. Over the past ten years, the Foundation has made \$147 million of grants to not-for-profits agencies that are focused on improving the quality of life in our communities and assisting the economic environment where our customers and employees live.

One such organization is Legal Services for the Elderly, Disabled or Disadvantaged of Western New York, Inc. whom our foundation has supported for over 15 years.

At M&T, we recognize the need for civil legal services is more critical than ever and choose to support organizations such as the Legal Services for the Elderly that meet these rising needs. M & t Bank believes that informed customers are the best customers. Legal services programs in our area provide hundreds of hours of community educations that provide the bank with customers who are informed and can make better choices. Programs that improve financial literacy and prevent elder financial abuse contribute to making better customers and are good for business. Currently, M & T Bank, with the help of Legal Services for the Elderly, is training all its tellers in Buffalo and Rochester on the "Red Flags" of Financial Elder Abuse. As part of this effort, together, we have designed a magnet for tellers to place right at their work stations with the important signs and phone numbers to call for emergency assistance. Keeping the hard earned assets of our seniors in their own accounts and not in the hands of financial predators is important to the bank, our employees and customers, as well as the entire community.

Legal services programs bring resources into our community that enable business customers to purchase our products, eat in our restaurants, and utilize our services. When people lose their jobs or their homes, cannot access federal Social

Security benefits, or are unfairly denied unemployment benefits, they cease being our customers at all. The working poor or the “new poor” are growing in number in both nationally and in New York State, and their legal problems too often go unrecognized and unattended, creating even larger issues that can impact the entire community. More than two-thirds of Americans are now living paycheck to paycheck, according to a survey released on by the American Payroll Association. The survey of 30,600 people found that 68 percent said it would be somewhat difficult or very difficult if their paychecks were delayed for a week. (http://info.americanpayroll.org/pdfs/publications/salary_apr.pdf).

Even a short term disruption in income removes these folks from our economic community, creating a spiral that leads to layoffs, foreclosures and community collapse. Legal Services programs provide the services that avoid such income disruption and, therefore, are vitally important to the business community.

Supporting funding for civil legal services makes sense from an economic point of view, as civil legal services programs bring federal and other dollars into our state. According to the IOLA Fund, in 2012 IOLA grantees helped win \$433 million in benefits for their clients. This includes 172 million in Social Security and SSI payments, over 14 million in child support payments, and over \$8 million in unemployment benefits (see the 2012 IOLA report, www.iola.org).

The impact of these benefits on the local economy is substantial. Low income families primarily spend their income in their communities- from utility and grocery bills to paying for child care and transportation. As a result, the majority of benefits flow almost immediately into state and local economies. In January 2008 Federal Reserve Chairman Ben Bernanke testified that the greatest economic effect of the stimulus would come from people with lower incomes. “If you’re somebody who has lots of financial assets and you receive an extra dollar,

you may not change your spending much because you can simply either put the dollar in your bank account or take out a dollar as you need it. If you're somebody who lives paycheck to paycheck, you're most likely to spend that extra dollar." Legal Services programs get dollars into the pockets of those people who will support the economic recovery by spending their money locally.

The problems of the poor are particularly magnified when faced with barriers the poor encounter in rural areas. Those barriers include lack of public transportation, few employment opportunities, scarce affordable housing, hidden domestic violence and virtually no services for the homeless. Layered on to these barriers is the fact that important civil legal issues, like evictions and debt collection, are heard in Town and Village courts. With over 1100 of the 1300+ town justices not being attorneys, it is essential that low income litigants have access to legal services to preserve and defend their rights. Yet of the 44 rural counties, 26 have no legal services office.

The non-profit communities, and in particular legal services programs, are part of the fabric that holds our economy together. M & T Bank is proud to support these organizations which we feel are vital to improving the lives of our customers, stabilizing the business community and contributing to the strength and resiliency of New York State. Thank you for your leadership in this vitally important area and giving me the opportunity to talk to you today.

Hon. Michael V. Coccoma

Chief Administrative Judge for Courts Outside New
York City; Supreme Court Justice, Sixth Judicial
District

**TESTIMONY FOR THE CHIEF JUDGE’S
PUBLIC HEARING
ON CIVIL LEGAL SERVICES IN NEW YORK
OCTOBER 3, 2013 AT SUNY BUFFALO LAW SCHOOL**

Honorable Chief Judge Jonathan Lippman, Chief Administrative Judge A. Gail Prudenti, Presiding Justice Henry J. Scudder, and Past President Vincent Doyle.

Good afternoon,

Thank you for the opportunity to present these remarks.

May I begin where I ended my remarks in 2011 before this panel, referencing a quote from former United States Supreme Court Justice, Honorable Lewis Powell, Jr.

“Equal justice under the law . . . is one of the ends for which our entire legal system exists. It is fundamental that justice should be the same in substance and availability without regard to economic status.”

This quote of Justice Powell explains the reason Judicial Civil Legal Services funding should continue.

In preparation of my remarks, I have spoken with a number of legal providers currently receiving this funding. I have solicited reports from my Administrative Judges statewide and I have focused on the progress we have made in judicial training of town and village justices, as well as the clerks of those courts.

My remarks are also based upon my personal experiences from the bench over the past 19 years, including my observations from sitting on the trial bench in a rural upstate county.

I will focus on three topics. First, the impact our funding is having on the rural counties; second, how we have progressed in improving the education and training for town and

village justices, especially in the area of summary proceedings; and finally, an update on the progress which has been made in the drafting of simplified uniform forms for use in foreclosure proceedings, landlord/tenant proceedings, consumer debt, and child support matters.

With the continued economic problems our State/country faces, we have seen significant increases in the number of cases in our courts relating to quality of life issues, housing, unemployment benefits, child support, divorce, and domestic violence. In rural counties, more must be done to fill the need for legal services and access to those services in these areas.

One legal provider reports that between 2000 and 2009, on average, their agency opened 800 cases annually, but now, with the economic crisis, they are averaging 1200 cases annually. Many cases relate to evictions of tenants. Judiciary funding has permitted this provider to hire additional landlord/tenant attorneys, one of whom was placed directly in the local town courts to meet with the families on court days and to provide legal assistance and advice. We need to bring the service to the people in need. Additional funding to LAW New York (Legal Assistance of Western New York, Inc.) has permitted the hiring of full-time attorneys to supervise pro bono programs, and also to assist in tackling the increasing number of uncontested matrimonials. This agency services 14 rural counties, but with offices located in only six of the counties.

The Rural Law Center reports to me that the judiciary funding has enabled them to service more families. For example, without this funding, this agency would not be able to assist a woman in a rural county who was purchasing her home on a land contract. Having completed all payments, she was having difficulty in obtaining a deed from the record title owner. Utilizing inter-agency cooperation and assistance, the Rural Law Center and LAW New

York have located the landlord out of state and are currently working on securing a deed for their client. This is an example of how the sharing of resources and the collaboration between agencies has helped families in rural counties. While it remains a challenge to provide legal services to the rural counties, especially with the lack of public or other transportation, funding has provided a breakthrough. Some of the providers have utilized their funding to hire staff and attorneys to train and coordinate pro bono programs with local Bars in rural counties. For example, the funding has allowed LAW New York staff to coordinate the efforts of pro bono attorneys in Allegany, Cattaraugus, Chautauqua, Chemung, Livingston, Ontario, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates Counties.

The statistics that you received from Honorable Fern Fisher at your New York City hearing demonstrate that the number of people being served is currently increasing. However, statewide, based on the 2010 Federal Census, we believe 5,717,644 New Yorkers are eligible for free legal services; those living at or below 200% of the federal poverty level. We do not know the percentage of these eligible individuals who are in need of legal services in any given year. We do know that in 2012-13, with the current funding, statewide we have been able to provide legal services to 4.69% of eligible clients. Previously in 2011-12 only 2.19% of the eligible population received services statewide. This underscores the need to get more services in place in the individual counties so that those in need can access them. Establishing clinics in rural counties where attorneys have an opportunity to donate a defined amount of time pro bono is one method of service delivery that is popular. I urge that funding be directed toward the support of clinics in the communities, the promotion of pro bono work, recruitment training, as well as support of pro bono attorneys, such as incentives and rewards for pro bono attorneys. Also, coordination among stakeholders and the Judiciary to locate attorneys in the counties

willing to provide pro bono services will also reach more clients. I am sure you understand that in the rural counties, connecting the client to the service is especially difficult due to the long distances clients must travel to meet with the providers and lack of accessible transportation.

In the area of technology, judiciary CLS funding has provided support for word processing, e-mails, case notes and Westlaw and for other internet-based research in order to better represent clients by case handlers at legal services providers. At Northeast Legal Aid, the funding has enabled support staff to use TIME, a case management system to check eligibility and do intakes, enter case notes and ticklers, maintain client data, run necessary reports to better manage their work, keep time and generate time and attendance records, among other things.

There is still much that needs to be done in rural areas, relating to mobile home owner rights, services for domestic violence victims, services for seniors, veterans and services in the areas of employment law, education law and land sale contracts. The challenge is how to provide civil legal services over a large geographic expanse. May I suggest the acquisition of more mobile vans staffed with attorneys/paralegals as an idea worth pursuing. The Task Force has recommended expanding the use of telephone and video conferences in remote areas. A pilot project, testing the use of video conferencing for some court conferences involving attorneys or unrepresented individuals who live in remote areas, will expand access to justice.

A program well worth highlighting is the Pro Bono Appeals Programs currently in place in the Third Department and being instituted in the Fourth Department. It is a good example of collaboration between the State Bar, private attorneys specializing in appeals and the Rural Law Center.

Town and Village Courts

Over the past two years, we have retooled our education and training programs for town and village court justices, recognizing that these are the courts that generally have first contact with many of the poor in the rural counties. We certainly realize that it is not only the judges who must be aware and stay current in the area of summary proceedings, but the court clerks as well. These clerks are the ones on the front lines dealing with self-represented litigants and they too must be able to assist these people to a certain extent. While we all concede that a court clerk must be cautious not to give legal advice, a clerk does need to be aware of the procedural rules in regards to summary proceedings to better assist the litigant, such as directing litigants to the DIY forms available on OCA's website. The Office of Justice Court Support has expanded its court clerk training in all regards in just this past year.

In an effort to expand the reference materials available to the town and village justices, the Office of Justice Court Support has reviewed the Justice Court Manual on Summary Eviction Proceedings which is published by the Legal Assistance of Western New York, Inc. The document has proven to be a very comprehensive reference guide and the Office of Justice Court Support intends to work closely with this organization in an effort to promulgate the document state-wide. The Task Force to Expand Civil Legal Services has recommended more training and support materials for these courts in all areas, but particularly in landlord and tenant cases. To assist in this endeavor, the Task Force prepared a bench card for landlord and tenant cases that was distributed to these courts September 2013.

The Office of Justice Court Support takes very seriously the issue of ensuring that town and village justices are well trained in the area of summary proceedings, especially as it relates to cases where there are unrepresented litigants. Every year during the Taking the Bench

Certification Course, which newly elected and appointed non-attorney judges are required to take prior to assuming office, judges are given instructions and training materials as it relates to procedures relating to summary proceedings. In 2011, a two-hour training session was conducted during the advanced training session which incorporated a useful Resource Guide for the judges regarding summary proceeding procedures. Those materials were distributed at the training sites and are accessible to the judges via the OJCS website.

In 2014, new and expanded training will be provided to all town and village justices and this course is already in the development stages.

Forms Simplification

One of the issues unrepresented litigants face is the complexity and lack of uniformity of our court forms and procedures. Intended for attorneys, many forms and procedures can be daunting. Thus, we have devoted resources and set up subcommittees to address the creation of uniform simplified forms in the areas of landlord/tenant, consumer debt, foreclosures, and child support matters. Our efforts to revise the forms to plain language format and uniformity of both forms and procedures continue. The development of uniform simplified forms is a challenge because of the varied practices statewide. Our subcommittees recognize this, but are making progress in revision. To date, the following forms have been completed by the subcommittees and approved by both Judge Fisher and me: the uniform landlord and tenant non-payment answer form, a consumer debt answer form, a foreclosure preliminary conference order form, and a child support modification form. In addition, a subcommittee has recommended that the consumer debt procedures that exist in the City be adopted in the rest of the State. These would include a notice of a pending case mailed by the court to defaulting defendants, and statewide requirements for obtaining a default judgment. It is also

recommended that all courts charge families similarly for name changes when there are multiple children. Some courts charge one fee per family while others charge for each child. Both Judge Fisher and I ask that these forms and uniform procedures be approved for statewide implementation either by the Chief Administrative Judge or the Administrative Board as appropriate.

In conclusion, I encourage continued collaborative effort between the Judiciary, local Bar Associations and the Legal Aid providers. All of their efforts to date deserve our praise and support as they are helping thousands of New Yorkers, but unfortunately, they are not enough to avert the crisis which is upon us. I recommend continued funding so that new ideas to stem the tide of the overwhelming need for civil legal services representation for our most needy citizens can be provided. As my time draws to a conclusion, I again thank you for the opportunity to highlight some of my concerns and to give you an update on how we are progressing in our efforts to provide equal justice. Only the Bar and the Judiciary can truly understand and appreciate how important it is that in our courts a level playing field is provided for all who enter through the courthouse doors.

Thank you, and I would be happy to entertain any questions that you might have.

Kenneth M. Gossel

Deputy General Counsel, National Fuel Gas
Distribution Corporation



national fuel

September 26, 2013

Via E-mail

Hon. Jonathan Lippman
Chief Judge of the State of New York

Re.: Remarks for Chief Judge's Public Hearings for 2013

Dear Judge Lippman:

Thank you for the opportunity to submit remarks to help in your evaluation of the continuing unmet civil legal services needs in the State of New York and to assess the level of resources necessary to meet those needs. We thank you and the Task Force to Expand Access Civil Legal Services in New York for your efforts to assist the state's vulnerable population.

National Fuel Gas Distribution Corporation ("National Fuel") is a natural gas utility providing services to approximately 500,000 residential customers in Western New York. Over twenty percent of our customer base is low-income and eligible for heating assistance from the Federal Low-Income Home Energy Assistance Program ("HEAP"). Due to the cold climate and the poor economic condition of the region, our customers face many challenges in paying their utility bills.

National Fuel has developed many programs to assist needy customers and to help them avoid the loss of utility service. It offers low-income customers extensive free weatherization services to reduce gas consumption and has discounted rates and arrearage forgiveness programs to help customers who have gotten behind in the payment of utility bills. National Fuel also has an extensive outreach and education program to assist low-income customers in getting needed HEAP assistance. It further works with its customers to develop reasonable deferred payment agreements for the payment of arrears.

Despite these things, many customers still have difficulty in maintaining gas service and are referred by National Fuel to their respective county Department of Social Services Offices for heating assistance benefits. The New York State Constitution requires that the State take care of its needy. Through Social Services Law and regulation, various types of assistance are available to the state's vulnerable residents. These include temporary assistance and heating assistance among others. It has been our experience that many times our low-income customers have a difficult time in navigating the system and run into a great amount of bureaucratic red tape. These customers risk losing benefits that are needed to avoid the loss of utility service. They often need the services of an advocate -- someone who will assist them every step of the way to ensure that they receive benefits that they are entitled to.

In recognizing this need, in 2006 National Fuel paired up with a non-profit agency in Western New York . Neighborhood Legal Services, Inc. (NLS) provides free legal services to persons with low-income and persons with disabilities. Under this partnership, National Fuel provides a grant to NLS to fund a full-time paralegal to assist needy individuals in getting public assistance benefits. The paralegal works under the supervision of an attorney and assists clients in preparing and filing applications and appearing at hearings when benefits are improperly denied. The system is very complex and the services that NLS provides are desperately needed.

The partnership between National Fuel and NLS has helped thousands of individuals that were at risk in matters involving the "essentials of life." It is these types of legal services that are sorely needed by the state's most vulnerable citizens. They are essential to help maintain the stability of households and families. NLS operates in only a few of the counties in National Fuel's service territory. There remains a great need for public resources to be devoted in this regard so that needy individuals throughout the state can receive these essential services.

Thank you for your consideration in examining the unmet civil legal services needs that continue to exist in New York. Your efforts will help many individuals to receive needed benefits. Please feel free to contact me if you have any questions.

Sincerely yours,

Kenneth M. Gossel

Cynthia Bynum

Chair, Empire State Alliance of Paralegal
Associations, Inc.



Empire State Alliance of Paralegal Associations, Inc.
P.O. Box 2244 | Grand Central Station | New York 10163
Phone: 347-974-2874 | Fax: 347-230-5910

September 26, 2013

The Honorable Jonathan Lippman
The Task Force to Expand Access to Civil Legal Services
c/o Jessica Klein, Esq.
Sullivan & Cromwell
125 Broad Street, NY, NY 10004-2498

RE: **The Task Force to Expand Access to Civil Services in New York**

Dear Chief Judge Lippman,

The Empire State Alliance of Paralegal Associations, Inc. ("ESAPA") is a non-profit professional paralegal organization founded on January 30, 1988, by five paralegal associations in New York State, which included Long Island, Manhattan, Buffalo, Binghamton and Rochester. The statewide alliance has grown over the years and paralegal associations representing the Adirondack, Syracuse and Albany areas of New York State are also part of ESAPA.

From the beginning, the founders of ESAPA envisioned a continuously developing and working relationship with local/state bar associations, paralegal associations, paralegal schools, educators and other law-related entities to strengthen the paralegal profession in New York State.

ESAPA has continued its efforts to support continuing legal education and leadership, which are vitally important to its member associations and paralegal members respectively. A combination of education and training resulting in specialized skills has enabled paralegals to perform paraprofessional duties with competence within the legal organizations and communities they serve. Paralegals are employed within various business sectors, public, private law firms, and non-profit organizations to name a few and are heavily relied upon for their expertise.

It is with this expertise and discipline that ESAPA continues to strive for excellence to support its member associations. With this said, we learned of the "Task Force to Expand Access to Civil Services in New York" and its goal of bridging the gap to assist with the unmet needs of New York residents. ESAPA offers its support to join you with this cause because paralegals encounter issues every day, for example, providing in-court assistance to litigants in housing court proceedings, coordinating citizenship and immigration clinics, many paralegals speak foreign languages and act as translators, Spanish and French are requested in many instances, and this is just a few needs that the paralegals from ESAPA member associations have met to date.

We are already performing the work for our employers and participating in pro bono activities within our local associations and with an expansion of resources available that paralegals bring to the table, the "Task Force to Expand Access to Civil Services in New York" could utilize our business acumen and technical skills to help generate funding needs and equally important legal services to New York State residents. Working together, the member associations of ESAPA would have a significant impact with lessening the burden and shortages by providing competent legal professionals to meet a series of challenges outlined in the public hearing notice and also summarized in this letter.

In conclusion, as a result of the creation of Judge Lippman's initiative, ESAPA has created its own Mini-Task Force to extend its support for additional pro bono opportunities in New York State. ESAPA is willing, able and ready to assist you now in these efforts.

Let us know how we might be of service. We are upwards 600 paralegals strong!

Respectfully submitted,

Cynthia Bynum, ESAPA Chair

CC: The Honorable Luis A. Gonzalez
The Honorable Randall T. Eng
The Honorable Karen K. Peters
The Honorable Henry J. Scudder
The Honorable A. Gail Prudenti
David M. Schraever, Esq.
CivilLegalServices@NYCourts.gov

C. Kenneth Perri

Executive Director, Legal Assistance of Western
New York, Inc.

LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.®

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TESTIMONY:

**THE CHIEF JUDGE'S HEARINGS
ON
CIVIL LEGAL SERVICES**

September 25, 2013

By: C. Kenneth Perri
Executive Director



I. Introduction:

On behalf of Legal Assistance of Western New York, Inc.[®] (hereinafter LawNY[®]), I thank you for conducting the hearings on civil legal services in the Third Department on September 17, 2013, in the First Department on September 19, 2013, in the Second Department on October 1, 2013 and in the Fourth Department on October 3, 2013. I thank you as well for the opportunity to share these very brief comments with regard to the crisis facing the civil legal services infrastructure in New York State, how that impacts those unable to access the justice system because of their inability to pay for an attorney and the impact in LawNY[®]'s service area of Judiciary Civil Legal Services funding for the completed state fiscal years from 4/1/11 – 3/31/12 and from 4/1/12 – 3/31/13 and in the current state fiscal year from 4/1/13 – 3/31/14.

I extend my thanks in particular to the Chief Judge of the State of New York, Honorable Jonathan Lippman, as well as the other members of the hearing panels, Chief Administrative Judge A. Gail Prudenti, New York State Bar Association President David M. Schraver and Presiding Justices Luis A. Gonzalez, Randall T. Eng, Karen K. Peters and Henry J. Scudder. I also extend my thanks to Helaine M. Barnett, the chair of the Task Force To Expand Access To Civil Legal Services In New York, as well as the other distinguished members of the Task Force.

II. LawNY[®]:

My name is C. Kenneth Perri and I am the executive director of LawNY[®]. LawNY[®] is a 501(c)(3) not-for-profit law firm whose mission is to provide access to the justice system to low-income New Yorkers and other vulnerable populations in our 14 county service area. I have been a civil legal services practitioner for 31 years.

LawNY[®] has seven staffed offices which provide services to low-income people in 14 counties. Our office in Bath serves the residents of Allegany and Steuben Counties. Our office in Elmira serves the residents of Chemung and Schuyler Counties. Our office in Geneva serves the residents of Livingston, Ontario, Seneca, Wayne and Yates Counties. Our office in Ithaca serves the residents of Tioga and Tompkins Counties. Our office in Jamestown serves the residents of Chautauqua County. Our office in Olean serves the residents of Cattaraugus County. Our office in Rochester serves the residents of Monroe County.

With the exception of the urban center in Rochester and the small cities of Canandaigua, Elmira, Geneva, Ithaca, Jamestown, Olean and Salamanca, the nearly 10,000 square mile, 14 county area served by LawNY[®] is primarily rural. In the counties in which we do not have staffed offices, we have sites where we can meet with and interview clients located in Belmont, Lyons, Montour Falls, Mt. Morris, Ovid, Owego and Penn Yan.

III. Continued Need for Funding:

On September 29, 2010 I submitted written testimony and had the honor of providing oral testimony at the Chief Judge's hearing held in Rochester, New York. I also submitted written testimony on October 7, 2011 in connection with the Chief Judge's 2011 hearings on civil legal services and on September 27, 2012 in connection with the Chief Judge's 2012 hearings on civil legal services. On all three occasions I provided detailed information regarding the extremely high demand for services from LawNY® by the members of our low-income communities. The sum and substance of my September 2010, October 2011 and September 2012 testimony in this regard remains unchanged, and is briefly able to be summarized as follows:

- The number of persons living in poverty in the 14 counties served by LawNY® continues to grow, from 189,000 persons according to the 2000 census to nearly 262,500 persons according to the small area income and poverty estimates for 2011, an increase of nearly 39%;
- Recent economic conditions have dramatically affected the demand for civil legal services among low-income people, including those who, because of loss of jobs, have fallen below the federal poverty level;
- The unemployment rate remains high;
- Employers continue to downsize, relocate or close;
- The number of people participating in the poverty programs of last resort – public assistance, food stamps and medicaid – remains exceptionally high;
- LawNY® continues to struggle to meet gaps in our service delivery system which we have identified, including in the areas of mobile home owners' rights, services for domestic violence victims, services for seniors and services in the areas of employment law, education law and land sale contracts; and
- LawNY® also continues to grapple with other barriers to providing civil legal services which we have identified, including our large geographic expanse; low starting salaries for our professional staff of attorneys (\$46,500 at the entry level); the difficulty of recruiting and retaining volunteer lawyers to provide pro bono services in the rural counties in our service area; and steep reductions in federal funding from the Legal Services Corporation, amounting to 4% of our basic field grant in 2011 followed by another 15% reduction to our basic field grant in 2012 and yet another 3% reduction to our basic field grant in 2013.

In addition, at the present time, we are awaiting the outcome of the federal budget appropriation process for the federal fiscal year which begins on October 1, 2013. Even if there is no change in the Congressional appropriation, i.e., if national LSC funding is held static for the upcoming federal fiscal year, LawNY®'s funding will still decrease by an additional 2.5% due to LSC's implementation of the second phase of reallocation of funds among geographic areas in the United States based on updated poverty population

determinations. As damaging as that result may be, the final outcome may be more devastating, as the Appropriations Committee of the U.S. House of Representatives has passed a funding bill for LSC which would reduce the national allocation by an additional 12%.

IV. LawNY[®]'s Use of Oversight Board Judiciary Civil Legal Services Funds:

In the state fiscal year which ran from 4/1/11 – 3/31/12, Chief Judge Lippman was able to secure funding for civil legal services in the sum of \$12.5 million allocated by the Oversight Board for Judiciary Civil Legal Services. Following a competitive RFP process, LawNY[®] was awarded \$656,175 to serve our four counties located in the Third Department and our ten counties located in the Fourth Department.

These funds allowed LawNY[®] to retain approximately 6.23 FTE attorney staff members, 1.18 FTE paralegal staff members and .26 FTE support staff members.

This provided LawNY[®] with the capacity to serve 1,063 additional households, including households with problems with subsistence income such as wages, disability, other benefits and consumer debts (42%); housing, such as evictions, foreclosures and homelessness (32%); family matters, such as domestic violence, children and family stability (20%); and access to health care and education (3%).

Other legal assistance was provided to 998 additional individuals in the form of presentations to groups of low-income people; dissemination of legal education brochures; the provision of printed and web-based materials; referrals to the private bar, other civil legal services providers and other human service providers; and outreach regarding program services.

In the state fiscal year which ran from April 1, 2012 – March 31, 2013, Chief Judge Lippman was able to secure funding for civil legal services in the sum of \$25 million, again allocated by the Oversight Board for Judiciary Civil Legal Services. Again, following a competitive RFP process, LawNY[®] was awarded \$1,312,350 to serve our four counties in the Third Department and our ten counties in the Fourth Department.

These funds allowed LawNY[®] to employ 12.86 FTE attorney staff members, 1.97 FTE paralegal staff members and 1.15 FTE support staff members.

This provided LawNY[®] with the capacity to serve 2,182 additional households, including households with problems with subsistence income such as wages, disability, other benefits and consumer debts (43%); housing, such as evictions, foreclosures and homelessness (28%); family matters, such as domestic violence, children and family stability (22%); and access to health care and education (3%).

Other legal assistance was provided to 828 additional individuals in the form of presentations to groups of low-income people; dissemination of legal education brochures; the provision of printed and web-based materials; referrals to the private bar,

other civil legal services providers and other human service providers; and outreach regarding program services.

In the current state fiscal year, which runs from April 1, 2013 – March 31, 2014, Chief Judge Lippman was able to secure funding for civil legal services in the sum of \$40 million, again allocated by the Oversight Board for Judiciary Civil Legal Services. LawNY[®]'s base award in the sum of \$1,312,350 was renewed and, following another competitive RFP process, LawNY[®] was awarded an additional \$795,010 to serve our four counties in the Third Department and our ten counties in the Fourth Department.

We expect that this funding will support 19.9 FTE attorney positions, 4.62 FTE paralegal positions and 2.54 FTE support staff positions. We project that by the end of the present state fiscal year, Judiciary Civil Legal Services funds will have allowed us to provide representation in court and/or administrative proceedings to 530 families; representation in appeals or other complex matters to 30 families; other legal assistance to 1,230 families, including negotiating settlements with and without litigation, short term services beyond brief advice and/or information, assisted referrals and housing and other hotline calls; direct brief advice and/or information to 1,500 families; direct assistance in completing forms or applications for 480 families; and community legal education for 3,210 individuals.

V. Conclusion:

For the state fiscal year from April 1, 2012 – March 31, 2013, LawNY[®] staff in all seven offices, with all of our funding streams, cumulatively closed a total of 6,957 cases benefiting 15,369 people. The three highest substantive law areas in which cases were closed were in those in which clients presented with legal problems affecting the essentials of life – government benefits (38%), housing (28%) and family law (15%). LawNY[®] used a variety of strategies to meet these critical legal needs of our clients, including representation in judicial and administrative forums, preventive legal education, pro se information, short-term services such as counsel and advice and holistic community partnerships.

In 2014, absent renewed funding from the Oversight Board for Judiciary Civil Legal Services, LawNY[®]'s ability to continue to try to address the unmet needs of the low-income families in our service area with civil legal problems affecting the essentials of life will be irrevocably destabilized.

I am grateful for the efforts of the Chief Judge and the Task Force and extend my thanks on behalf of myself, the LawNY[®] board of directors and staff and, most importantly, the families that we are able to help as a result of this funding.

I fervently urge that the Task Force recommend that funding from New York State for the provision of civil legal services to low-income people be enhanced in the state fiscal year which begins on April 1, 2014 so that LawNY[®] and the entire community of civil legal services providers can continue to respond as effectively as possible to the ever

growing need for our services. The continuing demand by our low-income neighbors for assistance from the legal services provider community in turn demands ongoing and stable funding for the providers from the State of New York.

LawNY[®] and the other civil legal services providers throughout New York State welcome the opportunity to work with the Chief Judge and with the Task Force To Expand Access To Civil Legal Services In New York to achieve this result.

Thank you for your time and your consideration.

**The New York State Unified
Court Law Libraries
Association**

Written Submission

Task Force to Expand Access to Civil Legal Services

Hearing of the Fourth Judicial Department – October 3, 2013

Respectfully Submitted by the New York State Unified Court Law Libraries Association

The officers of the Association are:

Andrew Kloc, President

Automation Services Law Librarian, Appellate Division, 4th Department Law Library, Rochester

Laura Barber, Vice President

Principal Law Librarian, 3rd Judicial District

F. Warren Travers Supreme Court Library (Rensselaer County)

Cindy Kesler, Treasurer

Principal Law Librarian, 5th Judicial District

Syracuse Supreme Court Library (Onondaga County)

Deborah Payne, Secretary

Senior Law Librarian, 5th Judicial District

Syracuse Supreme Court Library (Onondaga County)

The New York State Unified Court Law Libraries Association is a professional organization within the state court system whose mission is to help ensure that our law libraries develop and evolve to meet the legal information needs of all persons accessing the libraries for essential resources, services and information. We truly thank Chief Judge Lippman and the Task Force to Expand Access to Civil Legal Services for conducting these hearings and appreciate the opportunity to offer input on this important subject.

The New York State Unified Court System (UCS) operates and maintains a network of law libraries that are unique and geographically diverse. In their traditional role, court libraries provide resources and reference services to the judiciary, the bar and the public. As such, we offer extensive library services to self-represented litigants on a daily basis. Often, public-access court libraries serve as the primary access point to the law for individuals who are unable to afford an attorney. In this role, court law libraries provide a wide range of services and resources, including:

- Internet access, including free access to LexisNexis and other premium legal databases;
- Access to a wide variety of state & federal legal resources, including primary law, treatises and forms in both digital and print formats;
- Access to printers, copiers and scanners;
- Legal research assistance by professionally trained law librarians and court library staff;
- Access to appellate-level records & briefs;
- Computer assistance, including the use of legal databases;
- 1-800-CourtNY, a toll free number answered daily by a team of librarians and court personnel, including interpreters when needed;
- Access to “do-it-yourself” legal resources, such as print treatises and websites like the UCS Do-It-Yourself forms library and LawHelp.org/NY; and
- Interlibrary loan services to provide access to materials held by other law libraries across the country.

Although the libraries and their staff cannot provide legal advice, the libraries can and do provide access to timely legal information in a variety of electronic and print formats. Library standards set forth from the *American Association of Law Libraries--State, Court and County Law Libraries Special Interest Section* state that “access to justice is a fundamental right of every citizen of the United States. Legal information is an essential element of this right. Law libraries are integral to the administration of justice as providers of legal resources.”¹ Indeed, law libraries

¹ Standards for Appellate Court Libraries and State Law Libraries, American Association of Law Libraries, State, Court and County Law Libraries Special Interest Section, Approved by the AALL Executive Board, July 2005 http://www.aallnet.org/main-menu/Publications/llj/LLJ-Archives/Vol-98/pub_llj_v98n01/2006-08.pdf

can embrace the mission boldly outlined by Richard Zorza in the *"The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice"* report. "The law library's mission is to play a major role in enhancing access to justice for all, a critical component in a legitimate democratic society. It plays this role by providing legal information and tools to those engaged with the justice system, including litigants and those facing legal issues, attorneys, court staff, the judiciary and other governmental organizations, regardless of where they are physically. In order to do so, it partners broadly with courts, bar associations, access to justice organizations, community organizations, and government."²

In forging just such a partnership, in 2012 the Seventh Judicial District in Rochester opened a Legal Help Center within its court law library. District Administrative Judge Craig J. Doran commented at last year's Hearings on Civil Legal Services that the Help Center is a true collaboration of "the court system taking advantage of the enthusiastic legal community that has made helping unrepresented litigants a very high priority."³ The Help Center is run by both the Volunteer Legal Services Project of Monroe County and the staff of the Seventh Judicial District Law Library.

The public access libraries of the Unified Court System provide reliable reference and resources to the courts and deliver legal information to the unrepresented, pro bono attorneys, and all seekers of legal resources. The New York State Unified Court Law Libraries Association looks forward to a continued collaboration with all interested parties, including the Task Force to Expand Access to Civil Legal Services, the New York State Courts' Access to Justice Program, bar associations, and legal aid providers. By creating closer working relationships between court libraries and civil legal services providers, we hope to better serve those who have historically struggled to gain access to this vital aspect of the legal system.

² Zorza, Richard. "The Sustainable Twenty-first Century Law Library: Vision, Deployment and Assessment for Access to Justice." <<http://www.zorza.net/LawLibrary.pdf>>

³ Champagne, Denise M. "Doran:HOJ to set up legal help center." *NY Daily Record*, 8 October 2012.

APPENDIX A

Publicly Accessible Law Libraries within the New York State Unified Court System (By County)

Albany County

Frances Bergan Law Library
Albany County
Albany, NY 12207
(518) 285-8954

Allegany County

Allegany County Law Library
Allegany County Courthouse
Belmont, NY 14813
(716) 268-5813

Bronx County

Bronx Supreme Court Law Library
Room 817
851 Grand Concourse
Bronx, NY 10451
(718) 618-3710

Broome County

Binghamton Supreme Court Law
Library
Broome County Courthouse
92 Court Street Room 107
Binghamton, NY 13901
(607) 778-2119

Cattaraugus County

Cattaraugus County Law Library
Little Valley, NY 14755-1028
(716) 938-9111 Ext. 326

Cayuga County

New York State Supreme Court
Law Library
Cayuga County Courthouse
152 Genesee Street
Auburn, NY 13021-3476
(315) 255-4310

Chautauqua County

Chautauqua County Law Library
Chautauqua County Courthouse
Mayville, NY 14757-0292
(716) 753-7111

Chemung County

Charles B. Swartwood Supreme
Court Library
Hazlett Building
203-205 Lake Street
Elmira, NY 14901
(607) 737-2983

Chenango County

David L. Follett Supreme Court
Library
5-9 West Main Street, 2nd Floor
Norwich, NY 13815
(607) 334-9463

Clinton County

NYS Supreme Court Law Library
72 Clinton Street
Plattsburgh, NY 12901
Tel: (518) 565-4808
Fax: (518) 562-1193

Columbia County

Supreme Court Law Library
Courthouse - Temporary location
Clavarak, NY 12534
(518) 267-3170

Cortland County

Louis H. Folmer Supreme Court
Library
Cortland County Courthouse
Cortland, NY 13045
(607) 753-5011

Delaware County

Delaware County Courthouse
Delhi, NY 13753
(607) 746-3959

Dutchess County

Supreme Court Law Library
50 Market Street
Poughkeepsie, NY 12601
(845) 431-1859

Erie County

Supreme Court Library at Buffalo
Erie County Hall
77 West Eagle Street
Buffalo, NY 14202-3991
(716) 845-9400

Essex County

Essex County Law Library
Essex County Government Center
7559 Court Street
Elizabethtown, NY 12932
Tel: (518) 873-3377
Fax: (518) 873-3789

Franklin County

NYS Supreme Court Law Library
Franklin County Courthouse
355 West Main Street
Malone, NY 12953
Tel: (518) 481-1564
Fax: (518) 481-6704

Fulton County

Fulton County Law Library
County Office Building
223 West Main Street
Johnstown, NY 12095
Tel: (518) 736-5685
Fax: (518) 762-6372

Genesee County

Genesee County Law Library
Genesee County Court Facility
1 West Main Street
Batavia, NY 14021
(585) 344-2550 ext 2224

Greene County

Emory A. Chase Memorial Library
320 Main Street
Greene County Courthouse
Catskill, NY 12414
(518) 625-3197

Hamilton County

Hamilton County Law Library
Hamilton County Courthouse
102 County View Drive
Lake Pleasant, NY 12108
Tel: (518) 451-8777
Fax: (518) 648-6286

Herkimer County

Herkimer County Law Library
Herkimer County Courthouse
320 North Main Street
Herkimer, NY 13350
(315) 867-1172

Jefferson County

Supreme Court Law Library
195 Arsenal Street
Watertown, NY 13601
(315) 785-3064

Kings County

Kings County Supreme Court Law Library
3rd Floor
360 Adams Street
Brooklyn, NY 11201
(347) 296-1144

Lewis County

Lewis County Law Library
Courthouse
Lowville, NY 13367-1396
(315) 376-5381

Livingston County

Wadsworth Public Library
24 Center Street
Geneseo, NY 14454
(585) 243-0440

Madison County

Oneida Public Library
220 Broad Street
Oneida, NY 13421
(315) 363-3050

Monroe County

Appellate Division Fourth Dept.
Law Library
M. Delores Denman Courthouse 50
East Avenue, Ste. 100 Rochester,
NY 14604
(585) 530-3250

Seventh Judicial District Law Library
525 Hall of Justice
99 Exchange Blvd.
Rochester, NY 14614
(585) 428-1854

Montgomery County

Montgomery County Law Library
Montgomery County Courthouse
58 Broadway
Fonda, NY 12068
Tel: (518) 285-8518
Fax: (518) 377-5909

Nassau County

Supreme Court Law Library
100 Supreme Court Drive
Mineola, NY 11501
(516) 442-8580

New York County

NY County Courts Public Access
Law Library
80 Centre Street
Room 468
New York, NY 10013
(646) 386-3715

Niagara County

Supreme Court Library
Niagara County Courthouse
175 Hawley Street
Lockport, NY 14090
(716) 439-7145

Oneida County

Oneida County Supreme Court Law
Library
235 Elizabeth Street
Utica, NY 13501
(315) 798-5703

Onondaga County

Supreme Court Law Library
Onondaga County Courthouse
Syracuse, NY 13202
(315) 671-1150

Ontario County

Charles J. Meder Library
Finger Lakes Community College
3325 Marvin Sands Drive
Canandaigua, NY 14424
(585) 394-3500, Ext. 7432

Orange County

Supreme Court Law Library
Orange County Government
Center
285 Main Street
Goshen, NY 10924
845-476-3473

Orleans County

Orleans County Law Library
Orleans County Court
County Building
Albion, NY 14411
(716) 589-4457

Oswego County

Supreme Court Law Library
Oswego County Courthouse
Oswego, NY 13126
(315) 349-3297

Otsego County

Joseph P. Molinari Supreme Court
Law Library
Otsego County Courthouse
197 Main Street
Cooperstown, NY 13326
(607) 547-5425

Putnam County

20 County Center
Carmel, NY 10512
(845) 208-7804

Queens County

Queens Supreme Court Law
Library
Queens County General
Courthouse
88-11 Sutphin Blvd.
Jamaica, NY 11435
(718) 298-1206

Rensselaer County

Supreme Court Library
Courthouse
Second Street Annex
Troy, NY 12180
(518) 285-6183

Richmond County

25 Hyatt Street, Room 515
Staten Island, NY 10301
(718) 675-8711

Rockland County

Rockland County Courthouse,
1 South Main Street, Suite 235,
New City, NY 10956
(845) 483-8399

St. Lawrence County

NYS Supreme Court Law Library
St. Lawrence County Courthouse
48 Court Street
Canton, NY 13617
Tel: (315) 379-2279
Fax: (315) 379-2424

Saratoga County

NYS Supreme Court Law Library
City Hall
474 Broadway
Saratoga Springs, NY 12866
Tel: (518) 451-8777

Schenectady County

NYS Supreme Court Law Library
Schenectady County Judicial
Building
612 State Street, 3rd fl.
Schenectady, NY 12305
Tel: (518) 285-8518
Fax: (518) 377-5909

Schuyler County

Watkins Glen Public Library
610 South Decatur Street
Watkins Glen, NY 14891
(607) 535-2346

Schoharie County

F. Walter Bliss Memorial Library
The Court House
Schoharie, NY 12157-0447
(518) 453-6999

Seneca County

Seneca Falls Library
47 Cayuga Street
Seneca Falls, NY 13148
(315) 568-8265

Steuben County

Steuben County Supreme Court
Library
3 East Pulteney Square
Bath, NY 14810-1557
(607) 664-2099

Suffolk County

Suffolk County Supreme Court
Law Library
Cohalan Court Complex
400 Carleton Avenue
Central Islip, NY 11702
(631) 853-7530

Supreme Court Law Library
Criminal Courts Building
220 Center Street
Riverhead, NY 11901-3312
(631) 852-2419

Sullivan County

Hamilton O'Dell Library
New York State Supreme Court
Library
Sullivan County Courthouse
Monticello, NY 12701
(845) 794-1547

Tioga County

Waverly Free Public Library
18 East Street
Waverly, NY 14892
(607) 565-9341

Tompkins County

Ernest Warren Supreme Court
Library
Tompkins County Courthouse
320 North Tioga Street
Ithaca, NY 14850
(607) 272-0045

Ulster County

New York State Supreme Court
Library
285 Wall Street
Kingston, NY 12401
(845) 340-3053

Warren County

NYS Supreme Court Law Library
Warren County Municipal Center
1340 State Route 9
Lake George, NY 12845
Tel: (518) 761-6442
Fax: (518) 761-6586

Washington County

Washington County Law Library
Washington County Courthouse
383 Broadway
Fort Edward, NY 12828
Tel: (518) 285-8518
Fax: (518) 377-5909

Wayne County

Lyons Public Library
122 Broad Street
Lyons, NY 14489
(315) 946-9262

Westchester County

Supreme Court Law Library
Westchester County
111 Dr. Martin Luther King, Jr.,
Blvd 9th Floor
White Plains, NY 10601
(914) 824-5660

Wyoming County

Wyoming County Law Library
Wyoming County Courthouse
143 North Main Street
Warsaw, NY 14569-1199
(585) 786-3148

Yates County

Penn Yan Public Library
214 Main Street
Penn Yan, NY 14527
(315) 536-6114

APPENDIX 15:

**Report of the Task Force's Working Group on
Law School Involvement**

**TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP**

**SECOND ANNUAL CONFERENCE
ACCESS TO JUSTICE:
CONTINUING THE CONVERSATION —
THE ROLE OF NEW YORK'S LAW SCHOOLS IN HELPING MEET
THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW INCOME NEW YORKERS**

BASED ON A CONFERENCE CONVENED BY THE
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
AT NEW YORK LAW SCHOOL ON MAY 16, 2013



HELAINÉ M. BARNETT

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

MATTHEW DILLER

DEAN, BENJAMIN N. CARDOZO SCHOOL OF LAW; CHAIR, LAW SCHOOL INVOLVEMENT WORKING GROUP

CAROL BUCKLER

PROFESSOR OF LAW, DIRECTOR OF PRO BONO INITIATIVES, NEW YORK LAW SCHOOL; CHAIR, 2013 LAW SCHOOL CONFERENCE

NOVEMBER 29, 2013

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

Second Annual Law School Conference Access to Justice: The Role of New York’s Law Schools

Continuing the Conversation: The Role of Law Schools in Helping Meet the Essential Civil Legal Needs of Low Income New Yorkers

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KEY RECOMMENDATIONS FROM THE TASK FORCE

As part of its work to offer a multi-faceted approach to help bridge the justice gap in New York, the Task Force is charged with recommending ways in which the law schools can maximize efforts to expand access to justice. On May 16, 2013, the Task Force convened the Second Annual Law School Conference, "Access to Justice: The Role of New York's Law Schools in Helping Meet the Essential Civil Legal Needs of Low Income New Yorkers," at which 147 participants from law schools, law firms, bar associations, legal services providers and the courts, continued the conversation initiated at the May 2012 Conference about our collective efforts to narrow the justice gap.

The changing landscape of the legal marketplace and the rising numbers of people in need of civil legal assistance for matters involving the "essentials of life" have intensified pressures on law schools, law students and lawyers. The catastrophic damage inflicted by recent storms has long lasting consequences often felt most acutely by already vulnerable individuals, without ready access to civil legal assistance. This confluence of factors has generated debate about the very framework of legal education and how best to train students to become effective lawyers and advocates in the 21st century. These topics are currently the subject of study by New York's law schools,¹ the New York State Bar Association,² the American Bar Association,³ and others across the State and nation. The singular focus of the Task Force's examination is access to justice and the role of New York's law schools in helping meet the essential civil legal needs of low income New Yorkers.

The Task Force proposes the following Key Recommendations, distilled from the reports of the five Conference Work Groups, which examined models of collaboration, the 50 hour *pro bono* bar admission rule, post graduate programs, curriculum, and technology for ways to enhance the law schools' efforts to improve access to justice for low income New Yorkers facing legal challenges to life's essentials, including shelter, employment, health care, education and

¹ For example, Brooklyn Law School, New York Law School and New York University School of Law are among the law schools that have recently announced programs or pilots that offer students expedited tracks to graduation and curriculum offerings intended to produce graduates ready to begin practice and fulfill their public service responsibilities.

² *See generally*, NYSBA Journal Special Issue, "The Future of Legal Education & Admission to the Bar," Millett, E. & Kaufman, E., editors, Vol. 85, No. 7 (Sep't 2013).

³ *See*, Draft Report and Recommendations, American Bar Association, Task Force on the Future of Legal Education, Sept, 20, 2013, *available at* http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/taskforcecomments/task_force_on_legaleducation_draft_report_september2013.authcheckdam.pdf; *see also*, Oliver, Jr., Hon. Solomon & Currier, Barry, A., Memorandum to Interested Persons and Entities: Comprehensive Review of the ABA Standards for Approval of Law School Matters for Notice and Comment (Sept. 10, 2013)(including the text of proposed Standard 303[a][3]) *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201309_notice_comment_criteria_accepting_credit_student_study_foreign_institution.authcheckdam.pdf.

domestic stability. The specific recommendations developed at the Conference by each of the five Work Groups are described in greater detail in the individual Work Group Reports annexed hereto and are intended to offer a variety of options for law schools to further their efforts to narrow the justice gap.

1. Continuation of the Annual Law School Conference

This year's Second Annual Conference, convened by the Task Force, again joined deans, professors, staff and students from the fifteen law schools in New York State and representatives from legal services providers, bar associations, the practicing bar, the courts and members of the Board of Law Examiners, to share ideas, raise concerns, and offer their varying perspectives regarding access to justice issues. The continuation of the Law School Conference on an annual basis ensures meaningful dialogue and on-going collaborations with all the stakeholders on access to justice initiatives. The Task Force will identify a host for the next annual law school conference to be held in May 2014.

2. Statewide Law School Access to Justice Council (Council)

The Council is composed of representatives appointed by the deans of the fifteen New York law schools, as well as representatives of several legal services providers and bar associations. The Council held its inaugural meeting on May 16, 2013, the day of the Conference and expects to meet quarterly. The Council has identified two immediate agenda items: (i) development of an online "clearinghouse" for student *pro bono* opportunities and (ii) promotion of best practices and implementation strategies for student compliance with the 50 hour *pro bono* bar admission rule. In addition, the Council will consider the feasibility of developing a blueprint for disaster relief that offers models of collaborations proven effective for use in emergency or crisis situations.

- As recommended in the 2012 Report, each New York law school should dedicate an office or designate a person to centralize its school's access to justice programming. This will ensure efficient communications with students regarding access to justice programs and *pro bono* opportunities and facilitate its school's collaborations with civil legal services providers, bar associations, law firms and the courts.

3. 50 Hour *Pro Bono* Bar Admission Rule

With its promise of instilling in future lawyers a commitment to performing *pro bono* service, and its capacity to increase opportunities for students to acquire legal skills, the 50 hour *pro bono* bar admission rule is a critical element in the State's comprehensive effort to close the justice gap. The Annual Law School Conference and the Council offer important forums for the stakeholders to discuss best practices and effective measurements for assessing student experiences.

4. Curriculum

Law schools should continue to innovate ways to integrate access to justice into their curriculum offerings in both academic and practice contexts.

a. Additional Training in Skills and Values

Training law students in the skills of client representation (interviewing, counseling, negotiating, drafting, etc.) is part of the essential preparation for becoming effective lawyers, and is especially important in preparing students for public interest work and representation of low-income individuals. In New York, as around the country, law schools are investing resources and applying creative thinking to the enhancement of experiential learning opportunities. Traditional *pro bono* experiences, even if not credit bearing, are uniquely important for teaching professional responsibilities and values, especially the profession's commitment to assuring access to justice, and also offer significant opportunities for teaching lawyering skills to produce graduates ready for the challenges of legal practice.

b. Access to Justice Curriculum

The Curriculum Work Group identified a host of models for integrating access to justice into the curriculum, ranging from a required first-year course with an emphasis on access to justice issues, to a model that included a service-learning component in an upper level public interest lawyering course, to a program that involves students, faculty, alumni and other volunteers in representing juvenile immigrants in immigration court, to highlight a sampling. The Work Group adopted a rubric for assessing curricular innovations that address the need for improved access to justice teaching methodologies, and assessed the different models using that rubric (*see* Curriculum Work Group Report for the rubric). The law schools are encouraged to continue to develop and implement these types of access to justice programs and use the rubric (or another similar assessment tool) to evaluate these efforts.

c. Assessing the Third Year of Law School

Although the Task Force takes no position on the continued viability of the three year law school model or the efficacy of an accelerated program, the Task Force encourages law schools to explore options for the third year and consider alternatives to the traditional model that will produce lawyers equipped with the professional and practical skills to provide civil legal services to people in need.

5. Post Graduate Programs

The Work Group on Post Graduate Programs examined existing programs that provide training and employment for recent graduates while they perform legal work for underserved low and moderate income communities. The Task Force recommends that law schools expand successful programs and explore the viability of new models. Additionally, the Task Force urges law schools to create mechanisms to evaluate and track the on-going

experiences of program participants and monitor whether participants continue to work with underserved populations.

a. Examples Worthy of Replication by Law Schools

Post Graduate Programs have evolved over the last several years as law schools try innovative approaches to provide jobs and training for recent graduates, and simultaneously answer the call to expand access to civil legal services. The missions of the programs offered by New York law schools share several common elements: to provide recent law graduates with training and employment; to help prepare them for creating solo practices; and, to provide legal assistance to underserved low and moderate income communities (*see* Descriptions of Programs in the Post Graduate Work Group Report, annexed hereto). The models presented at the Conference can be evaluated by New York's law schools to determine which best suit the needs of the particular student body and which will enable them to best serve the needs of the local communities. Programs do not need to be replicated exactly; rather, law schools can select aspects of the various programs and combine them to develop new models or create new approaches entirely.

b. Develop a Reporting Mechanism to Track Experiences of Post Graduate Program Participants

To assess the impact and success of Post Graduate Programs and to ensure the efficacy of programs, it would be helpful to implement a uniform reporting system to track and document the experiences of participants. It would be important to determine if program participants continue to work in underserved communities and/or with low to moderate income individuals.

6. Bar Examination: Content and Scheduling

The realities of the legal marketplace demand that new graduates be prepared for the challenges of law practice. Clinical and experiential programs, together with the rule mandating 50 hours of *pro bono* law student service for bar admission, ensure that students will gain practical skills, ranging from client relations to managing a law practice, and instill the value of performing *pro bono* work. In addition to imbuing students with the ethic of public service, which is a hallmark of the New York bar, an underlying goal of the 50 hour *pro bono* bar admission requirement is to expand access to justice for people in need. Bar examination questions directed at access to justice issues and practice skills would strengthen law school curriculum offerings related to these topics.

a. Questions Addressing Access to Justice and Skills

Incorporating questions directed at access to justice issues⁴ and practice skills⁵ on the bar examination would provide the incentive for law students to select

⁴ The Massachusetts Access to Justice Commission unanimously adopted a proposal that "access to justice" be added as one of the topics on the bar examination, stating that such inclusion would increase the preparation students receive during law school on access to justice issues, *see* "Addition

courses with this focus and for law schools to further enhance access to justice curriculum options. Outreach should be made to the Board of Law Examiners on this matter.

b. Timing of Bar Examination for Law Students

The Task Force encourages an examination of different options for students to take the bar examination prior to completing three years of an accredited law school education, for example, after completion of the first semester of the third year which could be followed by a final semester externship.⁶

c. Expedited Admission to the Bar

To permit participants in post graduate programs to begin to immediately represent people in need of civil legal services, the suggestion was made that the Appellate Divisions provide expedited admission for such applicants. For example, increasing the frequency of induction ceremonies for post graduate program participants, or allowing participants in recognized programs to take the bar examination during the third year of law school and submit character and fitness materials at the time of the bar examination, could facilitate expedited review by the Appellate Divisions following candidates' passage of the bar examination.

7. Develop a Template to Guide Mobilization of Civil Legal Services to Deal with Disaster Related Emergencies

Law school students, faculty and administrators responded to the demands for civil legal assistance arising from the destruction inflicted by Superstorm Sandy and worked in conjunction with legal services providers, the courts, law firms and bar associations to offer immediate and continuing legal services to people in need (*see* Models of Collaboration Work Group Report for descriptions). To preserve the support network and effective delivery protocols mobilized by these efforts, a template should be established

of 'Access to Justice' Topic to the Massachusetts Bar Examination" (adopted June 6, 2013), *available at* <http://www.massacesstojustice.org/>.

⁵ The Task Force on Admissions Regulation Reform of the California State Bar has proposed that 15 units of practice-based experiential course work or comparable bar-approved externship, clerkship or apprenticeship, in addition to *pro bono* service, be prerequisites to bar admission (*see* [http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_\(FINAL_AS_APPROVED_6_11_13\)_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_(FINAL_AS_APPROVED_6_11_13)_062413.pdf)).

⁶ In December, 2012, the Arizona Supreme Court adopted an experimental rule, in effect until 2015, to allow students to take the bar examination after the first semester of the third year of law school (*See*, Rider, S. & Miller, M. , "The 3L February Bar Exam: An Experiment Under Way in Arizona," *The Bar Examiner*, Vol. 82, No. 3, Sept. 2013 *available at* http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2013/820313RiderMiller.pdf).

for use in future emergencies with due consideration to the specific recommendations presented in the Models of Collaboration Work Group Report annexed hereto.

8. Effective Use of Technology to Help Bridge the Justice Gap

Every Work Group explored the ways in which technology can enhance access to legal services. For example, the development of an online clearinghouse for student *pro bono* opportunities, along the lines of existing websites for volunteer attorney opportunities, is currently under study by the Council. In addition, interactive technologies, such as online interview and screening tools, provide new ways to assist *pro se* litigants through unbundled representation and assistance. Law students can provide help, either online or in person, to individuals involved in these processes, and can also participate in the development of the applications and in providing content.

Finally, technology continues to enhance the availability of training materials and resources, and law students and law schools can assist in keeping those materials available, thorough and current. Given the increasing need and the rapid pace of technological improvements, law schools, the courts, legal services providers, law firms and bar associations should continue to work together to maximize these benefits.

9. Use of Non-Lawyer Advocates

In the 2012 Report, the Task Force recommended that the Chief Judge appoint an advisory committee to look into the possibility of non-lawyers providing targeted assistance in limited areas. In May 2013, the Chief Judge appointed the Committee on Non-Lawyers and the Justice Gap to examine the role “appropriately trained and qualified non-lawyer advocates can play in bridging the justice gap.”⁷ The Committee will make recommendations for an appropriate system to expand the role of non-lawyer advocates in the delivery of legal services, and devise pilot programs for such appropriately trained non-lawyer advocates. Law schools may want to look into opportunities or ways to supplement their programs to provide one year of training for non-lawyers for such limited practice.

CONCLUSION

Since the 2012 Conference, the law schools have undertaken significant institutional innovations to respond to the Task Force’s 2012 Key Recommendations and adoption of the 50 Hour *Pro Bono* Bar Admission Rule. The intense debate underway regarding the shape of legal education will surely inform continued efforts to narrow the justice gap. Collaboration is at the heart of each of this year’s recommendations and is essential to the Task Force’s work to expand access to justice. All of the Work Groups recognized the importance of technology as a means to enhance the delivery of civil legal services, to promote collaborations, and as a tool to assess and track the impact of access of justice programs and student experiences. Each Work Group highlighted the need to develop consistent assessment methods and tracking mechanisms to evaluate the effectiveness of law school access to justice programs and

⁷ See New York State Unified Court System Press Release “Chief Judge Names Committee Charged with Examining How Non-Lawyer Advocates Can Help Narrow New York’s Justice Gap,” May 28, 2013, available at http://www.nycourts.gov/press/PDFs/PR13_07.pdf

projects, and to document the shortcomings of less productive models to maximize future efficiencies. Law schools, courts, providers, bar associations and the practicing bar should work together to identify, promote, sustain and replicate successful models. The Task Force recognizes that implementation of some of the Key Recommendations will likely require additional resources and/or staff, which would have to come from the reallocation of existing resources, new funding sources, or both.

OVERVIEW OF THE SECOND ANNUAL LAW SCHOOL CONFERENCE

The Task Force to Expand Access to Civil Legal Services in New York was appointed by Chief Judge Jonathan Lippman in 2010 to develop a comprehensive approach to the provision of civil legal services to low income New Yorkers. Beginning in 2010, the Chief Judge, assisted by the Task Force, has held annual statewide hearings to assess the level of unmet need for civil legal services in New York. Subsequent to the annual hearings, the Task Force prepares a Report to the Chief Judge for his consideration in advance of his recommendations, as requested by the 2010 joint legislative resolution, to address the documented unmet need for civil legal services in New York. Over the past four years, the Task Force's Reports have detailed the crisis in our legal system resulting from the lack of access to civil legal services for millions of low income New Yorkers. Due to the contraction of resources in both the public and private sectors, the Task Force has encouraged all the constituent organizations in New York's legal system to work collaboratively to find solutions to this crisis.

One of the primary initiatives of the Task Force has been to focus on the role of law schools in filling the gaps in access to civil justice in New York. In 2011, the Task Force undertook to survey the fifteen law schools in New York about their programs focused on the provision of legal representation and other assistance to low income New Yorkers concerning the "essentials of life." The survey results showed that law schools have great range and depth in programming that addresses these issues, including curricular offerings, student *pro bono* projects, and law school support for summer and post graduate legal work on behalf of low income clients. In 2012, the Task Force convened a Conference at the Benjamin N. Cardozo School of Law, entitled "A Conversation About the Role of Law Schools in Helping Meet the Essential Civil Legal Needs of Low Income New Yorkers." That Conference was organized into Work Groups, each of which examined different aspects of law school programs and activities that broaden community access to justice, and generated recommendations. From this work, the Task Force made a number of recommendations in its 2012 Report to the Chief Judge, as follows:

- Include law schools in regional planning processes that can help guide law students toward areas of greatest need;
- Establish an annual conference to encourage and promote communication and collaboration among law schools and legal services providers, the courts, and the bar to further efforts to meet the civil legal needs of low income residents in our State;
- Create on-line systems to match law students with providers, track students' work and hours, gather feedback, and measure outcomes;

- Establish a uniform student practice order to allow law students to perform the same tasks anywhere in New York State (as is the case in the other 49 states);
- Support recent law school graduates who are building new law practices that respond to the justice gap; and
- Provide law students with an understanding of the justice gap and with the knowledge and skills necessary to represent low-income clients effectively in *pro bono* activities as students and throughout their careers as attorneys.

The Second Annual Law School Conference, titled “Continuing the Conversation about the Role of Law Schools in Helping to Meet the Essential Civil Legal Needs of Low Income New Yorkers,” was held on May 16, 2013 at New York Law School (*see* Exhibit 1). The convening of the Conference solidified implementation of the Task Force’s recommendation to establish an annual conference to encourage and promote communication and collaboration among law schools, legal service providers, courts and the bar to promote access to justice. In conjunction with that Conference, the Statewide Law School Access to Justice Council held its inaugural meeting, kicking off the regional planning process contemplated by another recommendation in the 2012 Report. The Council plans to meet quarterly and has begun to articulate an agenda that encompasses several other Task Force recommendations.

The objective of the Conference was to continue the dialogue among New York State’s law schools, legal services providers, law firm *pro bono* coordinators and representatives from bar associations and the courts on how to promote the law schools’ efforts to help meet the essential civil legal needs of low income New Yorkers and equip new lawyers to be active participants in working to close the justice gap throughout their professional lives. It brought together 147 participants, including 7 law school deans, 50 faculty and administrative representatives from all 15 New York law schools and three out-of-state law schools, 12 law students, and 8 post graduate fellows. In addition, there were 10 representatives of the judiciary and Office of Court Administration, 2 members of the Board of Law Examiners, 28 representatives of legal services providers, and 30 bar leaders.

Task Force Chair Helaine M. Barnett opened the Conference with welcoming remarks and the introduction of Chief Judge Jonathan Lippman (*see* Exhibit 2). Chief Judge Lippman provided information about developments in New York since the 2012 Conference, including the naming of members of an Advisory Committee to assist in the launch and implementation of the 50 hour *pro bono* requirement for bar applicants, increasing the aspirational goal for *pro bono* work by attorneys in New York to 50 hours, from 20 hours, and the addition of a requirement to report on *pro bono* activities and contributions as part of the biennial attorney registration (*see* Exhibit 3). Judge Lippman also emphasized that while there have been sharp increases in public funding for civil legal services in the recent years the need for improved access to justice has not abated.

Opening Plenary Session

The Opening Plenary Session was entitled “Opportunities and Challenges for Law Schools Working to Help Close the Justice Gap.” Carol Buckler, Professor of Law and Director of *Pro Bono* Initiatives at New York Law School, chaired the session. The panel included Dean

Anthony W. Crowell, Dean, President and Professor of Law at New York Law School; Alexander D. Forger, Special Counsel to Milbank, Tweed, Hadley & McCloy, LLP and a Task Force member; Lillian M. Moy, Executive Director of the Legal Aid Society of Northeastern New York, Inc., and also a Task Force member; and, Hon. Jenny Rivera, Associate Judge of the New York State Court of Appeals.

Professor Buckler focused her introductory remarks on the interactive nature of the Conference's work. The Conference did not have a standard format of speaker presentations followed by question-and-answers; rather the participants would be expected to interact with the speakers and, based on the interaction, to develop recommendations and best practices growing out of the wealth of shared experience in the room. Dean Crowell spoke about the role of the law school in shaping future lawyers, and the importance of instilling the importance of *pro bono* work and public service at the formative stage of their careers. He also spoke about other aspects of the law school mission, including providing experiential learning opportunities as a way to serve the community, and being a source of continuity for alumni in fulfilling their professional responsibilities and continuing their professional growth. Alexander Forger spoke about the higher calling of lawyers, as holders of a professional license and the gatekeepers to the justice system, to promote access to justice. He noted the changing nature of the profession, and emphasized that law schools have the power and responsibility to teach students about the central role of community service among the values of the legal profession. Lillian Moy highlighted the significance of the Conference as an opportunity for cross-pollination between law schools and legal services providers in thinking about new ways to close the justice gap. Justice Jenny Rivera spoke about the ways in which the law school mission to teach students to become competent lawyers connects with the goal of encouraging students who want to become public interest lawyers and with providing opportunities for them to do so.

Conference Work Groups

As in 2012, the 2013 Conference attendees were divided into Work Groups. These Work Groups were as follows:

- **Models of Collaboration: Examples and Lessons from Hurricane Sandy Response.** This group was coordinated by Adam Friedl, *Pro Bono* Coordinator of Pro Bono Net; and Thomas Maligno, Executive Director of the Public Advocacy Center and Director of *Pro Bono* and Public Interest, Jacob D. Fuchsberg Law Center, Touro College.
- **50 Hour *Pro Bono* Requirement: Best Practices for Implementation of the Rule to Assist Student Compliance and Promote Increased Access to Justice.** This Work Group was coordinated by Brenna K. DeVaney, Chair of the New York City Bar Association *Pro Bono* and Legal Services Committee and *Pro Bono* Counsel at Skadden, Arps, Slate, Meagher & Flom LLP; and David Udell, Executive Director of the National Center for Access to Justice and Visiting Professor, Benjamin N. Cardozo School of Law.
- **Curriculum: Incorporation of Access to Justice and Third Year Options.** This Work Group was coordinated by Lenni Benson, Professor of Law New York Law School; Stephen J. Ellmann, Professor of Law, Director, Office of Clinical and Experiential Learning, and Chair, Clinical Theory Workshops, New York Law School; Olatunde Johnson, Associate Professor of Law, Columbia Law School; and Elizabeth M. Schneider, Rose L. Hoffer

Professor of Law, and Director, Edward V. Sparer Public Interest Law Fellowship Program, Brooklyn Law School.

- Post Graduate Programs: This Work Group was coordinated by Shelley J. Dropkin, Managing Director, Deputy Corporate Secretary and General Counsel, Corporate Governance, at Citigroup Inc.; Jennifer C. Friedman, Executive Director, Pace Community Law Practice and Director of the Public Interest Law Center, Pace University Law School; Marcia Levy, Associate Dean of Career Services and Professor of Professional Development, Benjamin N. Cardozo School of Law; and Lillian M. Moy, Executive Director, Legal Aid Society of Northeastern New York, Inc.

Each Work Group was tasked with examining a core set of issues:

- A. Technology and Communication Initiatives and Innovations to Expand the Role of Law Students and Law Schools in Access to Justice Work: Identify online applications, platforms and social media programs to coordinate students with opportunities to provide civil legal services and to inform potential clients of sources of representation and assistance.
- B. Models: Identify models that are successful in terms of impact, cost, supervision and student learning that could be expanded or replicated. Propose new models that can expand the impact of law schools in meeting the civil legal needs of low income New Yorkers.
- C. Supervision: Identify resources within law schools, such as faculty and alumni, and outside stakeholders, such as providers, courts, law firms, bar associations, client and community groups, funders, who can further assist in supervisory capacities to ensure law students effectively deliver legal assistance to low income New Yorkers.
- D. Legal Education: Identify opportunities for law schools to broaden curricular and clinical offerings focused on public service and closing the justice gap that also incorporate practical skills training.

There was a luncheon presentation of Technology Platforms, which was coordinated by Adam Friedl; Daniel Hunter, Professor of Law and Director, Institute for Information Law and Policy, New York Law School; Keith J. McCafferty, Managing Attorney, Legal Assistance of Western New York, Inc.; Theresa K. Mohan, Senior Regional Counsel, IBM; and, Laren E. Spirer, Founder, Inspirer Consulting. The presenters at this session also attended the concurrent sessions of the other four Work Groups, to give and receive input about the role of technology in relation to each topical area.

Closing Plenary Session

At the conclusion of the day, the participants reconvened in a Plenary Session, led by Matthew Diller, Dean of the Benjamin N. Cardozo School of Law. Facilitators from each Work Group shared highlights and preliminary findings of their deliberations throughout the Conference.

Dean Diller then presented his thoughts about the role of legal education in the movement to improve access to justice. He noted that legal education is experiencing an era of re-invention, especially with respect to providing more practical and real-world experiences to law students, so it is an apt time to consider how access to justice fits into the law school mission. It is also an era of tight budgets and shrinking resources, which exacerbates the challenge for law schools in addressing the unmet need for representation. This is all in a context of concern about high law student debt, especially for those students who wish to go into public service or public interest practice; attention should be paid to expanding debt forgiveness plans and other federal loan policies that might affect choices regarding public interest careers. In facing these issues, he noted, law schools must consider the importance of supervision of law students and recent graduates, especially as they think about possibly expanding opportunities to offer every law student. This is a moment when *pro bono* work can go from being a “niche” within schools to being the norm. In such a time of change, it will be especially crucial to study and track the results of various models, to determine what works best (and what does not work) and to disseminate this useful information. The 50 hour rule has already generated enthusiasm and energy within law schools, and will present more opportunities for law schools to reach out to alumni, legal services providers, the courts and the private bar to help think through the issues and develop and expand effective programs.

REPORTS OF THE CONFERENCE WORK GROUPS

1. MODELS OF COLLABORATION

A. OVERVIEW

The Models of Collaboration Work Group examined the topic through the lens of the legal relief efforts following Superstorm Sandy (Sandy). The Work Group’s co-facilitators and panelists have been deeply involved in these efforts, and discussed partnerships between different types of service providers that have been assembled to serve storm victims. The goal was to draw lessons for law schools on how to collaborate with different groups involved in access to justice efforts.

1. Description of Models and the Panel

a. Building Law School / Legal Services Provider Partnerships

Kevin Cremin, Director of Litigation for Disability and Aging Rights, MFY Legal Services, Inc.

Becky Rosenfeld, Director of Externships, Benjamin N. Cardozo School of Law

b. Collaborating with Non-Legal Organizations

Gwen O’Shea, President & CEO, Health & Welfare Council of Long Island

c. Creating Partnerships with the Private Bar (and others)

Lynn Kelly, Executive Director, City Bar Justice Center

d. Law Schools and the Courts

Honorable Fern Fisher, Director, NYS Courts Access to Justice Program;
Deputy Chief Administrative Judge for New York City Courts

Natalie Gomez-Velez, Professor of Law, CUNY School of Law

B. DISCUSSION

In the panel's first segment, Kevin Cremin and Becky Rosenfeld discussed the Disaster Relief Law Field Clinic that Cardozo Law School started in the 2013 spring semester. Kevin taught the classroom component of the clinic, and his organization, MFY Legal Services, supervised the students' fieldwork. Key insights from this successful effort included the need for careful thought in designing supervision models to ensure the best experience for students and the clients they are assisting. In the second segment, Gwen O'Shea presented on collaborations with non-legal services providers. Following Sandy, numerous organizations providing social services and relief to victims on Long Island formed a Long Term Recovery Group, and law students and clinics at Touro and Hofstra Law Schools played key roles on the Group's Legal Committee. Students learned firsthand how the law forms an integral part of larger efforts to serve those in need.

Next, Lynn Kelly discussed partnering with members of the private bar. The City Bar Justice Center was instrumental in getting law firms to participate in early relief efforts. Among Lynn's important insights was the need for collaborations to add value to the efforts of each individual group. Finally, Judge Fisher and Professor Gomez-Velez expanded our scope beyond the disaster context to share lessons from the New York Courts' groundbreaking efforts to involve law students in the Access to Justice movement through programs such as the Launchpad for Justice and the Mobile Help Center. Apart from providing help to those in need, these programs also give students a better understanding of poverty, cultural diversity, and the challenges that those without access to counsel face when entering the legal system.

Our Work Group had a wide-ranging and lively discussion concerning collaboration around disaster relief, but many of the lessons taken from that exchange of ideas apply to the larger topic of law schools collaborating with other groups in general. We briefly present disaster-specific models on which our group developed some consensus, but focus the majority of our recommendations on broader law school collaboration models and issues.

With respect to disaster relief, the Sandy experience clearly shows the important role that law schools and students can (and should) play in legal relief efforts. From assessing legal needs in devastated communities to providing research and writing help on complex insurance cases, even first-year law students can play a key role. The

collaborative challenges in this area during the Sandy aftermath were primarily due to the lack of existing networks and relationships through which partnerships could be formed in a timely fashion. Law students from across the country (as well as others throughout the legal profession) expressed their eagerness to help, but existing programs and models into which we could plug available students often took months to develop, during which enthusiasm and availability decreased significantly. The Student Hurricane Network (SHN), which provided so much relief to the victims of Hurricane Katrina, had formally disbanded in 2009. In short, many wanted to help, but few knew where to find the opportunity. Drawing from this analysis, the Work Group offers the following recommendations.

C. RECOMMENDATIONS

1. DELIVERY OF CIVIL LEGAL SERVICES IN DISASTER RELIEF EFFORTS

a. Create and Maintain Emergency Response Plans that Detail How Law Schools Will Contribute to Disaster Relief

This applies not only to law student participation, but faculty and staff as well. One excellent suggestion in our group was to develop a listing or database of law school faculty with much-needed expertise, e.g., insurance law, who could be called on in the case of a disaster. While not available to the public, such a list could easily be maintained on *Pro Bono* Net or by OCA and made available to disaster relief coordinators when needed.

b. Give Students a Key Role in Developing Emergency Response Plans and Networks

Students, rather than staff, often drive the most effective and enthusiastic student participation, as illustrated by the SHN. Touro Law Center and others are already working to revive the network and expand its disaster relief role.

c. Conduct Periodic “Fire Drills” to Test Readiness of Emergency Networks

Test the collaborative models and networks developed through periodic simulations that give students the opportunity to see how they might react, as well as to inspire new ideas.

d. Modes of Analysis for Assessing Future Models: Conduct Case Studies of the Collaborations Discussed in Our Groups to Develop a Knowledge Base of Successful Strategies

In any new venture, some initiatives turn out more successful than others—the key is to identify successful strategies and abandon failed ones. To move toward closing the Justice Gap over the long term, the Task Force should invest in learning which strategies most efficiently use resources and achieve the greatest benefits.

2. COLLABORATIVE POTENTIALITIES

The collaborative models presented during the panel discussions demonstrated that there are many effective ways to get law students more involved in the delivery of services to vulnerable populations. There was a clear consensus in our group that any serious effort to increase Access to Justice in New York must involve the thousands of law students around the state, both to deliver needed services in the present, and to inculcate in them the professional values of service to others for their future careers. There was also widespread acknowledgement that legal education is experiencing a sea change on numerous fronts, including the financial environment, that require creative thinking and bold ideas to enable it to play this important role. With that background, we offer the following recommendations:

a. Law Schools Should Embrace Collaboration with Groups Across and Outside the Legal Profession: Other Schools, Non Profit Legal Service Providers, Private Bar, Even Non Legal Service Providers

Today more than ever before, the professional and economic environments demand that lawyers have wide-ranging skills—not only professional, but also social and cultural skills. At the same time, the legal needs of vulnerable populations are often intimately entwined with social, economic, and other issues. A diverse exposure to these issues is crucial to understanding and reducing the justice gap.

b. Supervision: Law Schools Should Enlist Both Faculty and Alumni to Play a Larger Role in Supervising the Access to Justice Efforts of Their Students, and Coordinate Closely with Service Providers on the Supervision Models

Proper supervision of law students engaged in legal service delivery is crucial, and expansion of such student engagement will require more supervisors. Our Work Group recommends that law schools develop new resources to oversee student efforts—notably alumni and non-clinical faculty. Supervising future lawyers provides alumni with an opportunity to share their professional experiences while giving back to their schools and the bar.

In cases of law schools partnering with independent providers, schools should also cooperate closely with the organizations to ensure that supervision models contribute to the best possible experience both for the students involved and the clients served.

c. Student Organizations Should Become Involved in *Pro Bono* Efforts Related to Their Purpose

Each of the 15 law schools in New York State has numerous student-run organizations dedicated to particular areas of the law. Encouraging these groups to channel their members' existing interests and expertise in these areas into Access to Justice projects that give them the opportunity to further develop their professional skills benefits both students and clients.

d. A Multi-School “Student Council” Should Be Assembled to Discuss New Ways to Become Involved in *Pro Bono*, and Should Develop a Report for Presentation to the Schools

Law students must have significant input into what they can (and should) contribute to Access to Justice. Collaborating with colleagues, formulating proposals, and presenting new ideas are critical skills for any lawyer-in-training to develop. Additionally, the best way to ensure enthusiastic and successful student participation in these efforts is to give them a voice in formulating the plan.

Several NYC-metro area law schools have already begun to take steps in this direction, convening meetings at which student representatives from across the region can share information and discuss issues their schools face.

3. Technology Plays a Key Role in Everything Lawyers and Law Students Do Now and Its Potential to Help Law Schools in their Access to Justice Efforts Should be Fully Explored

Technology is revolutionizing the practice of law, and its application on behalf of those without access to civil legal services is only beginning to be explored. A fundamental part of planning any new Access to Justice Initiatives for law schools should be consideration of whether the use of technology could increase the quality or scope of desired outcomes.

4. Funding Is An Enormous Issue for Law Schools Now, and Raises Numerous Practical and Ethical Issues that Require Immediate Consideration.

The changing economics of legal education present considerable challenges to schools contemplating new activities. Our Work Group spent considerable time exploring thorny topics such as “can law schools be legal services providers (and thus eligible for legal services funding)?” and “if so, does their seeking such funds take resources away from existing legal services programs, or enhance them through new collaborations?” While we were only able to scratch the surface of these questions, they deserve careful consideration in any discussion of the role law schools can play in increasing access to civil legal services.

2. 50 HOUR *PRO BONO* BAR ADMISSION REQUIREMENT

A. OVERVIEW

At the one year mark since the May 2012 announcement of the 50 hour *pro bono* service bar admission requirement, many of the Conference participants voiced strong support for the requirement, with some participants observing that the rule is effective in underlining the importance of *pro bono* service both by law students and by professionals, and that it is already helping to draw increased resources into the infrastructure that supports *pro bono* service. A number of participants expressed confidence that the rule, over time, will have its intended effects of increasing the number of professional attorneys engaged in *pro bono* service, strengthening the skills of attorneys, and providing direct help to the recipients of the *pro bono* services.

The overarching goal of the Work Group was to identify the best practices for effectuating the 2012 Rule that requires individuals to complete 50 hours of *pro bono* service as a condition for admission to the New York bar. Upon announcing the 50 hour rule in May 2012, Chief Judge Jonathan Lippman identified three goals: i) instill an ethic of public service, ii) respond to the needs of unrepresented litigants, and iii) promote experiential learning. The 50 hour rule was codified in the rules of the Court of Appeals of New York in January 2013 and is available on the New York State Unified Court System website, along with additional information, including a memorandum of Frequently Asked Questions, as amended August 26, 2013, at <http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>.

1. Description of the Panel and Breakout Sessions

The Work Group heard a panel presentation in the morning, and divided into breakout sections in the afternoon. The panel was comprised of representatives from the courts, the legal services bar and the private bar, as follows:

- **Courts**

Hon. Victoria Graffeo, Co-chair of the Advisory Committee on New York State *Pro Bono* Bar Admission Requirements;

Professor Lawrence Rafal, Director of the New York State Court's *Pro Bono* Initiative.

- **Law Schools**

Ellen Chapnick, Vice Dean, Dean for Social Justice Initiatives, Columbia University School of Law

Thomas J. Schoenherr, Assistant Dean, Public Interest Resource Center, Fordham University School of Law

- **Legal Services Bar**

Steven Banks, Attorney-in-Chief, The Legal Aid Society of New York and Member, Chief Judge's Task Force to Expand Access to Civil Legal Services in New York

- **Private Bar**

Harlene Katzman, *Pro Bono* Counsel and Director, Simpson Thacher & Bartlett LLP.

In the morning session, people spoke of beneficial emerging impacts of the rule. Law schools and other entities are: i) pursuing new staffing, ii) creating larger, more impactful, and more predictably timed projects, iii) developing new administrative structures, iv) developing original software to administer *pro bono* programs, v) educating law students and other stakeholders about the Rule and its requirements, and vi) shifting the culture in law schools, law firms, and courts toward an increased understanding of the importance of *pro bono* services as a means of responding to inequality in the justice system.

In the afternoon session, members of the Work Group divided into three breakout Work Groups as follows: 1) Matching students and replicating projects; 2) Tracking hours, evaluating quality, and evaluating impact; and, 3) Resolving questions about the Rule. The breakout Work Groups discussed challenges, best practices and recommendations, and then reported their findings to the full Work Group, as recounted below.

B. DISCUSSION

1. CHALLENGES

The Work Group identified the following challenges in implementing the Rule:

- a. **NATIONAL EXPECTATIONS:**
Other jurisdictions are looking to New York to see how the Rule is implemented.
- b. **TIME SENSITIVITY:**
Clarity about the Rule is needed now because students are deciding how to perform qualifying service in anticipation of submitting applications for bar admission soon after the January 1, 2015 effective date of the Rule.
- c. **COMPLIANCE BY L.L.M.s:**
Diverse models are needed to help enable LL.M.s satisfy the requirement during the time available to them. The Rule counts services performed in the year before commencement of the LL.M. course of study.
- d. **SUPERVISION:**
Creative models are needed that can assure the delivery of high quality services with greater student-to-supervisor ratios. Diverse models can be developed under the terms of the amended Frequently Asked Questions Memo, dated August 26, 2013, indicating that the constant physical presence of a supervisor is not required for services to count toward satisfaction of the requirement, and that students may rely on video and telephone to access supervision.

- e. **NO PRE-APPROVAL PROCESS:**
Stakeholders (including bar applicants, supervising attorneys, law schools, law firms and legal services organizations) do not have an opportunity to determine in advance, with certainty, whether services performed will qualify.
- f. **NEED FOR CREATIVITY IN DESIGNING PROJECTS:**
Vast numbers of people have unmet legal needs in New York, and therefore projects need to be designed to respond effectively to these needs while also satisfying the requirements of the Rule.
- g. **NEED TO PRIORITIZE JUSTICE GAP:**
Some stakeholders will need to reprioritize *pro bono* efforts to focus on the intent of the Rule to increase *pro bono* services that would be responsive to the vast unmet needs that define the justice gap in New York as opposed to *pro bono* services in general.
- h. **NEED FOR RESOURCES:**
Some stakeholders have expressed concern that implementation of the Rule may require new resources to fund program design changes, hire new staff, finance particular projects and pay for supervision of specific programs.
- i. **VARIATION IN LAW SCHOOLS' RESOURCES:**
Some law schools are well situated to implement the Rule (as they have more diverse local *pro bono* organizations on which to rely, greater experience integrating *pro bono* opportunities into student life, or more abundant financial resources), while some law schools may require help and training to ensure that they are able to implement the Rule.
- j. **NEED FOR NEW MODELS TO SUPERVISE STUDENT- RUN PROJECTS:**
Supervisors must now guide projects that have traditionally been run by upper-class students in order for the services performed through these projects to count toward satisfaction of the Rule. More diverse supervisory models are possible now under the amended Frequently Asked Questions Memo, dated August 26, 2013, indicating that the constant physical presence of a supervisor is not required, and that students may rely on telephone and video to access supervision.
- k. **NEED FOR "BURST" PRO BONO OPPORTUNITIES:**
An increased number of *pro bono* opportunities is needed to accommodate the increased numbers of students who must now perform *pro bono* services, but who do not intend to do more than the minimum hours required and who may prefer to complete their 50 hours during short, specific periods of time.
- l. **CULTURE CHANGE:**
With thousands of students poised to acquire their first *pro bono* experiences, a thoughtful approach is needed to ensure that all students embrace the *pro bono* ethic so that it will carry through into their future careers as attorneys.

2. EMERGING BEST PRACTICES

The Work Group discussions revealed a series of emerging best practices adopted as law schools, legal services providers and law firms integrate law students into *pro bono* initiatives.

a. LAW SCHOOLS

- i. **LIAISON:**
Law schools are designating a “liaison” to communicate about *pro bono* with the courts, civil legal aid providers and firms, and to manage all communication about *pro bono* within the school as well, including about which law school initiatives satisfy the Rule.
- ii. **ORIENTATION:**
Law schools are telling incoming students about the Rule at new student orientation, explaining the opportunities for satisfying the Rule.
- iii. **WEB NOTICE:**
Law schools are posting information about *pro bono* service and the 50 hour rule on school web sites, with links to the Rule itself, and to the form Affidavit.
- iv. **MULTIPLE VIRTUES OF *PRO BONO*:**
Law schools are promoting *pro bono* service, by explaining how it matters for people, helps students build professional skills, and creates networking opportunities with colleagues, employers, clients and others.
- v. **INTEGRATION:**
Law schools are working to integrate *pro bono* into the core curriculum, establishing requirements for graduation and sponsoring *pro bono* projects.
- vi. **COLLABORATION:**
Law schools are creating collaborative projects that link civil legal aid programs, courts, law firms, and law schools.
- vii. **FACULTY CERTIFICATIONS:**
Law schools are telling faculty members about the Rule, including instructing them to sign students’ affidavits at the time *pro bono* service is completed.
- viii. **MATCHING ON CAMPUS:**
Law schools are providing on-campus instruction about the Rule, explaining service opportunities and helping students connect with civil legal aid programs, courts, firms, and other institutions.

- ix. COUNSELING STUDENTS:
Law schools are including the 50 hour rule among subjects that advisors cover as graduation approaches.
- x. LAW SCHOOL SUPPORT FOR *PRO BONO*:
Law schools are strengthening infrastructure that supports *pro bono*, focusing on space, supervision, training, insurance, and opportunities for relying on *pro bono* initiatives to teach skills.
- xi. CLINICS, EXTERNSHIPS AND TRADITIONAL *PRO BONO*:
Schools are seeking to expand offerings of clinics and externships, while also working to increase opportunities to perform traditional *pro bono* service (i.e. without receipt of credit or pay).

b. LAW FIRMS

- i. LAW FIRM SUPPORT FOR *PRO BONO*:
Law firms are taking increased responsibility for helping summer associates comply with the Rule. Firms are informing students about the Rule and providing opportunities to perform services that qualify.
- ii. NOTICE TO FUTURE ASSOCIATES:
Law firms are providing information about the Rule at all stages of the hiring process, i.e., when offering the position of summer associate, and when offering the position of associate.
- iii. TRACKING HOURS:
Law firms are providing summaries of *pro bono* hours of service to summer associates at end of summer.
- iv. CERTIFICATION:
Law firms are establishing exit procedures that ensure that supervising attorneys sign service affidavits at the end of summer, and are also maintaining a copy of those affidavits at the firm.

c. CIVIL LEGAL AID PROGRAMS

- i. EVALUATING NEED:
Programs are reviewing unmet needs of client populations and determining which categories of need can be successfully addressed by students in a 50 hour period.
- ii. CREATING NEW OPPORTUNITIES:
Programs are creating new opportunities that afford the students a meaningful experience in a short time while assuring that quality is preserved and that staff resources are not over-taxed.

- iii. **CERTIFICATION:**
Programs are designing record keeping systems even though the Rule requires students to maintain their own records.

- iv. **INITIAL STEPS:**
The Legal Aid Society of New York reported that it is taking the following steps:
 - Identifying tasks that can be performed by law students, and then creating a menu of projects for students to choose from.
 - Designing *pro bono* projects that can be offered to students in 50 hour "bursts."
 - Identifying "gaps" where student service will help without draining staff time for supervision.
 - Appointing a 50 hour program coordinator within The Legal Aid Society's *pro bono* section.
 - Encouraging law schools to appoint a liaison to coordinate with The Legal Aid Society's 50 hour program coordinator on all law student *pro bono* issues, including opportunities, matching students to specific positions, quality of students' performance and quality of the *pro bono* experience.

C. RECOMMENDATIONS

The Work Group identified opportunities for law schools, legal services providers, courts and law firms to lead the way in increasing the impact of law student *pro bono* service. Some of the Work Group's recommendations were initially identified in the report published by the Task Force Report in December 2012, and are now understood to have even greater importance as implementation of the new rule is moving forward:

1. Matching Students to *Pro Bono* Opportunities

- Develop a software system that would help to connect students to worthwhile *pro bono* projects—an online clearinghouse;
- Expand planning of *pro bono* initiatives so that more students can become invested and involved in larger projects that will have greater impacts;
- Designate a *pro bono* "liaison" in each law school to enable civil legal aid programs and to engage in more productive communication with the law schools;
- Coordinate communication among the law schools, courts, providers and the bar, especially to help identify areas of unmet need; and
- Develop projects that enable students to provide 50 hours toward the requirement on one project, resulting in a deeper dive into the issue.

2. Replicate Successful *Pro Bono* Projects

- Rely on key factors to develop new projects and replicate *pro bono* projects, such as:
 - responsiveness to unmet need
 - the number of students involved
 - the number of beneficiaries
 - individual impact
 - systemic impact
 - opportunity to acquire professional skills
 - ease of administration and cost.
- Focus on factors that make a *pro bono* project worth replicating;
- Create an on-line system for sharing information about replicable projects. The stakeholders should join forces to establish an online location, ideally as part of the newly created Access to Justice Council (and coordinated with other existing systems), for posting information about successful *pro bono* projects.

3. Track Hours of *Pro Bono* Service

The Work Group recommends tracking the hours of *pro bono* service with a software application that allows: i) students to enter data online to report their hours of *pro bono* service, ii) supervisors to certify online the accuracy of the hours as reported by the students, and iii) students to submit their sworn affidavits online to produce the final affidavit that satisfies the Rule. While some schools have basic systems in place for tracking hours of *pro bono* service, all participants agreed that students will need accurate records in light of the new rule, better systems for tracking hours would be very helpful and should be available at an affordable price, and it would be useful to have an accurate picture of the overall amount of *pro bono* service being performed.

Finally, the Work Group recommends modifying the official form affidavit to solicit data that will illuminate the ways in which the students' performance of *pro bono* service is (or is not) effectuating the Rule. It is proposed that the official form affidavit collect information regarding: i) the nature of the tasks performed, ii) the category of law in which the service was performed, iii) the category of organization or individual for whom the service was performed. The Work Group recommends that the affidavit incorporate a checklist format (rather than questions seeking narrative responses) to ease data gathering and to facilitate data analysis. The current form affidavit is posted at http://www.nycourts.gov/attorneys/probono/AppForAdmission_Pro-BonoReq_Fillable.pdf

4. Track the Quality of the *Pro Bono* Experience

The Work Group recommends tracking the "quality" of the *pro bono* experience. The Work Group recognizes that some schools have begun to develop tracking systems for evaluating quality, but all participants agree that a software application could potentially

simplify the task of tracking quality, and further agree that more work is needed to establish criteria to guide the tracking process.

Some of the criteria identified by the Work Group as potentially valuable are:

- opportunity to perform specified tasks
- opportunity to work under supervision of an attorney
- opportunity to engage with clients, allies, opponents
- opportunity to acquire substantive knowledge
- opportunity to acquire knowledge of the justice gap.

The Work Group recommends developing systems, ideally in reliance on the official affidavit form (but possibly through other approaches carried out by the law schools) to seek information about these (and other) elements reflecting the quality of the *pro bono* experience from the perspective of the student.

5. Track the Impact of the *Pro Bono* Experience

The Work Group recommends tracking the “impact” of the *pro bono* experience. The Work Group recognizes that some schools have begun to develop tracking systems for evaluating impact, but all participants agree that a software application could potentially simplify the task of tracking impact, and further agree that more work is needed to establish criteria to guide the tracking process with respect to impact.

The factors pertinent when evaluating impact are related to those that are considered when deciding whether a project is worthy of replication. As mentioned in the preceding section on replicating successful *pro bono* projects (*see 2* above), these factors include:

- level of supervision
- responsiveness to unmet need
- the number of students involved
- the number of beneficiaries
- individual impact
- systemic impact
- opportunity to acquire professional skills
- ease of administration and cost.

The Work Group recommends developing systems, ideally in reliance on the official affidavit form (but possibly through other approaches carried out by the law schools) to seek information about these (and other) elements reflecting the impacts of the *pro bono* experience.

6. Facilitate Implementation of the Rule

- a. Clarify roles – Dialogue is needed to clarify the role of each of the institutions and individuals that share responsibility for implementing the Rule.
- b. Consider having an optional preapproval process-

- i. Develop a consistent process for determining what programs and what types of work qualify.
 - ii. Develop a process for providing students with feedback on rejected programs and projects, explaining the change that would allow the work to qualify under the Rule.
 - iii. Create a resubmission process for projects that have been redesigned in satisfaction of changes urged in the initial review process.
- c. List Past Decisions - List approved activities and initiatives on the Rule's FAQ website to enable future bar applicants to increase the likelihood that future projects will be approved.
 - d. Support the Character and Fitness Committee members - Develop reference materials and resources for Character and Fitness Committee members to help the Committee members to understand the nature of *pro bono* activities that will count under the Rule, including a list of legal services organizations frequently involved in supervising student *pro bono* work.

**RECOMMENDATIONS ON LEGAL EDUCATION AND ACCESS TO JUSTICE
FROM THE DECEMBER 2012 REPORT OF THE
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK**

The first annual conference convened by the Task Force to Expand Access to Civil Legal Services in New York, produced recommendations for strengthening *pro bono* service that bear directly on implementation of the 50 hour rule. The 50 hour Work Group recognizes the importance of the recommendations. The 2012 Task Force Report is available at <http://www.nycourts.gov/ip/access-civil-legal-services/>, and the Report of the 2012 Task Force's Working Group on Law School Involvement is available at <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS2012-APPENDICES.pdf>.

We include the leading recommendations from the 2012 Task Force Report below, for ease of reference:

- *Regional planning* - Include law schools in regional planning processes that can help guide law students toward areas of greatest need;
- *Annual Conference* - Establish an annual conference to encourage and promote communication and collaboration among the law schools and legal services providers, the courts, and the bar to further efforts to meet the civil legal needs of low-income residents in our State;
- *Matching and Tracking* - Create on-line systems to match law students with providers, track students' work and hours, gather feedback, and measure outcomes;
- *Uniform Student Practice Order* - Establish a uniform student practice order to allow law students to perform the same tasks anywhere in New York State (as is the case in the other 49 States);
- *Incubator Programs* - Support recent law school graduates who are building new law practices that respond to the justice gap; and

- *Prep for Pro bono* - Provide law students with an understanding of the justice gap and with the knowledge and skills necessary to represent low-income clients effectively in *pro bono* activities as students and throughout their careers as attorneys.

3. POST GRADUATE PROGRAMS

A. OVERVIEW

Post graduate programs have evolved over the last few years as law schools try innovative approaches to provide jobs and training for recent graduates, while at the same time answering the call to expand access to legal services. The programs differ in approach, but the impetus is often the same for the law school and recent graduates: providing opportunities for graduates to gain employment and the training necessary to be effective advocates as they launch their careers. At the same time, these programs provide more lawyers trained in legal practice who are willing to offer “essentials of life” representation at an affordable cost. This working group looked at a variety of post graduate models, asking each to answer a series of questions related to model, mission, quality control, supervision, training and cost.

1. Description of Programs and the Panel

The Post Graduate Programs Work Group program included a panel of speakers representing five post graduate programs, each with a unique model. The missions of the programs shared several common elements: to provide recent law graduates with training and employment; to help prepare them for creating solo practices, and to provide legal assistance to underserved low and moderate income communities. Common elements among the program models include incubators, legal residencies, and fellowships. Each program’s model has been created to best meet the needs of its community and accomplish its goals in different ways.

a. Pace Community Law Practice (PCLP) at Pace University School of Law Presented by Jennifer Friedman, Executive Director

The PCLP is a combined “legal residency” and “incubator” program at Pace Law School, where recent Law School graduates are competitively selected as Fellows for one-year terms. As a “legal residency,” the program prioritizes intensive legal supervision by veteran attorneys to prepare its Fellows for practice upon completion of the fellowship. Fellows are paid Pace University staff members, with full benefits, for the duration of the fellowship. The PCLP charges sliding-scale legal fees and its practice areas are primarily immigration and other civil administrative proceedings that maximize the ability of non-admitted attorneys to practice as independently as possible, while under attorney supervision. As an “incubator,” the PCLP incorporates practice management training throughout the one-year training curriculum and provides hands-on experience in client billing and collecting legal fees. In addition, after the conclusion of the fellowship term, the PCLP offers Fellows the option to be more formally incubated by assisting them in creating solo practices and providing them with ongoing office space and other support to grow their practices. The PCLP opened and began representing clients in fall 2012 after a three-year planning period.

**b. Lawyers for America at University of California Hastings College of Law
Presented by Marsha N. Cohen, Hon. Raymond L. Sullivan Professor of Law
and Founding Executive Director (via conference call)**

Lawyers for America (L/A) is a nonprofit organization incubated by UC Hastings College of the Law and open to law schools nationwide that will provide two-year fellowships in the nonprofit and public sectors to students. L/A enables the formation of partnerships between law schools and nonprofit and government law offices to provide two-year fellowships that comprise the students' third year of law school and first post graduate year. L/A Fellows will not have any entitlement to continued employment at partner offices, although some may be offered staff positions. The majority of the funding will be provided by partner law offices, which will pay L/A for Fellows, but at a rate that is inexpensive relative to the cost of first-year attorneys. Sites will also be required to commit to providing adequate supervision. Each L/A Fellow will be a tuition-paying third-year student serving as an extern for the first year of the fellowship (supervised by faculty who will assure that the required classroom component is provided), eligible for student financial aid. During the post graduate fellowship year, the Fellow will be paid; most of the cost assessed to site partners will provide that salary and required benefits (plus health insurance). L/A is a California nonprofit corporation that has received recognition of its tax-exempt status under Internal Revenue Code section 501(c)(3).

**c. The Community Legal Resource Network at CUNY Law School
Presented by Lisa Reiner, Interim Director**

The Community Legal Resource Network (CLRN) at CUNY Law School is the oldest and most successful postgraduate solo practice program in the country. CLRN was founded in 1998, by CUNY alum Fred Rooney, as a resource for practicing solo attorneys with the recognition that they deserved and needed institutional support and that they were serving low and moderate income clients. CLRN continues to provide a listserv, trainings, cross-mentorship, and other resources to its participants. CLRN has been successful in securing New York City Council funding to provide legal workshops and consultations to communities, providing needed services as well as income-generating work for its participants. In the last decade, two additional programs have grown out of CLRN – the Launchpad for Justice and the Incubator for Justice.

i. Launchpad for Justice

Through the Launchpad for Justice (Launchpad), recent law school graduates provide limited representation for *pro se* litigants in some of the most underserved courts in New York City, including housing court, where 99% of litigants are unrepresented. The Launchpad works in partnership with the New York State court system and nonprofit organizations, which provide training, in-court supervision, and a student practice order. Through this model, a larger number of post graduates participate, with a reduced commitment level from each participant.

ii. The Incubator for Justice

CUNY's Incubator for Justice (Incubator) is the first law school-based incubator program in the country and is currently in its eighth year. The Incubator rents office space in downtown Manhattan, and accepts 8-10 applicants to participate in its 18-month training and support program annually. Applicants must be admitted to practice

in New York, and in the process of establishing their own viable solo practices and/or nonprofit organizations. Conscious work towards this end includes use of a business plan by each attorney developing his/her own, insured business entity, and multiple formal and informal supports curated by an Incubator Program Manager. CUNY's Incubator provides furnished office space at a low monthly cost, as well as training, mentorship and a collegial work environment, including extensive collaboration and cross-training among participants and Incubator "graduates." Further support for their growing practices comes through contracting the attorneys, through grants, to deliver limited legal services to New York's numerous under-represented residents. Many former Incubator attorneys now have flourishing practices or have created their own non-profit organizations.

**d. ASU Alumni Law Group at Arizona State University
Presented by Adam Chodorow, Associate Dean for Innovative Ventures,
Sandra Day O'Connor College of Law (via conference call)**

The ASU Alumni Law Group's model aims to combine a "law firm within a law school" with a "legal residency" program. The non-profit fee-for service law firm plans to accept ten associates per year, each working at the firm for two to three years, with the expectation that by the third year the firm will employ up to thirty associates. The firm will practice in a diversified range of legal practice areas, not solely in traditional "public interest" areas, and associates will be supervised by approximately six partners. With the support of the local bar, the Arizona program plans to offer legal services to clients who are unable to afford current market rates. The Arizona program will include a formal, systematic training program through which its associates will be taught the business of law and law practice management. The Arizona program plans to launch in fall 2013.

**e. The Justice Entrepreneur Project of the Chicago Bar Association,
Presented by William Hornsby, Staff Counsel, American Bar Association,
Division for Legal Services**

The Justice Entrepreneur Project (JEP), located in Chicago and founded by the Chicago Bar Foundation, is an "incubator"-style program that launched in June, 2013. Like CUNY's Incubator for Justice, the JEP provides competitively accepted applicants with mentorship, training, and office space, for a low participation fee, and participants operate their own independent law firms. Office space is provided by a number of different community partners, including legal services agencies. JEP launched with ten participants and will add ten new participants at six month intervals, to an envisioned maximum of thirty participants at one time. Ten participants will then rotate in and out of the program every six months, for eighteen-month tenure in the program. The program will require that participants take moderate-income cases. The program will include a twenty-hour per week *pro bono* component during the first six months of the program. The program imposes some restrictions on its participants, specifically concerning personal injury cases and criminal cases. In terms of income restrictions, moderate income clients up to 400% of the federal poverty level will be taken.

B. DISCUSSION

The Programs are all relatively young – ranging from those that have already been in existence for a few years to those in the conceptual phase and planning to launch - and vary in

approach: residency, fellowship, incubator, non-profit teaching law firm and *pro bono*/solo practice development. We explored issues pertaining to funding, supervision, program structure, participants (students or post graduates), compensation, training, program term, infrastructure, types of clients served, and services provided. It was not our intent to engage in a substantive comparison of the programs, or to rank them. Rather we sought to understand the differences in approach, focusing in particular on the degree to which the programs successfully increased or seek to increase the provision of civil legal services to under-represented people in their communities.

While there were commonalities among some of the models, each is unique. The five participants do not represent the whole of the spectrum and other models are emerging. It is our hope that New York State Law Schools will consider the various models to determine which best suits the needs of their students and which will enable them to best serve the needs of their communities. Programs do not need to be replicated exactly; rather, law schools can choose aspects of the various programs and combine them to develop new models of execution or create new approaches entirely.

C. RECOMMENDATIONS

1. Continue the Dialogue

Given the rapid growth of programs nationwide, the degree to which shared learning can improve programs and lead to the implementation of others, and the various constituencies that can participate and assist in the development of programs, we would recommend that the discussion expand and continue beyond the annual law school conference. Participants should include law schools, bar associations, representatives of the judiciary, practicing attorneys and law students. Technology, including, for example, IBM Smart Cloud and Google Share, can facilitate the dialogue and the sharing of learnings.

2. Develop Measurement Practices

In order to determine whether programs are functioning properly, worthwhile, and achieving their goals, they should develop metrics for measuring their performance. These should be updated at least annually and be subject to analysis to determine whether the program is achieving its objectives or if changes need to be made. While the programs – and thus the metrics – differ, optimally all programs will develop certain similar or even identical metrics to allow comparisons between programs. This would enable the development of best practices. Included among the metrics could be:

- Number of cases handled annually
- Number of individuals who received assistance
- Success rates
- Satisfaction levels of clients
- Satisfaction level of participants
- For programs with students, the rate of passage of the Bar exam
- For programs with post-grads:
 - number finding permanent employment
 - types of jobs taken

- length of time to secure employment
- number successfully launching solo practices
- Number of “partner” firms that renew relationship annually
- Financial Sustainability

3. Expand Program Size and Facilitate Participation

Students described the hurdles associated with participating in these types of programs, including the difficulty of paying for the “essentials of life” while receiving limited compensation. Program administrators noted the expense associated with expanding programs. Suggestions for addressing these issues include:

- Ask law schools to assist in the provision of housing – allow participants to live in dorms, provide access to affordable housing or provide a housing allowance
- Ask student loan providers to delay loan repayment by program participants or find a way to qualify for existing loan repayment programs
- Subsidize transportation for participants
- Encourage local bar associations and law firms to fund fellowships at a program

4. Ensure Training on the Business of Law

A number of participants and solo practitioners stressed the importance of training participants on the business of running a law firm. Suggestions include:

- Develop a manual for starting a solo practice
- Train participants regarding fee structures and billing practices and collections
- Teach participants to create a business plan

5. Address Issues Regarding Timing of Bar Admission

A number of issues were raised pertaining to the length of time that passes between a participant passing the Bar exam and being admitted to practice. Prior to admission, the participant cannot engage in the practice of law without supervision. This creates additional expense for programs, lengthens the time before the participants are able to open solo practices, and reduces the provision of civil legal services by the program. Suggestions for addressing this issue include:

- Recommend that the Appellate Divisions provide expedited admission for participants in programs providing civil legal services – increase frequency of induction ceremonies for these participants
- Permit participants in programs to take the Bar exam during the third year of law school
- Allow participants in programs to submit character and fitness materials at the time of the bar examination and expedite review and admission following such candidates’ passage of the bar examination.

4. CURRICULUM

A. OVERVIEW

There are numerous ways law schools might integrate access to justice issues into their curriculum in more pronounced ways than are currently in practice. The task of the Work Group was not primarily to try to identify the best possible approaches that law schools could undertake; law schools are too diverse, and the participants in the break-out group too diverse, for such definitive recommendations to be our touchstone. At the same time, an important aim of the Work Group was to consider a range of proposals, many or most of them now being tried at various schools, and to speak to their strengths and weaknesses. This process of consideration generated a method of evaluation of access-to-justice curricular proposals, which is, in itself, a notable accomplishment emerging from the group's deliberations.

B. DISCUSSION

At the outset, the Work Group adopted a method of analysis. Law school curricula are complicated. They involve many different moving parts. To be candid, they have not always been put together as systematically as would be ideal. At a time when resources are constrained and student needs acute, any curricular proposal needs careful analysis on a range of different criteria. In truth, the curricular status quo needs such analysis as well. To consider enhanced study and integration of access to justice issues in the curriculum, the Work Group developed a grid of criteria.

The grid criteria or rubric broadly address the following issues. First, they ask whether the proposal in question will teach skills (an essential component of promoting access to justice), and whether it will bring access to justice issues directly into the curriculum. (It deserves emphasis that the Work Group's central concern was not with skills training, important as that is, but with the goal of training curricular attention on access to justice issues.) Second, they move from the law school's perspective to the community's, and ask about the quality of the legal services provided, the quality of the supervision given to the students performing the legal services, and the impact on community needs. Third, they ask whether the program moves with the needs and possibilities of our time, by enabling students to meet their 50-hour requirement and by using technology to provide services. Fourth, the criteria address how the proposal will play in law schools – in terms of the proposal's cost in credits, dollars and time; in terms of its impact on the rest of the curriculum; and in terms of its acceptability to others in the law school. Fifth, the criteria examine scalability: can the program be applied widely, and can it be the basis for collaborative work between schools, and between schools and the bar. Sixth, recognizing that even this long list of criteria can't be exclusive, the grid asks about "other considerations" and potential ways to improve the proposal in question. Seventh, and finally, the grid calls for an overall assessment.

The criteria laid out in this grid cover quite well the principal considerations that law schools should take into account in considering programs to increase the role of access to justice in their curricula. It is not, however, proposed as a perfect list of criteria, but as an example of the range and complexity of criteria that do need to be considered. The grid format

is a convenient way to assemble those criteria, and to guide the deliberations in which members of the law school community will need to engage. It is important for such deliberations to be *deliberative* – to take into account the full range of factors, and to weigh them together, rather than becoming focused on some single issue to the exclusion of others, or moving hastily to conclusions before full examination is complete. (It is worth noting, moreover, that the boxes in the grid – a Word table – have the useful feature of expanding at will, so a note-taker can place as much material as needed in any or all of the grid elements.)

GRID/ RUBRIC CRITERIA: Evaluating Curriculum Proposals

	Proposal # 1	Proposal # 2
Name of proposal		
Effectiveness as skills training		
Effectiveness in infusing access to justice issues in curriculum		
Quality of legal services provided		
Quality/nature of supervision by faculty or others		
Impact on current community legal needs		
Satisfying 50-hour requirement		
Use of technology to provide services		
Cost, measured in credits, dollars, time		
Impact on rest of curriculum		
Acceptability to others in law schools		
How widely can the program be applied?		
Potential for inter-school, and bar-school, collaboration		
Other considerations?		
How could this proposal		

be improved?		
Overall assessment; proposal best practices highlighted by this proposal		

C. RECOMMENDATIONS

Applying this framework, the Work Group looked closely at six different proposals. More precisely, three subgroups each undertook an in-depth consideration of two of the proposals, all of which were later reviewed by the large group in a more general fashion. All of these proposals have value, though one of them – a proposal for a two-year law school course of study, currently a topic of wide discussion in the legal community – seems less about access to justice than about students’ speedier access to the profession.

The strongest finding that emerged is that there are many promising ways by which law schools can increase the role of access to justice in their curriculum. The issue before law schools is not “are there any options?” but rather “which are the best options for each school?” This recognition should encourage law schools to undertake the sort of analysis that the Work Group’s subgroups did, with a view to answering that question for themselves.

That said, the specific programs offer a range of possible ways that schools might enhance access-to-justice instruction. The six proposals the Work Group looked at are the following:

1. a first-year course on lawyering skills, from legal writing and reasoning to interviewing, counseling, negotiation and oral advocacy; with exercises focused on access to justice-related legal questions; and with a service-learning/client service component built into the course;
2. an upper-level course studying public interest lawyering, such as one currently taught at Brooklyn Law School, combining a study of different public interest practice models and ethical issues in this field with students’ drafting the sorts of documents, from pleadings to grant proposals, needed in public interest law work;
3. a “concentration” in small-firm practice representing low- and moderate-income people; such a program would include an estimated total of 26 credits of courses providing training in fundamental practice skills, training in practice management skills (beyond the basic legal ethics course required at all schools), guided experience in actually handling cases, and training in relevant areas of substantive law;
4. an immigration law “*pro bono* clearinghouse,” the Safe Passage Project at New York Law School, that combines the work of students enrolled in a course for credit, other students participating as volunteers, and *pro bono* attorney volunteers, in a project to screen the juvenile docket in

immigration court and find representation for those juveniles who have potentially meritorious cases;

5. the "Clinical Year," a pilot New York Law School program in which law students in their third year earn 24 credits – in other words, about 4/5 of their entire year's credits – in a series of 3 9-week placements in city agencies and/or not-for-profits, with in-house preparation for each placement and an in-placement seminar taught by adjunct faculty who are practicing at the placement site; and
6. a program to provide a J.D. in two years, specifically, Brooklyn Law School's new 2-3-4 program, in which students speed up their studies with course work in two summers and two intersessions, so as to graduate at the end of their second full year of study (the subgroup's anxiety about this program as an access to justice program was that although it enables students to enter the profession more quickly – albeit with no reduction in tuition – it seemed to contract the time available for students to do access to justice work and study).

All of these ideas are worthy of consideration at law schools around the State. Some may work well at some schools but not others; some may even depend on the unique energy and expertise of individual faculty members, and so not be replicable more generally. Similarly, some of these programs may be readily scalable to encompass many students and address many client needs; others may work only within smaller dimensions. So, too, some programs may be more focused on educating students and guiding them towards access to justice efforts in the future; others may have more immediate impact in terms of meeting client needs now.

One important common theme of several of the proposals is that they have the virtue of directly linking law schools with members of the practicing bar. Structures of that sort bring the resources of the bar into the educational process, connect students to practitioners and mentors, and may also build links between law schools and their alumni/ae. At the same time, however, these structures raise issues of organization and quality control, as students' education moves to some degree out of the direct oversight of full-time teachers.

One implication of these uncertainties is that schools and professors undertaking programs like these should seek to measure their effects as systematically as possible. At the same time, it may be much easier to measure short-term effects, such as the number of matters handled, than to assess long-term impacts such as encouraging young lawyers to make lifetime commitments to access-to-justice work.

The bottom line, in any event, is simple: all of these proposals are worth consideration, using the sorts of criteria embodied in the Work Group's grid. The time for such consideration is now.

The discussion reflected one other point: what law schools do is not something that law schools alone control. So long as the bar examination focuses on the ability to master large quantities of doctrine and manipulate them on multiple choice and essay questions, just as long students are likely to choose many or most of their courses with a view to preparing for this

crucial examination, law schools will be obliged by their students' wishes and needs to devote much of their program and resources to offering these courses. To create a system of legal education more keyed to access-to-justice issues, and a profession made up of people who have focused on such issues from the start of their legal training, we need a bar exam (if one is to exist at all) that focuses on these issues as well. After the Conference meeting, on June 6, 2013, the Massachusetts Access to Justice Commission in fact recommended a change in that state's bar exam along these lines, both to add "access to justice" as a bar exam topic and to reduce the total number of subjects tested on the exam.⁸

New York bar admission rules permit law schools flexibility to offer the kinds of skills and clinic courses where access to justice is almost always a central theme, and now require all candidates for admission to do 50 hours of *pro bono* work (a path-breaking step that has inspired a similar call by the Conference of Chief Justices⁹). Against this context, two very recent developments are particularly striking: the proposal by the Council of the Section on Legal Education and Admission to the Bar of the ABA to require 6 credits of experiential education,¹⁰ and the proposal by a Task Force of the California Bar to require, as a condition of admission to the bar, not only *pro bono* work but also 15 units of "practice-based, experiential course work" or comparable "Bar-approved externship, clerkship or apprenticeship" experience.¹¹ These proposals were issued only after the May Task Force Law School Conference, so the members of the Work Group did not discuss them, but the facilitators see these proposals as potentially advancing efforts in law schools to develop the courses needed for a stronger response to the access to justice crisis.

5. TECHNOLOGY

A. OVERVIEW

Recent technological innovations offer opportunities to vastly increase the quantity and quality of legal services provided by *pro bono* attorneys, legal services representatives, law students, and others. Information and tools have never been so readily available, and the ease of access will only increase in the coming years. Those looking for legal assistance can use the

⁸ Massachusetts Access to Justice Commission, *Addition of "Access to Justice" Topic to the Massachusetts Bar Examination* (adopted June 6, 2013), available at <http://www.massaccesstojustice.org/> (accessed Sept. 8, 2013).

⁹ Conference of Chief Justices, *Resolution 1: In Support of Encouraging Pro Bono Service in Law Schools* (adopted at the 2013 Annual Meeting on July 31, 2013), available at <http://ccj.ncsc.org/Policy-Resolutions.aspx> (accessed Sept. 8, 2013).

¹⁰ See Memorandum from The Honorable Solomon Oliver, Jr., and Barry A. Currier, to Interested Persons and Entities, Re: Comprehensive Review of the ABA Standards for Approval of Law School Matters for Notice and Comment (Sept. 10, 2013)(including the text of proposed Standard 303(a)(3)) available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201309_notice_comment_criteria_accepting_credit_student_study_for_reign_institution.authcheckdam.pdf.

¹¹ State Bar of California, Task Force on Admissions Regulation Reform: Phase 1 Final Report at 1 (June 24, 2013), available at [http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_\(FINAL_AS_APPROVED_6_11_13\)_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_(FINAL_AS_APPROVED_6_11_13)_062413.pdf). Certain forms of the 15 experiential units will also satisfy the *pro bono* requirement, see *id.* at 25.

Internet to find not only potential representation, but also the tools to represent themselves. In short, technology is fundamentally changing the way law is practiced, and it has profound implications for helping to close the justice gap.

Our Work Group divided its efforts into two parts. Part 1 focused on a formal presentation to conference attendees that highlighted new technologies and applications aimed at inspiring curiosity, ideas, and enthusiasm for change. In Part 2, the members of the Work Group dispersed among the other four Work Groups to participate in those sessions and suggest ways that technology can be applied to address the challenges under discussion.

B. DISCUSSION

The practice of law is, in many ways, about the interplay of ideas: arguments, rules, and theories come together in a quest for the right, or at least best, answer. Sharing these ideas is a central element of the legal work, yet it has traditionally been limited by physical restraints on information-sharing, communication, and geography. In short, collaboration has often been hampered by logistics. The Internet provides solutions to all of these problems. Through free, open source platforms, such as Google, or enterprise solutions, such as the IBM SmartCloud, lawyers can create communities in which they seamlessly share documents and communicate with each other through chat, email, videoconference and more. Simultaneous editing allows people in New York to collaborate with their colleagues in Albany, Los Angeles, or even Hong Kong in real time, making the challenges of geography (although not time zones!) a thing of the past. At the Law School Conference, we illustrated this by sharing notes between Work Groups in real time.

Beyond collaboration, technology and the web allow legal services and *pro bono* attorneys to serve more clients more effectively, and even provide people with the tools they need to tackle certain legal problems on their own. For example, the many websites in the *Pro Bono* Net network (www.probono.net) centralize training, resources, and information for legal professionals. LawHelp (www.lawhelp.org), meanwhile, makes legal information and resources on a wealth of civil law topics available to unrepresented individuals, as well as identifying local legal services providers who might be able to offer assistance.

Technology also offers countless new ways to involve law students in *pro bono* activities, now especially relevant in light of the new 50-hour *pro bono* requirement for those seeking admission to the New York Bar. For example, LawNY is developing www.nyprobono.org to match law students intending to apply for admission in New York with projects and cases posted by different legal services providers throughout the state. The site will also allow users to access sample time keeping forms, download affidavits affirming their service, and more.

Online, interactive technologies represent the trend toward how legal documents will increasingly (and more efficiently) be produced by advocates and *pro se* individuals alike. Document Assembly tools use the LawHelp Interactive platform (www.lawhelpinteractive.org) to walk *pro se* individuals through an easy-to-understand interview and then turns their answers into a legally sufficient document the litigant can use. FEMAappeals.org, for example, allows individuals denied FEMA assistance to put together a strong appeal even if they are unable to obtain legal representation. There is also a version specifically for advocates that allows them to produce documents quickly and efficiently, and provides context and guidance to *pro bono*

attorneys who may not have as much experience with the topic. The New York Courts have developed similar Do It Yourself, or DIY resources in various areas of law where large numbers of litigants are unrepresented, such as consumer and housing.

On the forefront of the law and technology revolution, expert systems harness complex computer science to examine thousands of pieces of information (including statutes, rules, and statistics) to answer particular questions on a given set of facts. Examples that benefit *pro se* individuals include systems that determine eligibility for public benefits programs such as food stamps or entitlement to overtime pay. These systems also have the potential to revolutionize legal triage. They can analyze thousands of data points to identify clients who will benefit the most from direct legal representation, those best served by limited representation, and those most able to represent themselves *pro se*. Such systems can provide an optimal allocation of scarce legal resources, in addition to increasing attorney time available for full representation in more complex cases.

While some of these applications of technology may appear intimidating to experienced lawyers, many practitioners are already using similar programs in their daily lives. Facebook and Twitter, for example, are simply online tools for collaborating and communicating, and most of us use them daily without ever considering the complex technologies that make them possible. By showing attorneys that they already use and are comfortable with many of these technologies, we should be able to apply more of these tools to help close the justice gap.

C. RECOMMENDATIONS

1. Models of Collaboration

The Models of Collaboration Work Group recommended creating a private database listing law school faculty willing to mentor *pro bono* volunteers or offer assistance in their area(s) of expertise during an emergency. The database would be accessible by legal aid organizations and other providers during emergencies and would be hosted by a neutral stakeholder (e.g., *Pro Bono* Net or the Office of Court Administration).

The group also discussed successful programs such as NYLAG's mobile help center, which brings legal services to poor communities and provides *pro bono* opportunities to law students that help them reach the 50 hour mark and gain valuable practical experience. These programs rely on technology including online forms, mobile printing, and other relatively simple concepts that, when used effectively, can dramatically enhance the scope, quality, and availability of legal services.

2. 50 HOUR *PRO BONO* ADMISSION REQUIREMENT

The 50 Hour *Pro Bono* Admission Requirement Work Group identified numerous emerging best practices around the 50 hour rule for law schools, firms, and civil legal aid programs that would benefit from technology. To continue the discussion, stakeholders can use online systems through which to share news about strong *pro bono* projects, supplementing informal communication that occurs naturally via bar committees, law school associations and one-to-one professional relationships.

The 50 Hour Work Group also reiterated a key recommendation from the 2012 Task Force report: the development of an online program to match students with *pro bono* opportunities. Effective and efficient matching is perhaps the single most important factor to make sure that both students and low-income clients realize the benefits intended by the Rule's creation.

3. POST GRADUATE PROGRAMS

Recognizing the plethora of new programs nationwide, the Post Graduate Programs Work Group emphasized the importance of expanding the dialogue beyond the annual Law School Conference. Cloud-based platforms can facilitate these discussions and the sharing of resources and lessons amongst law schools, bar associations, representatives of the judiciary, practicing attorneys and law students. To identify the most successful program ideas and designs, detailed measurement practices are critical. Developing a robust set of data, including not only numbers of cases but also outcomes and satisfaction rates of clients and participants, will allow sophisticated analysis of different models.

The Post Graduate Programs Work Group also devoted significant discussion to the use of technology in law practice management, especially for new attorneys. Key areas to explore include recommendations for billing software and technologies most useful in a small practice. While some proprietary document assembly programs can be expensive, perhaps the Statewide Law School Access to Justice Council could help obtain access to such programs at a discounted price for post graduate program participants. Finally, there is a pronounced need for mentoring of new attorneys. Once leaving a post graduate program, perhaps virtual mentoring could be made available to help keep practices growing strong.

4. CURRICULUM

The Curriculum Work Group developed six proposals for law schools to consider, ranging from additional course offerings to changes to the structure and length of legal education. The Work Group noted that nearly all of their proposals shared a key element, namely that they directly link law schools and students with practicing lawyers. There are a number of ways that technology could play a role in this connection; for example, by allowing law students to collaborate seamlessly with mentors from the practicing bar while simultaneously allowing law school staff to review the quality of their work and maintain quality control.

ACKNOWLEDGMENTS

The Task Force and Law School Conference Planning Committee extend sincere appreciation to Adam Friedl, Jake Hertz, Thomas Maligno and David Udell for their assistance in the preparation of this Report, and to Jose Echegaray; Ashley Lherisson; Nicholas Mireles; Nora Mohamed; Andrew Patrick and Emily Safko of Skadden Arps Meagher & Flom for the transcription of the Work Group discussions.

The members of the **Law School Conference Planning Committee, as recognized in the Program, attached as Exhibit 1, are:**

Helaine M. Barnett, Chair, Task Force to Expand Access to Civil Legal Services in New York

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EXHIBIT 1

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

**Second Annual Law School Conference
Access to Justice: The Role of New York's Law Schools**

MAY 16, 2013 CONFERENCE PROGRAM

ACCESS TO JUSTICE THE ROLE OF NEW YORK'S LAW SCHOOLS

CONTINUING THE CONVERSATION —
THE ROLE OF LAW SCHOOLS
IN HELPING MEET THE ESSENTIAL
CIVIL LEGAL NEEDS OF
LOW INCOME NEW YORKERS



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

NEW YORK LAW SCHOOL, NEW YORK CITY

MAY 16, 2013



SECOND ANNUAL CONFERENCE

ACCESS TO JUSTICE THE ROLE OF NEW YORK'S LAW SCHOOLS

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

MAY 16, 2013

- 9:00 – 9:30 AM** **REGISTRATION AND CHECK IN** **LOBBY**
Light refreshments **GRAND GALLERY**
- 9:30 – 9:45 AM** **WELCOME AND OPENING REMARKS** **AUDITORIUM**
- HON. JONATHAN LIPPMAN**
CHIEF JUDGE OF THE STATE OF NEW YORK
- HELAINÉ M. BARNETT**
CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK
- 9:45 – 10:45 AM** **OPENING PLENARY SESSION** **AUDITORIUM**
**OPPORTUNITIES AND CHALLENGES FOR LAW SCHOOLS
WORKING TO HELP CLOSE THE JUSTICE GAP**
- MODERATOR**
- CAROL BUCKLER** *PROFESSOR OF LAW, DIRECTOR OF PRO BONO INITIATIVES,
NEW YORK LAW SCHOOL*
- PANEL**
- ANTHONY W. CROWELL** *DEAN AND PRESIDENT, PROFESSOR OF LAW, NEW YORK LAW SCHOOL*
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- LILLIAN M. MOY** *EXECUTIVE DIRECTOR, LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK, INC.*
- HON. JENNY RIVERA** *ASSOCIATE JUDGE, COURT OF APPEALS*
- 10:45 – 12:30 PM** **CONCURRENT SESSIONS: PART I**
- A. MODELS OF COLLABORATION** **ROOM W-120**
- CO-FACILITATORS**
- ADAM FRIEDL** *PRO BONO COORDINATOR, PRO BONO NET*
- THOMAS MALIGNO** *EXECUTIVE DIRECTOR, PUBLIC ADVOCACY CENTER; DIRECTOR OF PRO BONO AND
PUBLIC INTEREST, JACOB D. FUCHSBERG LAW CENTER, TOURO COLLEGE*
- B. 50 HOUR PRO BONO ADMISSION REQUIREMENT** **ROOM W-220**
- CO-FACILITATORS**
- BRENNAN K. DEVANEY** *CHAIR, NEW YORK CITY BAR ASSOCIATION PRO BONO AND LEGAL SERVICES
COMMITTEE; PRO BONO COUNSEL, SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP*
- DAVID UDELL** *EXECUTIVE DIRECTOR OF THE NATIONAL CENTER FOR ACCESS TO JUSTICE AND
VISITING PROFESSOR, BENJAMIN N. CARDOZO SCHOOL OF LAW*

CONTINUING THE CONVERSATION ABOUT THE ROLE OF LAW SCHOOLS IN HELPING MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW INCOME NEW YORKERS

C. POST GRADUATE PROGRAMS

ROOM C-425

CO-FACILITATORS

- SHELLEY J. DROPKIN** *MANAGING DIRECTOR, DEPUTY CORPORATE SECRETARY AND GENERAL COUNSEL, CORPORATE GOVERNANCE, CITIGROUP INC.*
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D. CURRICULUM

ROOM W-301

CO-FACILITATORS

- LENNI BENSON** *PROFESSOR OF LAW, NEW YORK LAW SCHOOL*
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- ELIZABETH M. SCHNEIDER** *ROSE L. HOFFER PROFESSOR OF LAW; DIRECTOR, EDWARD V. SPARER PUBLIC INTEREST LAW FELLOWSHIP PROGRAM, BROOKLYN LAW SCHOOL*

12:30 – 2:00 PM

LUNCH

EVENTS CENTER, SECOND FLOOR

PRESENTATION OF TECHNOLOGY PLATFORMS — 1:00 PM

- ADAM FRIEDL** *PRO BONO COORDINATOR, PRO BONO NET*
- KEITH J. MCCAFFERTY** *MANAGING ATTORNEY, LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.*
- THERESA K. MOHAN** *SENIOR REGIONAL COUNSEL, IBM*
- LAREN E. SPIRER** *FOUNDER, INSPIRER CONSULTING*

2:00 – 3:30 PM

CONCURRENT SESSIONS: PART II

RETURN TO ROOMS

3:30 – 4:30 PM

CLOSING PLENARY SESSION

AUDITORIUM

REPORTS FROM CONCURRENT SESSIONS AND FUTURE PROJECTIONS

MODERATOR

- MATTHEW DILLER** *DEAN, BENJAMIN N. CARDOZO SCHOOL OF LAW*

PANEL OF WORK GROUP FACILITATORS

CONCLUDING REMARKS

- HELAINÉ M. BARNETT** *CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

4:30 – 5:00 PM

RECEPTION

GRAND GALLERY

SECOND ANNUAL CONFERENCE

CONTINUING THE CONVERSATION ABOUT THE ROLE OF LAW SCHOOLS IN HELPING MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW INCOME NEW YORKERS

OBJECTIVE

This year's Conference will continue the dialogue among New York State's law schools, legal services providers, law firm pro bono coordinators and representatives from bar associations and the courts on how we can further our collaborative work to help meet the essential civil legal needs of low income New Yorkers and equip new lawyers to be active participants in working to close the justice gap throughout their professional lives. The Conference Work Groups will consider ways to implement the Recommendations from the 2012 Law School Conference adopted by the Task Force in its 2012 Report to the Chief Judge. Based on the Conference discussions, the Work Groups will propose ideas and initiatives that will be used by the Task Force to formulate recommendations to present to the Chief Judge that endeavor to expand the role of law schools in helping to provide legal assistance to low income New Yorkers on matters that relate to essential civil needs.

THE WORK GROUP SESSIONS

The Conference will host four Work Groups:

- 1 Models of Collaboration: Examples and Lessons from Hurricane Sandy Response
- 2 50 Hour Pro Bono Requirement: Best Practices for Implementation of the Rule to Assist Student Compliance and Promote Increased Access to Justice
- 3 Curriculum: Instilling the Ethic of Public Service, Offering Opportunities for Practical Skills Training; and An Exploration of Possible Ways to Structure a New Legal Education Model
- 4 Post Graduate Programs: An Examination of Current Models

Each Work Group will be asked to consider a core set of issues and to formulate recommendations that will form the basis of an action plan to be developed by the Task Force. The core issues are:

- A. Technology and Communication Initiatives and Innovations to Expand the Role of Law Students and Law Schools in Access to Justice Work:** Identify online applications, platforms and social media programs to coordinate students with opportunities to provide civil legal services and to inform potential clients of sources of representation and assistance.
- B. Models:** Identify models that are successful in terms of impact, cost, supervision and student learning that could be expanded or replicated. Propose new models that can expand the impact of law schools in meeting the civil legal needs of low income New Yorkers.
- C. Supervision:** Identify resources within law schools, such as faculty and alumni, and outside stakeholders, such as providers, courts, law firms, bar associations, funders, and client and community groups, who can further assist in supervisory capacities to ensure law students effectively deliver legal assistance to low income New Yorkers.
- D. Legal Education:** Identify opportunities for law schools to broaden curricular and clinical offerings focused on public service and closing the justice gap that also incorporate practical skills training.

FUTURE STEPS

At the conclusion of the Work Group Sessions, participants will reconvene in a plenary session for reports from each of the Work Groups and discussion of common themes among the groups. The product of the Work Groups will become the basis for the recommendations that the Task Force will present to the Chief Judge suggesting how New York's law schools can best work to help close the justice gap.

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

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EXHIBIT 2

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

**Second Annual Law School Conference
Access to Justice: The Role of New York's Law Schools**

**WELCOMING REMARKS FROM TASK FORCE CHAIR
HELAINÉ M. BARNETT
AND
INTRODUCTION OF CHIEF JUDGE JONATHAN LIPPMAN**

Welcoming Remarks from Task Force Chair Helaine M. Barnett and Introduction of Chief Judge Jonathan Lippman

Good morning. I am pleased to welcome you to this second annual day-long Conference convened by the Chief Judge's Task Force to Expand Access to Civil Legal Service in New York, on the role of New York law schools in helping to meet the essential civil legal needs of low income New Yorkers.

We have present today many law school deans and faculty from all 15 New York State law schools. In addition, we have again brought together bar association leaders, legal services providers, practitioners, representatives from the courts, members of the Board of Law Examiners and law students to continue to engage in a unique Conversation on ways in which the law schools can work with one another and with these other stakeholders to help close the justice gap.

To open our Conference, we are once again privileged to have the Chief Judge of the State of New York, Jonathan Lippman. He was appointed as Chief Judge of the State of New York and Chief Judge of the New York Court of Appeals in January 2009 after a career in the court system spanning four decades, including his term as the longest serving Chief Administrative Judge of all New York State courts and as Presiding Justice of the Appellate Division of the Supreme Court, First Department.

His tenure as Chief Judge has been marked by his vision and leadership and unequivocal commitment to the need to provide civil legal assistance to the most vulnerable New Yorkers in matters that involve the very basic necessities of life and by his determination to bring us closer to the ideal of ensuring equal access to justice.

His most profound achievements have been the inclusion of annual provisions in the Judiciary budget of the largest amount of State funding of civil legal services of any state in the country. In this fiscal year, he has allocated \$55 million of which \$40 million are for civil legal services funding and \$15 million for IOLA replacement. In addition, he has been a leader in the nation on increasing *pro bono* by his announcement of a 50 hour *pro bono* requirement for admission to the New York Bar, another bold initiative that New York State is the first state to implement. He also has announced new attorney reporting *pro bono* requirements, noting that other states that have this requirement have seen a significant increase in *pro bono*.

The goal of making equal access to justice for all a reality could not have a more passionate, action-oriented proponent than Chief Judge Jonathan Lippman. New York State is enormously fortunate to have at this time and at this place the Honorable Jonathan Lippman as its Chief Judge and it is my great pleasure to welcome him to open our Conference.

EXHIBIT 3

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

**Second Annual Law School Conference
Access to Justice: The Role of New York's Law Schools**

**OPENING REMARKS FROM
CHIEF JUDGE JONATHAN LIPPMAN**

Opening Remarks
Second Annual Law School Conference on
Access to Justice: The Role of New York's Law Schools
Continuing the Conversation About the Role of Law Schools in
In Helping Meet the Essential Civil Legal Needs of Low Income New Yorkers
Thursday, May 16, 2013
Jonathan Lippman

This is the *second* annual conference convened by our extraordinary Task Force to Expand Access to Civil Legal Services in New York, bringing together the leadership of the legal education community to explore the role of law schools in helping to meet the civil legal needs of low income New Yorkers. To me, this subject is so critically important to the cause of equal justice and the future of legal education in our state. By today's sessions, and so much else that we are doing to close the justice gap in New York, we are changing the public dialogue to make clear that providing legal services to people of limited means, fighting for the necessities of life, is not just the responsibility of the legal services community – but, rather, the obligation and responsibility of all of us, our society, our government, the Bar, the courts, and very importantly, the academy.

We are enormously grateful to Dean Anthony Crowell for graciously agreeing to host the conference here at New York Law School this year, and to Professor Carol A. Buckler, Director of the Law School's Center for Professional Values and Practice and Director of Pro Bono Initiatives, for her dedication in leading the Planning Committee for the conference. Thank you, Dean Crowell and Professor Buckler, for making this conference a reality here at your beautiful law school.

I also want to thank the Task Force for originating the truly unprecedented concept behind this conference and seeing it through to this very day, especially our fabulous Task Force Chair, Helaine M. Barnett, and Task Force Member, Cardozo's terrific Dean, Matthew Diller, and the other members of the Planning Committee who worked so hard to organize the conference, develop the agenda, and line up all the program participants.

Let me start by updating you on developments since last year's conference.

Many of you were present at Cardozo Law School last May, when we began a leadership conversation on the role of law schools in access to justice, with participants that included law school deans, faculty, administrators and law students from all 15 New York law schools; representatives of legal services providers; members of the Judiciary and court administrators; and leaders of the bar. At that time, I named the members of an Advisory Committee to work on implementation of the New York State bar admission requirement of 50 hours of pro bono service that I had announced on Law Day three weeks before. I am very grateful to the Advisory Committee co-chairs, my colleague the Hon. Victoria A. Graffeo, and Alan Levine, Esquire, of Cooley LLP, who consulted with all the law schools -- in the state and around the country -- among many other stakeholders and experts -- and crafted a proposed rule that was adopted by the Court of Appeals. As we continue with implementation, I am really delighted that the distinguished former Dean of Touro Law Center on Long Island, Lawrence Rafal, is helping to lead our efforts in this regard, and that he will be presenting in the afternoon session of the Pro Bono Work Group.

Although we were motivated primarily by the desire to address the justice gap and instill the core values of the profession in prospective lawyers, we followed the Advisory Committee's recommendation to adopt a broad and "consciously inclusive" scope of qualifying work for both policy and practical reasons, with the idea that, at as prospective lawyers, students will learn about the many ways in which it is possible to contribute to the public good as a practicing lawyer.

As for practicing lawyers, the Task Force in its November 2012 report, while acknowledging that the Bar is very generous in providing pro bono hours, recommended that we encourage even more pro bono work from admitted attorneys and made two key recommendations, and we put them into place on Law Day this year. In Rule 6.1 of the Rules of Professional Conduct, we increased the aspirational goal for pro bono service from 20 to 50 hours a year. And we added a requirement, as part of biennial attorney registration, that attorneys report their pro bono hours, as well as their financial contributions to providers. Other states with similar reporting requirements found that an increase in attorney pro bono hours followed. We're hoping for a similar outcome here. If that happens, it will surely open up more opportunities for collaborative projects with the private bar in the future.

Additionally, last fall we conducted our third set of annual hearings around the state to assess the need for civil legal services. Those hearings and the Task Force November report together documented the continuing crisis in access to justice in our state -- we're still meeting only 20% of the civil legal needs of low income New Yorkers, and millions of litigants are still streaming into our courthouses without the benefit of the advice and counsel of an attorney as they fight for the essentials of life, like housing, family safety,

subsistence income, and access to health care and education. In short, we have an ongoing, totally unacceptable justice gap.

On the positive side, however, the evidence of need demonstrated by the hearings and the Task Force report enabled us to secure funding in the Judiciary budget for providers of free civil legal services in the amount of \$55 million in the current fiscal year. Funding for civil legal services for the poor is not tangential to the role of the Judiciary; it goes to the very heart of our constitutional mission to foster equal justice. And we are proud that the state funding for civil legal services in New York is by far the highest in the country.

But, we know that these monies address only the very tip of the iceberg in terms of the tremendous need. Money alone will never be enough to solve the problem. Pro bono services by the legal community are an essential part of the picture if we are to make headway in shrinking the justice gap -- and I am confident that the new 50-hour requirement will instill a culture of service in new lawyers that they will carry with them throughout their careers.

And, at last year's conference, we tried to build momentum from the new rule to promote new ideas and thinking about the role of law schools in meeting legal services needs in our state. The hard work of last year's participants led ultimately to a set of six key recommendations in the Task Force's 2012 report. The convening of today's conference is the fulfillment of one of those recommendations. The formation of a statewide Law School Access to Justice Council was another recommendation, and I am pleased to advise that all fifteen law schools have designated someone to serve on the Council. The Council is having its first meeting at 4:30 today.

Other Task Force recommendations included developing online systems to help students with compliance, assuring curriculum content on access to justice, and designing initiatives to help unemployed law graduates. During the course of the day, you will be hearing much more about those subjects as you share information and ideas and discuss the progress being made in integrating law schools as an essential factor in the work we're doing in New York to close the justice gap.

It is so apt that the opening plenary session will be on the opportunities and challenges for law schools working to help close the justice gap -- and what a terrific panel to discuss that subject, moderated by Professor Buckler, and including our host, Dean Crowell; Alex Forger, from Milbank and Helaine's predecessor as head of the Legal Services Corporation; Lillian Moy, a true leader in the legal services community and the head of the Legal Aid Society of Northeastern New York; and my dear colleague and friend, Judge Jenny Rivera, formerly of course from CUNY Law School. What a great group.

I am also particularly pleased to learn that when you will split up later this morning into four sessions, the work group on the pro bono bar admission requirement will cover "best practices for implementation" that are designed to assist student compliance with the bar admission requirement while promoting enhanced access to justice. I am also delighted that the law schools, providers and the courts have been working together to provide more supervised opportunities to enable students to comply with the rule. In the past year, new or expanded clinics for low income people have been established in areas like family law, labor law, housing law, consumer justice for the elderly, immigration. Multi-law-school collaborations and new collaborations with providers have been created. And

the many innovative uses of technology in coordinating opportunities for students with Superstorm Sandy relief present potential models for future use in other disasters and non-disaster situations.

We are just beginning to schedule a new round of hearings for this fall, anticipating that the evidence we develop, along with the independent efforts of the Task Force, will lead to solid recommendations for a level of funding and for both continuing and new non-monetary measures that all of us can take. Since the work you do today will help inform those recommendations, your efforts are essential. Without them, we cannot make meaningful progress in ensuring equal access to justice in our State.

Let me make clear that, from my perspective as Chief Judge, I see the law school community -- working with the Bar, the providers and the Judiciary -- as a vital component in closing the justice gap. Legal education is not just about teaching the different legal disciplines. If law students are required to learn about contracts, torts, and property, they should also be required to learn about practical skills and, critically important, about the ethos of being a lawyer, including first and foremost service to others. We are at our best as a profession, our noblest, when we are protecting the rights and liberties of all New Yorkers, regardless of means, helping clients with their problems, mending broken lives, challenging systemic injustices.

Justice has no meaning without lawyers to give it life. When we forget that our profession calls us to be of service to others, we lose our very reason for being. To me, this is so important to remember at this conference. Pursuing justice is what we all do in our different respective roles and in the end what the conference is all about -- finding ways for law schools to help meet the legal needs of the poor and low income New Yorkers –

and by so doing, ensuring that the ideal of equal justice for all is a reality in our state. Each of the subjects you will talk about today, in one way or another, relates to that lofty goal.

We are all privileged to be a part of this conversation, which is so fundamental to the well-being of our society and the most vulnerable among us, who are so desperately in need of legal assistance.

Thank you.

EXHIBIT 4

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

**Second Annual Law School Conference
Access to Justice: The Role of New York's Law Schools**

**OPENING REMARKS FROM TASK FORCE CHAIR
HELAINÉ M. BARNETT**

Opening Remarks from Task Force Chair Helaine M. Barnett

Thank you, Chief Judge Jonathan Lippman, for your inspiring leadership and vision in working towards closing the justice gap. You have placed New York State in a leadership position nationally in the quest for equal access to justice for the less fortunate in our society. Our initiatives in New York are being looked at as a model by other states and have made New York the State to follow as an example of what can be done. You should all be proud to know that together we are indeed making a difference.

The Reports of the Task Force to Expand Access to Civil Legal Services in New York note the startling statistic that 2.3 million New Yorkers appear annually in civil court proceedings unrepresented and legal services providers throughout the state report they can provide civil legal assistance, at best, to only 1 in every 5 applicants who seek their assistance, and that was before Superstorm Sandy.

Last year, the Task Force convened the first ever Leadership Conference to explore ways that the 15 law schools in New York State can work with one another and with legal services providers, law firms, bar association leaders and the courts to identify and address the civil legal needs of indigent New Yorkers and expand access to civil legal assistance. And as the Chief Judge noted, the Task Force made Key Recommendations, some have already been adopted and some will be further discussed today. I am delighted that we are having our second Conference to continue the Conversation on the role of New York law schools in meeting the essential civil legal needs of low income New Yorkers. We believe that bringing together all the law schools in the State and the providers and representatives of the private bar and courts is a unique occurrence and will be looked at to be replicated elsewhere. There are approximately 150 attendees at this Conference. Each of you has a unique perspective based on your experience, which we want to hear. We look forward to your input in this Conversation in helping to shape this year's Task Force recommendations to the Chief Judge.

I would like to thank the members of the Task Force who served on the Planning Committee: Dean Diller, Shelley Dropkin, Alex Forger, Taa Grays, Marcia Levy, Lillian Moy, as well as Brenna DeVaney. Special thanks to Carol Buckler for taking the lead on behalf of New York Law School, and a very special thank you to Lauren Kanfer from the Chief Judge's office for her invaluable assistance. I would also like to thank Skadden Arps for their generosity once again, which allowed us to provide all the food and refreshments throughout the Conference, as well as note-takers for each of the work groups.

I would also like to especially acknowledge and thank the facilitators for our four work groups listed in the program. Each of them has given considerable thought in preparing for the work group sessions and I want to thank them for the substantial time and effort they have made to insure a meaningful Conversation and to thank all the presenters that will be highlighting unique programs in each of the four sessions.

New this year, during lunch there will be a special Technology demonstration, coordinated by a separate work group, to highlight the critical role of technology in the work of all of the work groups and in expanding access to justice. Also new this year, at the end of the day there will be an initial meeting, to be chaired by Dean Diller, of the newly created Statewide

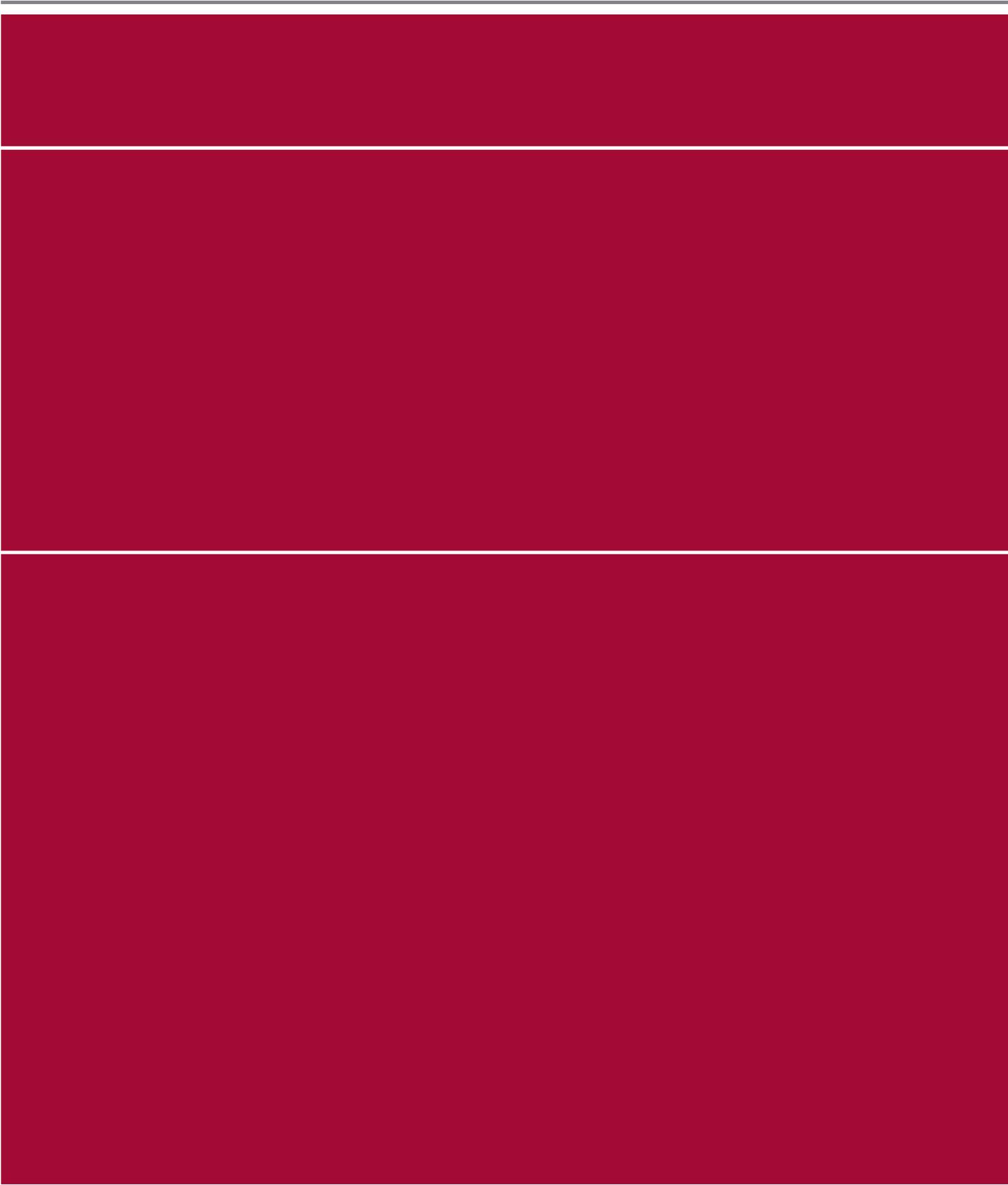
Access to Justice Council, consisting of representatives from all of the 15 New York law schools, which the Task Force recommended be created in its 2012 Report.

While many are looking at different aspects of legal education, our focus remains on ways that law schools can help close the justice gap and we look forward to the recommendations that will come out of the work group sessions, which Dean Diller will synthesize during the closing plenary session.

Finally, I would like to especially thank Dean Anthony Crowell of New York Law School who has so graciously provided the staff and the facility for today's Conference and most significantly, once again, Professor Carol Buckler, who has given generously of her time and talents to ensuring that today's Conference will yield significant recommendations that will inform the Task Force's recommendations to the Chief Judge.

I would also like to add my special thanks to the distinguished participants in our opening plenary session, Dean Crowell, Alex Forger, Lillian Moy and the Honorable Jenny Rivera for their insights and for setting the tone of the Conference.

Before turning the program over to Professor Buckler, I would like to note that she is the Director of New York Law School's *Pro Bono* Initiatives. She has served as New York Law School's Interim Dean, Associate Dean for Academic Affairs and Associate Dean for Professional Development. She teaches legal ethics and courses in the clinical and professional skills program. She is a graduate of Yale College and Harvard Law School and I now have the pleasure of turning the program over to her to moderate the opening plenary session.



APPENDIX 16:

**Report of the Task Force's Working Group
on Technology**

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

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK

APPENDIX 16:

Report of the Task Force's Working Group on Technology

NOVEMBER 2013

**REPORT OF THE TECHNOLOGY WORKING GROUP
TO THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL
SERVICES IN NEW YORK**

NOVEMBER, 2013

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Analysis of August 2013 Technology Survey of Legal Services Providers

Review of Online Resources for New York State Legal Services Providers

Tech Tools, Trends, and Tips for Legal Services Providers

The financial crisis and the impact it had upon low-income New Yorkers led the Task Force to Expand Access to Civil Legal Services in New York to focus its initial efforts on improving client services and it identified clients' unmet needs almost exclusively in the context of the "essentials of life." After working closely with the legal services providers that assist low-income New Yorkers for the past several years, it became apparent that a broader unmet need - keeping current with the ever evolving world of technology - has become a significant challenge to the legal services providers' ability to deliver client services in the most effective, efficient and cost-effective manner. As the Task Force moves forward in its long-term goals, it is imperative to look at unmet needs in a broader context.

This year, the Technology Working Group was charged with the task of assessing the technological needs of the legal services community and to produce recommendations that legal services providers could implement to begin to address the technological gap that exists in the legal services community.

To further its goal, the Technology Working Group first issued an extensive online survey regarding the use of technology by the legal services providers. In addition, as part of the overall technology survey, the Technology Working Group surveyed the online legal resource services offered by nonprofit organizations and the extent to which the legal services community leverages these services to enhance their own ability to deliver legal services to low-income New Yorkers. The resulting data was telling in just how difficult it is for legal services providers, both large and small, to meet the basic technology needs of their staff and programs so as to effectively integrate technology into their client service delivery systems. The Technology Working Group is mindful that many of the resulting recommendations have a financial component that will tax already stretched resources. One of the goals of this report is to introduce these recommendations to a broader funder community with the ultimate goal of supporting providers in delivering services to their clients in an efficient and effective manner.

Next, although the technology considered essential for day-to-day office work is changing at a rapidly increasing pace, the Technology Working Group gathered information on some currently available free services or "tech

tools” that could improve the delivery of client services. The result was the creation of “Tech Tools, Trends and Tips for Legal Service Providers,” a guide for legal services providers that lists free services in the areas of training and collaboration, cloud computing, sharing information, mobility and security that can significantly improve delivery of clients services.

Finally, our Technology Working Group began to review the significant efforts in Texas to improve the technology infrastructure of its legal aid providers in an effort to increase access to justice. In 2001, the Texas Supreme Court created the Texas Access to Justice Commission (“Texas Commission”), which formed a Technology Committee in 2008. Notably, the Texas Technology Committee includes many IT department directors from major Texas law firms who, in turn, have committed their staff to pro bono IT projects for Texas legal aid providers.¹

The Texas Commission has worked in tandem with the Texas Access to Justice Foundation (“Texas Foundation”) on a number of specific technology initiatives including: (a) a baseline survey of providers, (b) identifying minimum technology standards, (c) awarding \$650,000 to legal aid providers for technology purchases, (d) developing best practices for disaster recovery/business continuity, (e) conditioning subsequent funding on maintaining minimum technology standards and disaster recovery/business continuity plans, (f) facilitating a law firm’s provision of its IT help desk to members of the legal aid provider community, (g) facilitating technology trainings to the staff of legal aid providers, (h) reviewing individual legal aid provider’s technology plans, (i) conducting technology audits of individual legal aid providers and (j) exploring how technology can improve assistance to unrepresented litigants.

Going forward, the Technology Working Group hopes to review more closely the technology initiatives in Texas as well as in other states and identify those that could advance our efforts in New York.

¹ There are two recent examples of such *pro bono* assistance in New York: major private law firms have provided technological expertise for The Legal Aid Society’s technology upgrade initiatives and a leading private law firm has provided technology training for Legal Services NYC.

Report of Technology Working Group: Technology Survey of New York State Legal Service Providers

Technology Survey: In August 2013, the Task Force's Technology Working Group issued an 87 question online technology survey to approximately 80 legal service providers that assist low-income New Yorkers. Approximately 70 providers answered the Survey, with operating budgets ranging in size from \$60,000 to \$200,000,000¹ and working in communities throughout New York State.²

Overview: The Technology Gap In The Legal Services Community

The overall data reveals that most legal service providers have not sufficiently embraced and integrated technology into their day to day internal operations and client service delivery systems. For example, many providers do not have IT staff or a help desk; there is not wide support for mobile technology; routine technology needs are not included in fiscal planning; and technology is not leveraged sufficiently in the development of advocacy projects.

It is not that legal service providers are simply ignoring the need for technology in the workplace. Rather, many are caught between the need to fully equip their advocates with common technology and the financial constraints of absolute dollars, grant conditions and contract limitations on technology expense.

Issue 1: Staffing

Findings: The survey revealed that a significant number of providers have extremely modest technology staffing, which may be insufficient for their staff's needs. On average, providers spend less than 5% of their operating budget on technology. Among those with operating budgets under \$10M, the median amount spent on technology is about 3%. Of the 29 providers reporting less than 1 technology employee, the median total expense for all staffing (employees and consultants) is only \$15,000.

Recommendations

¹ The providers were classified into sizes based on their operating budgets: 9 small providers (under \$500k), 21 medium providers (\$2M-\$500k), 29 large providers (\$10M-\$2M), and 10 very large providers (over \$10 million).

² Approximately 26 providers serve New York City; 38 serve upstate New York and Long Island; and 5 provide services across all of New York State.

- Urgent: Providers should assess and survey staff about their technology skills as well as their technology engineering, consulting, and user support needs³.
- Medium-term: Providers can share success stories in procuring technology funding through meetings of the Statewide Project Directors. In light of some incomplete and inconsistent survey answers on technology expenses, the Task Force Technology Working Group should follow up to get additional data.
- Strategic/
Long-term: Providers should prioritize technology and cultivate support for it with staff, board and funders. Providers, within resource availability, should hire more technology staff.

Issue 2: Technology Policies

Findings: There is insufficient attention to proper technology policies with only about 1/2 the providers reporting that they had a certain technology policy in place and few providers relying on frequent and active means to educate their staff (e.g., specific technology policy trainings). Technology policy enforcement is largely left to IT staff and consultants with only about 15% of providers relying on an accounting or technology audit.

Recommendations

- Urgent: Providers immediately should work to develop and implement policies that directly address the privacy, security and availability of client information and attorney work product. Such policies should address how the agency: protects electronically stored client data; actively manages network and software security; and ensures data is securely backed-up⁴.
- Medium-term: Drawing on existing best practices or those developed by the Statewide Project Directors or by the NYS Technology Working Group with aid from the Task Force or bar associations, providers should develop and implement other key policies regarding the use of employee and volunteer owned/controlled

³ Online resources to help providers gauge their technology staff or outsourcing needs and set appropriate benchmarks as compared with other non-profits and lawfirms include:

- ³the NTEN non-profit survey <http://www.nten.org/research/the-7th-annual-nonprofit-technology-staffing-investments-report-is-released>,
- ³ILTA's law firm survey--<http://epubs.iltanet.org/i/53573/5>, and
- ³Workforce.com corporate IT staffing averages <http://www.workforce.com/articles/ratio-of-it-staff-to-employees>
- ³Also, Info-Tech is an IT research group that built a calculator to help firms develop a more customized IT staffing ratio goal. <http://www.infotech.com/research/ss/get-started-bringing-order-to-help-desk-request-chaos/help-desk-staffing-ratio-calculator-for-smes>. For additional information on factors that affect IT staffing needs across organizations, see <http://www.samanage.com/blog/2013/03/whats-the-average-service-desk-to-employee-ratio/>

⁴ See Slides 37 through 46 (Pages 37 through 46) of the 2013 Task Force Tech Tips for helpful resources.

technology and services (e.g. tablets, phones, flash drives, dropbox, etc.) and data retention. Providers should mandate staff training with respect to technology policies and business continuity protocols. Providers should develop and periodically test business continuity protocols to ensure that the provider is able to reestablish operations within a reasonable time following a business interruption.

Strategic/
Long-term: Providers should develop their own comprehensive technology plan that supports and enhances their delivery of legal assistance to client communities. Ideally this planning work is in concert with a provider's program planning. Providers should hire staff or consultants who can properly audit compliance with technology policies.

Issue 3: Core Technology Supports for Legal Services Providers

Findings: Many providers are not providing staff with mobile devices or reimbursing staff for the use of their personal devices, which have become a necessity in modern law practice. In terms of office hardware and software, about 1/2 of the providers have old operating systems that are -- or soon will be -- without support from Microsoft (e.g., security updates); a significant portion of providers rely on donated used equipment (which tends to be outdated) and many providers complain about a lack of videoconferencing. Only about 1/2 of the providers have adequate remote access for staff and about 40% of the providers don't use cloud-based applications (e.g., for finance, case management, document drafting), which together represents missed opportunities for increased productivity, security and cost savings. Many providers are not taking full advantage of available cost savings: only 59% use www.techsoup.org and 42% use government negotiated contracts or other group purchasing options. Finally, although beyond this community's control, the lack of broadband access in rural areas remains problematic for clients and staff (when in the field) to connect with legal resources.

Recommendations

Urgent: Providers should ensure that the security of their operating systems is supported by the software vendors. Providers should increase their support for mobile devices, where appropriate for their practices. Providers should ensure that their offices have adequate bandwidth and a backup connectivity plan in case the primary Internet connection fails. Providers should take advantage of existing nonprofit and group purchasing opportunities (e.g., www.techsoup.org and government contracts) and government funders should assist with such efforts.

Medium-term: Providers should seek to develop baseline technology benchmarks for quality, resilience, capacity, and security. Providers should develop a financial plan to maintain and support

those technology benchmarks. There should be greater group purchasing of hardware, software, web design and document assembly through existing mechanisms such as NYS contracts and private purchasing collectives (e.g., www.essensa.org, www.micta.org) and by creating new purchasing collaboratives from among the NYS legal service providers.

Strategic/
Long-term:

Legal service providers should coordinate more in creating the mechanisms that will best take advantage of technology in the delivery of legal services (e.g., video conferencing, mobile access⁵ by advocates and clients). Providers should ensure that their advocacy staff have access to all the digital resources necessary to serve clients, which may require updating hardware and software, support, training, etc.

Issue 4: Community Resources

Findings: Providers invest in their websites: 94% maintain websites and about 1/2 are updated at least weekly. The vast majority of providers use free community legal resources (including those with legal research and sample briefs for advocates as well as those with legal information and referrals for unrepresented litigants) but they do not invest in these online resources. Only a 1/3 of the providers regularly contribute to the substantive content of and another 1/3 of the providers reported that they contribute no substantive content. Significantly, only a small number of providers make financial or in-kind contributions to the primary online resource that is most widely relied upon by unrepresented litigants throughout the state. Also, few providers are individually or collaboratively developing efficient document assembly programs; only about 1/3 reported using any automated document assembly program (e.g., Hotdocs, A2J).

Recommendations

Urgent:

Providers should ensure that the substantive content their organizations develop for the advocacy and client communities are cross-posted with the appropriate statewide technology resources.⁶ Providers should increase their staff's awareness of existing document assembly tools built for NYS legal services advocates and clients.⁷

⁵ See Slides 30 through 36 (Pages 30 through 36) of the 2013 Task Force Tech Tips for helpful resources.

⁶ See discussion of statewide technology resources in 2013 report "[Report of Technology Working Group :Review of Online Resources for New York State Legal Service Providers.](#)"

⁷ See, e.g., <https://lawhelpinteractive.org/> and <http://www.lawhelpny.org/public-benefits-interactive-forms>. Also see Slides 26 through 28 (Pages 26 through 28) of the 2013 Task Force Tech Tips for more document assembly resources.

Medium-term: Providers should ensure that their staff are taking advantage of appropriate free statewide technology resources. With respect to serving the client communities, providers should analyze and consider minimizing substantive legal content on their own websites and drive clients to the statewide online resources. Providers should use and promote their clients' use of the existing document assembly tools and provide feedback, so as to increase consistency of the legal practice throughout the state and support the court system's current efforts to standardize forms and process.

Strategic/
Long-term: Additional and steady funding should be secured for statewide technology resources. Providers should collaborate and coordinate in the development and updating of substantive content for the statewide technology resources. Statewide technology resources should develop better and more consistent tools for measuring the use and efficacy of their services. Statewide technology resources should develop ways to better integrate and acknowledge -- and thereby increase -- substantive contributions from individual providers. Providers should engage in collaborative efforts to increase their collective use of automated document assembly in appropriate practice areas.

Issue 5: Training

Findings: Most providers offer only modest technology training for their staff: about 73% provide training, of which about 85% provide fewer than 5 hours per year.

Recommendations

Urgent: Providers should identify and make available existing technology training resources to their staff⁸.

Medium-term: Providers should assess skill requirements and the skills gap among their staff and mandate additional appropriate technology training. To the extent the court system, bar associations and the private bar sponsors technology trainings, they should offer free or low-cost attendance to the legal services community.

Strategic/ Providers should cooperatively develop more legal services

⁸ See Slides 8 through 12 (Pages 8 through 12) of the 2013 Task Force Tech Tips for helpful resources.

Long-term: specific technology training on common technologies (word, excel, legal research, discovery management software).

Issue 6: Social Media

Findings: Many providers are using social media, primarily through their development and communications staff. Only a few providers use social media for client services. Those who have active social media were able to successfully harness it to aid communities affected by Hurricane Sandy.

Recommendations

Strategic/
Long-term: The use of social media is an issue that providers should devote resources to after they have strengthened other aspects of their technology capacity⁹.

⁹ See Slide 29 (Page 29) of the 2013 Task Force Tech Tips for helpful resources.

Analysis of August 2013 Technology Survey of Legal Service Providers

Demographics

Responses

71 Provider Responses

69 Unduplicated Provider Responses

Providers by Size

Very Large >\$10M	Large \$10M-\$2M	Medium \$2M-\$500k	Small <\$500k
10	29	21	9

Providers by Service Area

All NYS	NYC	Rest of State
5	26	38

	Topic Areas	Ref #	General Data Analysis	Analysis of Demographics Data & Text Comments
1	Staffing	51-53	<p>On average, providers spend less than 5% of their operating budget on technology. For most (those <\$10M), the median amount spent on technology is about 3%.</p> <p>There is, however, a large range of what providers are</p>	<p>Size</p> <p>→ Very Large</p> <ul style="list-style-type: none"> ◆ 8 providers: ◆ avg 4.18% ◆ median 5.66% ◆ range 1.46 to 5.67%

spending on technology, both in terms of actual dollars (\$500 to \$3.3M) and as a percentage of operating budgets (0.13% to 13.65%).

23 providers report 1+ FTE tech employee.

Of the 29 providers reporting <1.0 FTE tech employee, the median total expense on all staffing (employees and consultants) is only \$15,000. (\$0-\$130k)

About 25% of the providers who answered the survey did not report their tech expense data.

→ **Large**

- ◆ 20 providers
- ◆ avg 2.79%
- ◆ median 2.47%
- ◆ range 0.42 to 7.47%

→ **Med**

- ◆ 14 providers
- ◆ avg 4.03%
- ◆ median 3.03%
- ◆ range 1.04 to 13.65%

→ **Small**

- ◆ 7 providers
- ◆ avg 4.06%
- ◆ median 3.33%
- ◆ range 0.13 to 7.25%

Region

→ **ALL**

- ◆ 5 providers
- ◆ avg 6.7%
- ◆ median 5.0%
- ◆ range 3.31 to 13.65%

→ **ROS**

- ◆ 22 providers
- ◆ average 3.5%
- ◆ median 2.93%
- ◆ range 1.04-8.06%

→ **NYC**

- ◆ 24 providers
- ◆ average - 2.82%
- ◆ median 2.66%
- ◆ range 0.13 to 5.67%

2	Tech Policies	42-46 86	<p>There is insufficient attention to proper technology policies:</p> <ul style="list-style-type: none"> • about 1/2 the providers had any given policy • providers rely on passive means to educate staff on policies (e.g., via handbook and new hire orientation) • only 14% (10/71) periodically train supervisors on tech policies • only 18% (13/71) have a strategic tech plan <p>There is low attention to confidentiality/privilege issues in contracts with off-site servers and other tech services:</p> <ul style="list-style-type: none"> • only 30%, 21/71, reported any contract negotiation on confidentiality) <p>Tech policy enforcement is largely left to their IT staff and consultants.</p> <ul style="list-style-type: none"> • very few providers rely on a tech audit (4%, 3/71) or an accounting audit (11%, 8/71) 	
3	Training	39-41	<p>Most providers offer only modest training for their staff:</p> <ul style="list-style-type: none"> • 73% (52/71) of providers provided some training beyond an orientation for new staff or volunteers • about 85% report that staff average <5 hours per year • only 1/3 (24/71) include tech skills/practices in staff performance evaluations, but among these, a significant portion (38%, 9/24) do not appear to offer much tech training 	<p>The providers who are weak on staff technology training (defined as providing no or only periodic, informal tech training) included all sizes, but most (75%) were located in NYC.</p>
4	Community Resources	5 9-12 28-32	<p>Providers are investing in maintaining their websites.</p> <ul style="list-style-type: none"> • 94% (67/71) reported having websites 	<p>Of the 43 providers that post substantive content to lawhelp or similar community places, there is a cross section of sizes (70%+ of the very large and large and</p>

		35-38	<ul style="list-style-type: none"> • 28% (20/71) support websites with Spanish content • about 50% update websites at least weekly. <p>Providers report a high use of free community resources</p> <ul style="list-style-type: none"> • 79% (56/71) use lawhelp, legal resource center, probononet, fair hearing bank, etc; • 87% (62/71) use listservs <p>But, providers report only modest posting of substantive content</p> <ul style="list-style-type: none"> • 62% (43/69) post with Lawhelp or similar community places • among those who post, about 65% (28/43) do so at least on a quarterly basis • 36% (25/69) do NOT provide substantive content to LawHelp, etc • only 6% (4/69) give \$ support • only 14 give in-kind service <p>6 providers (5 out of 6 of which are NYC based) report that they do not use technology to reach the public because their target audiences do not have access to technology.</p>	<p>about 45- 50% of the medium and small). ROS providers are underrepresented -- only 42% (16/38) regularly make substantive posts as compared with 88% (23/26) of NYC providers.</p> <p>Of the 4 providers who fund lawhelp -- 3 are in NYC, 1 serves ROS.</p>
5	Document Assembly	6-8	<p>Providers are not assembling documents efficiently:</p> <ul style="list-style-type: none"> • 87% (62/71) use of emailing with track changes • only 34% (24/71) reported using automated document assembly programs (e.g., Hotdocs, A2J) 	<p>Automated doc assembly primarily used by bar associations (of all sizes and locations) and the larger providers (all locations), but apparently in limited contexts (e.g., divorce, immigration, pro bono)</p>

			<p>for 1+ area</p> <ul style="list-style-type: none"> among the 24 providers who use automated doc assembly, the actual programs they use reflect a range of sophistication: <ul style="list-style-type: none"> ◆ LawLogix ◆ Immigrant Professional ◆ TIME merge ◆ Practice Manager ◆ The Form Tool ◆ USCIS ◆ Drafting Library ◆ Tippins ◆ Law Manager 	
6	Mobile Devices	56 63-67	<p>Many providers are not providing staff with mobile devices.</p> <ul style="list-style-type: none"> about 1/2 providers do not own and give staff mobile devices (Verizon 32%, 23/71 and AT&T 10%, 7/71) more than 1/2 providers do not reimburse staff for use of own device for work purposes only 24% (17/71) have any staff who use tablets 	
7	Technology for Legal Service Delivery	47-48	<p>Of those describing how they use technology to enhance their client services:</p> <ul style="list-style-type: none"> about 1/2 (26/56) pointed to their websites. Not all websites are equal -- some are undoubtedly vibrant resources (e.g., LawHelp and the brief banks maintained by Empire Justice and Western NY Law Center), while others serve primarily as community outreach for legal providers. about 1/2 (25/56) reported that technology 	<p>A broad cross-section of providers report use of technology for client service, but a demographic analysis of the descriptions is difficult, in part because the survey captured this data exclusively through text responses.</p> <p>Those providers that reported staff attitudes as impeding technology use were all large upstate providers. In their responses to other open ended questions, however, many additional providers -- of all sizes and locations --</p>

			<p>allowed enhanced mobility to reach clients (e.g., laptops or tablets for attorneys in court; the development of mobile technology to reach clients).</p> <ul style="list-style-type: none"> related to mobile hardware and software, 30% (17/56) of responding providers described efforts to support staff's remote access to data systems (e.g., shift to cloud programs, improved remote server access and video conferencing). a few providers (6/56) described significant document assembly programs a few providers (7/56) indicated significant use of social media <p>Major challenges to greater integration of technology:</p> <ul style="list-style-type: none"> financial resources (nearly all providers) several providers struggle with staff who are resistant to using technology several providers described particular technical difficulties that they faced (e.g., lack of broadband access in rural areas, hitting the limits of existing data systems, law school-based providers who must work within a larger tech system) 	<p>seem resistant to the potential for technology to aid in the delivery of legal services.</p>
8	Internal Technology Operations (Gen'I)	54-55 57-62 68-76	<ul style="list-style-type: none"> close to 1/3 (25/71) had significant tech projects in FY13 about 55% (39/71) reported having a Help Desk reliance on donated used equipment (28%, 20/71) suggests over-reliance on outdated equipment only 59% (42/71) used www.techsoup.org and 42% (30/71) used gov't contracts or group purchasing, which shows a need for greater awareness of group purchasing options 	<ul style="list-style-type: none"> Significant tech projects related primarily to internal improvements (e.g., hardware, software and case management upgrades as well as improved remote access for staff). Tech projects also related to client access: two providers worked on improvements for online client intake; two had projects to improve access for LEP clients; and two worked on document assembly programs primarily directed at unrepresented

			<ul style="list-style-type: none"> lots of OLD operating systems in use (48%, 30/71) have older than Win7 23% (16/71) have Wordperfect, which is no longer the dominant platform among legal services providers No consensus on OS, word processing, CMS, accounting systems very LOW virtualization, which suggests a big opportunity 	<p>litigants.</p> <ul style="list-style-type: none"> Four providers reported major improvements to their websites. Most tech projects were undertaken by medium to very large providers; several of the reported projects were quite modest (e.g., purchase of a laptop by a small provider).
9a	Internal Technology Operations (staff access & support)	79-83	<ul style="list-style-type: none"> only 27% (19/71) have intranet about 1/2 have adequate remote access for staff mediocre video conference capability 	
9b	Internal Technology Operations (network, Internet & cloud)	77-78 84-85	<ul style="list-style-type: none"> about 20% of responding providers (10/52), use NO online applications (case management, finance, document drafting) 19 didn't respond about online applications, which may mean they also do NOT use online applications, bringing the total to 41% (29/71) about 1/3 of responding providers (36%, 17/47) have only 1 office and do not need multiple office networks 	
10	Social Media	13-27 33-34	<p>Providers use social media to a great degree.</p> <ul style="list-style-type: none"> 82% use facebook 50%+ use twitter 40% have YouTube/VIMEO channel 	<p>Those few who did analyze the impact of social media represent a cross-section of the provider community (both size and geography), but the analysis largely amounted to a review of basic analytics to adjust their messages for the intended audiences.</p>

			<ul style="list-style-type: none"> 80%+ of those who engage with social media, do so at least weekly <p>Social media content is managed primarily by development or communications staff.</p> <p>Social media is conducted almost exclusively in English.</p> <p>15 providers used social media to help with Hurricane Sandy relief.</p> <p>Few providers (14%, 10/71) have analyzed their use of social media.</p>	<p>A few providers are openly skeptical of the utility of social media.</p> <p>Social media for Hurricane relief was limited to providers in NYC, plus a few Albany-based and Statewide providers. These were mostly large and very large providers, plus a few medium pro bono oriented providers</p>
11	Dreams	49-50	<p><u>Overall Community Dreams</u></p> <p>The top dream (70%; 26 /37) for the overall legal services community is better collaborative technical assistance events to share information on new technology and vendors as well as to permit group purchasing.</p> <p>A majority of providers responding (57%, 21/37) called for improved support for centralized technology training and greater online access to substantive legal training, forms, briefs and referrals. A few providers specifically suggested greater support of LawHelp.</p> <p>4 providers suggested that government funders ease reporting burdens by coordinating their reporting requirements and permitting data sharing, perhaps through a single online portal.</p> <p>5 providers supported a centralized, statewide intake</p>	<p>Given the broad consensus on a few issues (which the survey captured exclusively through text responses), it appears unnecessary to do a demographic analysis of the tech dreams.</p>

		<p>system.</p> <p>1 provider envisioned a universal case management system to be developed by leading funders and supported with user fees.</p> <p><u>Individual Dreams</u></p> <p>The vast majority of those expressing individual tech dreams simply want improved hardware or software (67%, 34/51), with many (31%, 16/51) emphasizing the specific need for improved case management systems.</p> <p>About half of providers (51%, 26/51) noted the need to improve the connectivity of their staff through greater access to tech training, improved remote access, and more mobile devices.</p> <p>About half of the providers (51%, 26/51) also want to improve outreach to their clients through revamped websites, increased use of social media or online intake systems.</p> <p>Increased video conferencing arose often (25%, 13/51) as the recommended tool to improve communications (a) internally with staff spread among multiple offices, (b) externally with other providers, and (c) with clients.</p>	
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Report of the Technology Working Group: *Review of Online Resources for NYS Legal Service Providers*

Introduction: The staff and pro bono volunteers that constitute the legal service provider community are served by several nonprofit organizations that offer online legal resources. To more fully understand the use of technology by the legal service community, the Technology Working Group undertook to survey the varieties of and extent to which the community uses such online resources to enhance its delivery of legal services. This report offers a summary of that survey of online community resources.

Online Community Resource Providers¹

Pro Bono Net (PBN)

- <http://www.probono.net/ny/>
- launched in 1999
- collaboration of PBN and host organizations that take responsibility for maintaining distinct practice areas

Online Resource Center (ORC)

- <http://onlineresources.wnylc.net>
- launched in 2000
- a joint project of Western New York Law Center & Empire Justice Center

Available Resources

PBN

¹ LawHelpNY is an online tool for helping low-income New Yorkers solve their legal problems and is describes itself as the only comprehensive source of legal referral information. Its resources include:

- ¹More than 600 free legal service projects & organizations with their contact & intake information.
- ¹Over 4,000 Know Your Rights and self-help resources covering 16 areas of law.
- ¹Extensive links to social service, advocacy and government organizations, information about the Court system.
- ¹Spanish mirror website and legal rights resources in more than 30 languages.

¹Although many advocates use it, LawHelpNY is not included in this report about online resources for advocates because LawHelpNY is primarily directed at the public and does not track registered users.

PBN, together with host organizations, offer practice areas that contain substantive content, (2) calendars for legal trainings & events, (3) volunteer opportunities, (4) listservs, (5) pro bono opportunities, and (6) legal libraries.

PBN's New York members participate in both New York practice areas and certain national practice areas. The prominent New York practice areas include:²

Substantive Practice Area	Resources	Users	Manager
Family Justice & Domestic Violence	<ul style="list-style-type: none"> 666 resources, including interactive interview for document assembly of Family Offense Petition 	2,629	City Bar Justice Center inMotion NYLAG Safe Horizon Sanctuary for Families
Housing	<ul style="list-style-type: none"> 2,206 resources, including a hard to find copy of the NYCHA Management Manual 	2,490	The Legal Aid Society Legal Services NYC
NYC Pro Bono	<ul style="list-style-type: none"> 1,189 resources: <ul style="list-style-type: none"> ○ volunteer opportunities ○ pro bono news ○ training materials ○ other practice resources 	7,889	City Bar Justice Center The Legal Aid Society
Reentry (civil consequences of criminal proceedings)	<ul style="list-style-type: none"> 948 resources 	3,248	Bronx Defenders
Foreclosure	<ul style="list-style-type: none"> 1,425 resources: <ul style="list-style-type: none"> ○ volunteer opportunities ○ news ○ library materials ○ listservs ○ video trainings/webinars 	602	Legal Services NYC City Bar Justice Center
NYC Consumer Debt Defense (less than 1 year old)	<ul style="list-style-type: none"> 131 resources, including interactive interviews for document assembly of <ul style="list-style-type: none"> ○ Answer ○ Demand for Documents ○ Debt Verification Letter ○ Opposition to MSJ 	122	MFY Legal Services
Rochester/Finger Lakes	<ul style="list-style-type: none"> 311 resources: <ul style="list-style-type: none"> ○ volunteer opportunities ○ pro bono news ○ training materials ○ other practice resources 	1,304	VLP of Monroe County LawNY Legal Aid Society of Rochester

² Additional New York practice areas: Community Development & Nonprofit, Corporate Counsel Pro Bono, and Unemployment.

The national practice areas with strong New York membership include:³

Substantive Practice Area	Resources	Users (NY)	Manager
Prisoners' Rights (conditions of confinement & treatment by prison personnel)	<ul style="list-style-type: none"> • 429 resources 	398	The Legal Aid Society Prisoners Legal Services
Law Firm Pro Bono	<ul style="list-style-type: none"> • 184 resources: <ul style="list-style-type: none"> ○ news ○ pro bono policies, ○ calendar of events; ○ listserv ○ other practice resources 	86	Association of Pro Bono Counsel

ORC

ORC offers (1) legal materials and databases for advocates in their daily practice, (2) substantive law Listservs to connect advocates for assistance and collaboration, and (3) online training.

The substantive materials are primarily designed as searchable databases so they are accessible and easy to use. This system relies heavily on the active engagement of students from Albany Law School who work at the Empire Justice Center each semester and throughout the summer.⁴ Content includes:

Substantive Practice Area	Resources	Users	Manager
Public Benefits (Fair Hearings)	<ul style="list-style-type: none"> • 3,304 Fair Hearing Decisions • 6,449 other related documents <ul style="list-style-type: none"> ○ statutes & regulations ○ Administrative Directive Memos (ADM) ○ Local Commissioners Memos (LCM) ○ General Information System Messages (GIS) ○ sample legal briefs 	3,938	Empire Justice Center
Public Benefits (Law)	<ul style="list-style-type: none"> • 733 decisions, briefs and other litigation-related materials 	1,060	Empire Justice Center

³ Additional national practice areas with significant New York membership: Asylum, Death Penalty, Human Rights, Military Pro Bono and Immigration Advocates.

⁴ Student work for academic credit, earn work study payments or are paid a basic stipend depending on the program, the year and the available resources.

	<ul style="list-style-type: none"> • 1,523 other related documents 		
Domestic Violence Law	<ul style="list-style-type: none"> • 546 case summaries related to <ul style="list-style-type: none"> ○ child welfare ○ confidentiality ○ criminal ○ custody & visitation ○ family offenses/order of protection ○ firearm restrictions 	445	Empire Justice Center
Disability Law (Social Security Disability & Supplemental Security Income)	<ul style="list-style-type: none"> • Social Security Administration's Appeals Council & Administrative Law Judges decisions • sample letters and memorandum by advocates • other related documents 	3,906	Empire Justice Center
Computer Assisted Tenant Representation Advocacy Program ("CATRAP")	<ul style="list-style-type: none"> • on-line interactive advocacy manual (92 sections)⁵ • 156 links to related documents 	756	Empire Justice Center
Health Law	<ul style="list-style-type: none"> • 65,000 documents relating to: <ul style="list-style-type: none"> ○ Federal Health Reform ○ Medicaid ○ Medicare ○ Family Health Plus ○ Child Health Plus ○ Medigap ○ Private Insurance ○ EPIC ○ Long Term Care Insurance ○ Uninsured ○ Immigrant Access to Health ○ Language & Disability Access ○ HIPAA ○ Health Care Decision-making 	n/a	NYLAG Empire Justice Center The Legal Aid Society

ORC's listservs are managed by the Western New York Law Center which provides primary technical assistance to all the ORC resources. There are 4,516 subscribers in 27 different discussion groups, the most active and robust discussion groups include: Public Benefits, Housing Law, Medicaid, Disability, Domestic Violence, (Mortgage) Settlement Conferences, LGBT, NYS Project Directors. Subscribers have access to 271,500 pages of archived materials.

The ORC Online Training Center contains 61 trainings on Child Care, Child Support, Community Development, Consumer, Disability Benefits, Domestic Violence, Education, Family Law, Foreclosure, Health, Housing, Immigrant Rights, Language

⁵ CATRAP provides generic text to incorporate directly into an Answer and supplies quotes from case law or statutory authority suitable to use in supporting affidavits or a Memorandum of Law.

Access, LGBT, and Public Benefits. Since its launch, users have viewed over 3,181 hours of training videos and received 175 CLE credits.

Usage by Advocates

Both PBN and ORC operate on a registered user or member basis; the substantive content is not available to the public.

PBN

PBN has 18,581 registered New York members, broken down as follows:

- 2,610 civil legal services staff (14%)
- 10,588 pro bono (57%)
- 1,963 students (11%)
- 3,420 other (e.g., non-legal community based organizations) (18%)

For the 2013 calendar year, PBN is projecting New York usage as follows:

- 200,000 website visits
- 400,000 training calendar pageviews
- 45,000 Pro Bono Opportunities Guide page views
- 65,000 library downloads
- 5,000 listserv messages posted

ORC

ORC has 3,945 registered users who include:

- Legal Services staff (39%)
- Law Firms and Private Attorneys (32%)
- Staff in State and County Offices (12%)
- Community Organizations (17%)

In the last fiscal year (ending 3/31/13), the ORC delivered 544,305 pages of material to its users.

Tech Tools, Trends, and Tips for Legal Service Providers

2013 Task Force to Expand Access to Civil Legal Services in New York

Technology Working Sub-Group: Michael Donnelly, John Greiner, Jeff Hogue, Joe Kelemen, Morris Massel, Mary Mone

Topics

1. **Introduction: Technology is Essential**
 2. **Training and Collaboration**
 3. **Cloud Computing**
 4. **Spreading Information**
 4. **Tech On-The-Go**
 5. **Security**
 6. **Staying Up-to-Date**
 7. **Recommendations**
- Appendix: Additional Resources & Tips**

Summary of Recommendations

- Stay up to date. Someone in the organization must be responsible to stay informed of tech opportunities and risks
 - Many new tools are free or low cost and will improve delivery of services
 - NYSTech Coordinator meetings occur monthly--participate
 - National conferences often have tech tracks; consider LSC TIG conference
- Copy and use resources from peers
 - Tech support and trainings
 - Consider helping to create a New York tech resource library, perhaps with IOLA
 - Create method for experts/experienced leaders to push tech information out
 - Include a tech presentation at every statewide directors meeting
 - Remind programs about LawHelp and CourtHelp to replicate consumer information
- Seek access to NYSBA document assembly products for Legal Aid
- Programs should designate a tech responsible leader, assess internal/consultant tech staffing to maintain infrastructure, train, and innovate
- Develop appropriate technology policies
- Have a technology plan
- Increased court-legal aid communication on acceptable forms, variations in filing requirements, plain language, CourtHelp, self-help resources & plans, tech planning.

Introduction: Technology is Essential



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Technology is Essential

The purpose of this presentation is to highlight some of the current, available services for users and organizations and note certain issues users and organizations should be aware of.

The technology considered essential for day-to-day office work is changing at an exponentially increasing pace. Organizations should become aware of and thoughtfully plan to adapt to these changes.

The Legal Services Corporation (LSC) recommends that technology should be incorporated into the overall planning process for a legal services program. *(2008 Legal Services Corporation "Technologies that Should Be in Place in a Legal Aid Office Today: Overall Program Capacity")*



Training & Collaboration



Training & Technology Standards



“A provider should provide access to ongoing and comprehensive training for all personnel” 2006

American Bar Association Standards for the Provision of Civil Legal Aid Standard 6.5 on Training

LSC recommends the “effective use of technology to deliver training” *2008 Legal*

Services Corporation “Technologies that Should Be in Place in a Legal Aid Office

Today: Training”

Use Existing Free Online Trainings



Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Substantial training resources are available for free, ranging from informal to CLEs to college courses. For example:

- WNY Law Center - Online Resource Center -- about 40 online [trainings](#), free (fee for CLE credit)
- [Practising Law Institute](#) - : example-> Advocating for Veterans - (many free, some paid)
- On-Demand Web Programs from [NYSBA](#) and others
- [Plain Language Course](#) for legal advocates

This is a trend to watch- even major companies and institutions are producing online training/education:

- Universities and law schools provide substantial free classes resources for users.
- Web-based, such as [MIT:Physics I](#). Also iTunes U -- on Apple devices

Train Using Low Cost Meeting Tools



Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Webinars

- View presentations remotely
- markup and review documents together, live
- Services include: GotoMeetings, GoToWebinar, Google Hangouts

Conference Calls

- Use simple phone technology for conference calling (free services like FreeConferenceCall.com)
- Use live document sharing to make a webinar-like experience without webinar software
- Calls can be enhanced with visual aids by using a SharePoint document or Google Doc to allow participants to access visual data while on the call

Email Lists

- Subscribe to email lists, which provide timely and useful information about current trends for substantive legal issues
- Subscribe to NY Bar Section and WNYLC practice area email lists

Enhance Training With Group Video



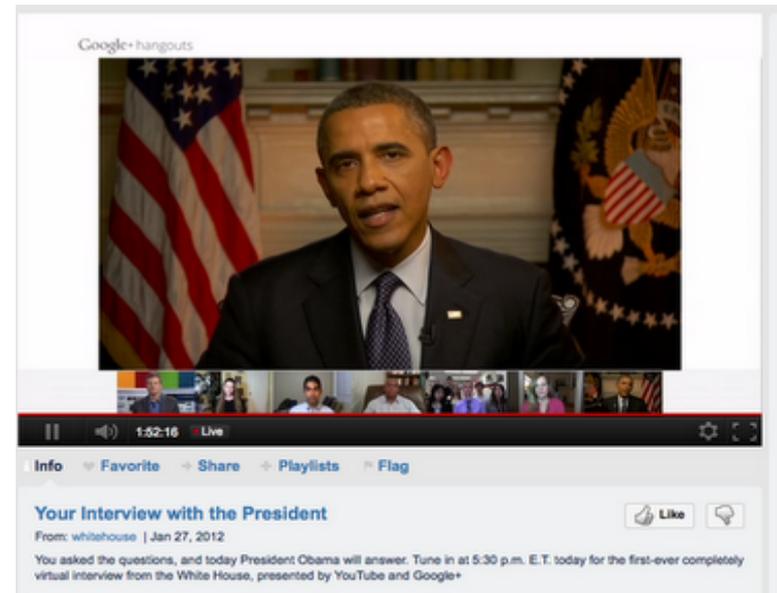
Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Low

Use free, live video hookups over the internet and cell service to meet face to face with a team.

Google Hangouts - free for up to 9

Others may have nominal costs and more or fewer features:

- Skype
- Jabber
- Various Microsoft services



Store Training Digitally for Re-use



Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Create reusable training resources

- Video: DVDs, private YouTube videos, Google Drive
- Quizzes to test retention: example: [CALI Author](#) online quiz
- Self-Created Video (more later)
 - Simple "expert says" video with simple production
 - More advanced, highly produced trainings with document examples inserted into video

Perform constant quality assurance for all materials

- Poorly designed or boring videos (monotonous, droning talking heads) will discourage content consumption
- Brief evaluation surveys provide critical feedback.

Use Screencasts to Demonstrate Tasks



Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: High

Create a video that demonstrates how to perform exact steps you take on your computer for often-explained tasks.



Explain standard tasks once and record with video.

For example:

- How to use your case management system
- How to find your server folder
- Basic computer skills, such as "Save As"
- How to add the network computer to your computer
- Examples: Jing (tm), Adobe Captivate

Record Critical Group Calls



Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

An absent member can listen to the call and view the webinar or training later.

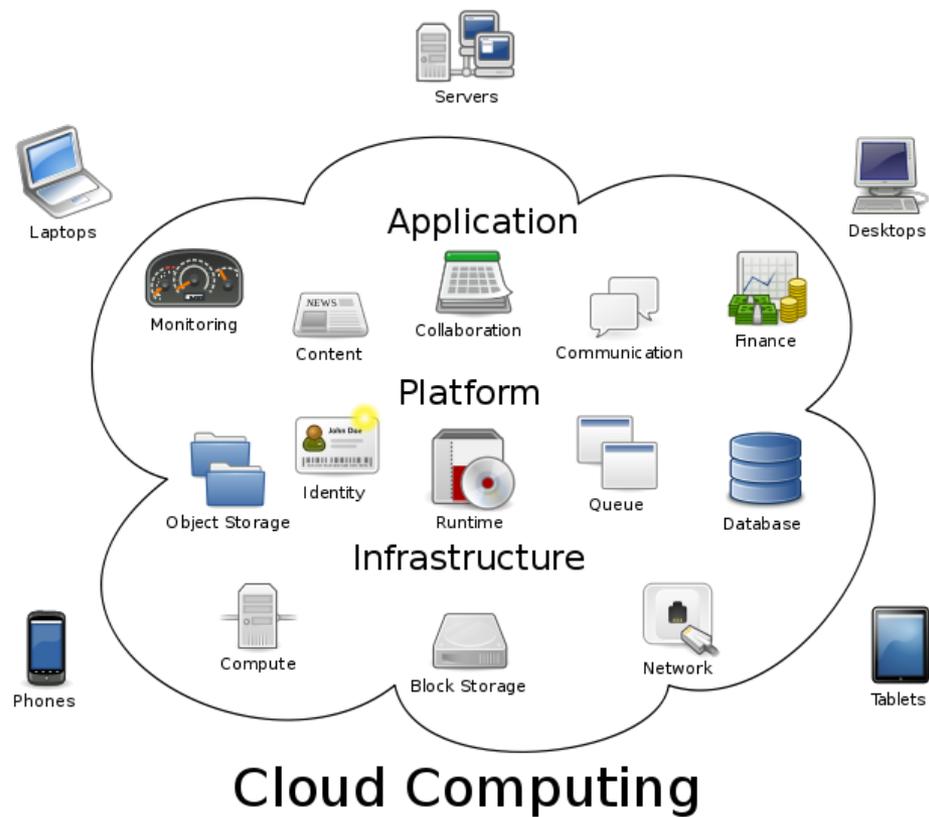
Google Hangouts, GoToMeetings (including the presented slides/documents), and FreeConferenceCall.com have this feature built-in



Example:
GoToMeetings



Cloud Computing





What is Cloud Computing?

Cloud computing is the use of computing resources (hardware and software) that are delivered as a service over a network (usually the Internet).

Cloud computing entrusts remote services with a user's data, software and computation.

Use Live Group Editing for Efficient Collaboration



Live group editing allows users to collaborate, create, edit and comment on a shared document over the internet

By way of example, this presentation was created, revised, commented, finalized and presented on Google Docs. Multiple users had simultaneous access to the document at each stage

Collaborators can see changes made by others and revert to previous versions.

Share Documents With Partners



Cost: Free/Fees for Enterprises
Implementation: Medium
Policy Concerns: High
Benefits: High

Every organization should have the ability to collaborate on non-confidential projects internally and with other groups. Some applications/tools that can be used:

- Google Drive/Sky Drive
- Office Live 2010, Office 365
- DropBox
- SugarSync
- Amazon Cloud Drive

Some of these tools allow easy selective sharing, but only one author can edit at a time.

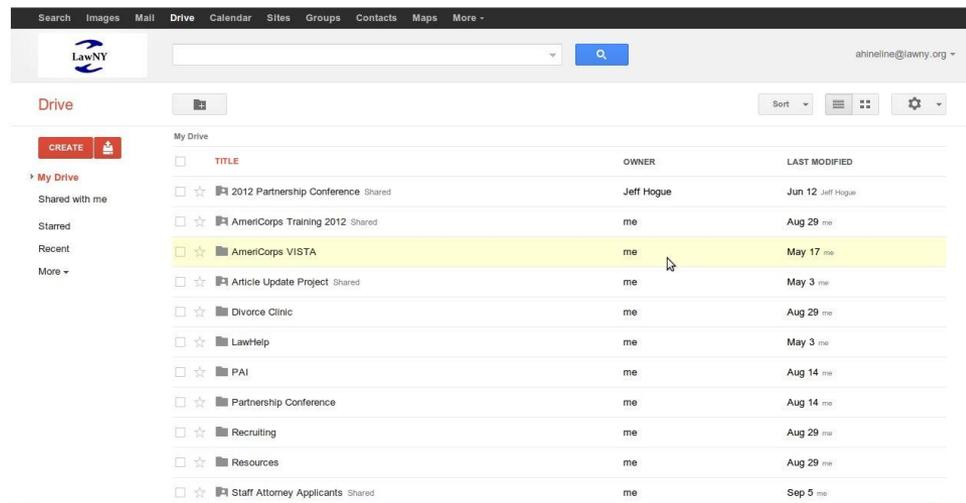
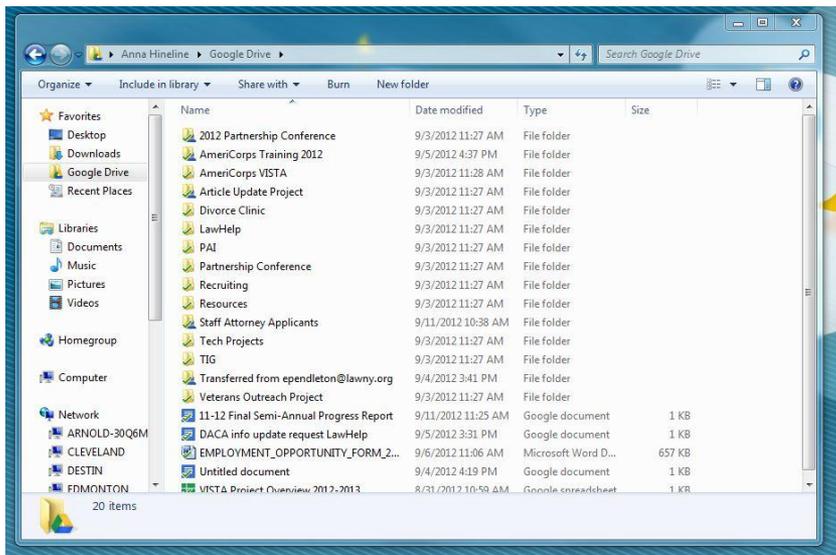


Example: Google Drive

Store docs in the "cloud" and syncs with desktops, tablets and phones.



Docs are accessible to any user invited to access the relevant document. Changes usually tracked.





Be Aware of Third-Party Cloud Services & Security

For third-party cloud service (e.g., Google Drive, Box.com, Dropbox) know that:

- Certain free services allow for more secure transfer of data, and have add-ons for document retention and e-discovery compliance.
- You can encrypt documents before you put them in the cloud.
 - Services include Cloudfogger, Boxcryptor, TrueCrypt.
 - All have free versions.
- Terms of Service and security/encryption/retention offerings vary.
- Documents should be handled with appropriate care given the content of such documents

Enterprise versions of cloud services are owned, secured and controlled by the organization. Tools like Google Apps, Microsoft SharePoint, and OwnCloud have management and auditing tools. Box.com is HIPPA-compliant.



Ethics Considerations

The Committee on Professional Ethics (Opinion 842, 9/10/10) concluded that a lawyer may use an online “cloud” computer data backup system to store client files provided that the lawyer takes **reasonable care** to ensure that the system is secure and that client confidentiality will be maintained. “Reasonable care” to protect a client’s confidential information against unauthorized disclosure may include consideration of the following steps:

- Ensuring that the online data storage provider has an enforceable obligation to preserve confidentiality and security, and that the provider will notify the lawyer if served with process requiring the production of client information;
- Investigating the online data storage provider's security measures, policies, recoverability methods, and other procedures to determine if they are adequate under the circumstances;
- Employing available technology to guard against reasonably foreseeable attempts to infiltrate the data that is stored; and/or
- Investigating the storage provider’s ability to purge and wipe any copies of the data, and to move the data to a different host, if the lawyer becomes dissatisfied with the storage provider or for other reasons changes storage providers.



Issues to be Aware of

When using third party providers, including cloud computing services, lawyers should consider and review (as applicable):

- Terms of service
- Data ownership
- Types of data stored (general research and public pleadings and forms versus highly confidential client data)
- Susceptibility to discovery and other litigation risk

As with all new technology, the law is reviewing and making determinations regarding these newer technologies. Stay up to date.

Consider contacting a peer organization that has adopted cloud technology to learn about other issues, advantages, suggestions, and resources.

Spreading Information



Consider the Changing Ways We Interact

- The age of the long memo is dead
- Deliver information in useful and digestible formats
- Consider video and text messages
- Always use plain language. (writeclearly.org)
- Deliver information in nuggets
- People do not actually read long documents

Consider Video or Animated Video



Cost: Free/Low
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Animated video creators let you just enter a written script.

The informational video is created automatically.

All that is required is a browser and internet connection; no other software needed.

example: [NY Divorce](#)

Examples: GoAnimate! and Xtranormal

The screenshot shows the Xtranormal website interface. At the top, there's a navigation bar with 'CREATE', 'WATCH', 'MY STUFF', 'HOW TO', and 'ACCOUNTS & PLANS'. Below that is a banner for 'XTRANORMAL™ DESKTOP for Windows' with the tagline 'MOVIES. BETTER. FASTER.' and a link to 'CLICK TO FIND OUT MORE'. A status bar indicates 'You have 300xp' and 'You need 400xp to buy the stuff that you're using and publish this movie.' The main content area is divided into four tabs: '1. Sets', '2. Actors', '3. Sounds', and '4. Story'. The '4. Story' tab is active, showing a script editor with a text input field and several lines of dialogue. A preview window on the right shows a 3D animated scene with two characters in an office setting, with a 'Loading...' overlay and a 'Cancel' button. Below the preview are four buttons: 'Listen', 'Preview', 'Save', and 'Publish', each with a brief description of its function.

Basic free version, pay for specific characters, scenes and voices

Re-use your digital work



Cost: Free/Minimal
Implementation: Easy
Policy Concerns: Medium
Benefits: Medium

- Digital documents (templates, fliers and blogs) can be re-used and accessed easily
- Save that template/pleading to shared space for your whole firm to re-use
- Rather than downloading or printing documents, store links to them
- Store links to library items, like WNYLC's fair hearing database
- **Focus on findability, ease of use**

Consider Document Assembly



Cost: Depends on Service
Implementation: Easy
Policy Concerns: Low
Benefits: High

The assembly of documents automates the creation of documents, saves time.

Well suited to complex documents with lots of repeated information.

Example: LawNY's Sophia Divorce Clinic Program ([link to interview 1](#)) hosted on Pro Bono Net's LHI server.

Tools for document assembly related to NY divorce clinics and citizenship are available for free for end users and/or pro bono attorneys, and/or internal staff.

Sample programs:

- The Form Tool: <http://www.theformtool.com/#/cart>
- Contract Express
- Bar Association CDs
 - Consider bulk discounts or availability for public interest providers

Doc Assembly Example - Divorce Clinic Pleadings



NYS - Divorce - Pack 1 Help

Interview Outline

- Roles
- Children
- Choose Documents to Assemble
- Plaintiff Information (Plaintiff)
- Plaintiff Representative or Pro Bor
- Defendant Information
- Two years in New York State?
- Confirm or choose
- Grounds for Divorce
- Relief Sought
- Court Information
- Marriage/Cohabitation Information
- Health Insurance Information
- Family Court Orders
 - New: Family Court Orders

Health Insurance Information

Parties covered by group health insurance:

Jane Doe
 John Doe
 Both
 Neither

Name of Plaintiff's group health insurer
Blue Cross Blue Shield

This health plan's administrator Jane 's Health Insurer ID #

Insurer's street address
123 Main Street

City State Zip code
New York New York

Plaintiff's Health Insurer Coverage Type

HMO Other
 Traditional Unknown
 Public Benefit Program

First Previous Next Last Finish

Copyright in this website platform © 2004-2013. Pro Bono Net. All rights reserved.
Content on this site is copyright © 2004-2013. All rights reserved.

LawHelp Interactive is supported by
LSC SJI HOTdocs

Consider A2J Author Interviews to Inform

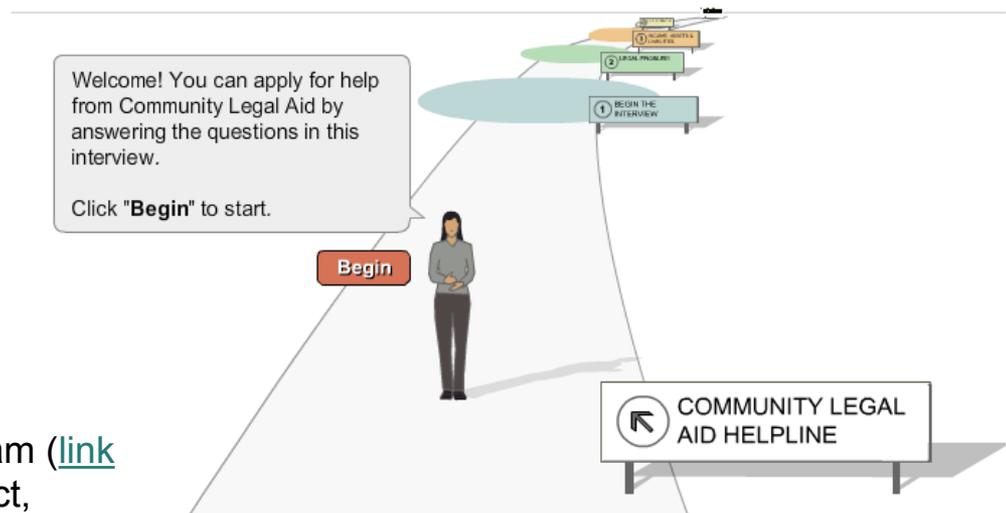


Dozens of A2J Author interviews are in use to automate end-user customized advice, especially for the self-represented



A2J Author is available for free. LawHelpInteractive's servers are free for LSC- funded organizations.

Example: NYC Tenant Answer DIY Program ([link to interview 1](#)) by NYCourts NYSA2J project, hosted on Pro Bono Net's LHI server.



Consider Using Social Media as an Organization



- Social media is often used to stay current with peer organizations
- Expect clients to start looking for information via social media
- Using social media as an organization is **not** the same as permitting individual workers to use social media. Decide who controls messaging
- Find out if someone is already using your trademarked name

Security, protocol, document management and use of time are critical issues to be considered in using social media.

- Organizations post critical information for clients and other organizations to services like Twitter, Facebook, Google+.
 - Services like Hootsuite can be used to monitor multiple social media sites.
 - If all your other services go down, you can notify workers and colleagues using social media outlets
- Organizations can post to legal blogs and monitor updates.

Tech on the Go - Mobile





Tech on the Go - Mobile

“A provider should operate in ways that facilitate access to its services.” *2006 American Bar Association Standards for the Provision of Civil Legal Aid Standard 4.5*

on Access to Services.

Providers need to accommodate the needs of specific populations (rural geographic barriers, disability etc.).

Mobile technology allows access similar to that available in an office. Attorneys can serve clients from remote locations as effectively as if they are in the office.

Use Remote Desktop Access

Cost: Depends on Service
Implementation: Easy
Policy Concerns: Medium
Benefits: High

Current trend: using the computing power of remote machines.
Local device is essentially a viewer and does not need serious computing power.

Note: Use strong passwords and consider dual authentication.



Any Device Can View Any Workspace

Example of how powerful remote viewing tools can be:

Even an iPad user can control a fully-featured Windows machine and consume content not available on the iPad

(see [OnLive Desktop](#))



Phones and Tablets are Scanners

Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

The camera on most smartphones and tablets can now be used as a scanner and can send images as PDFs to Cloud services

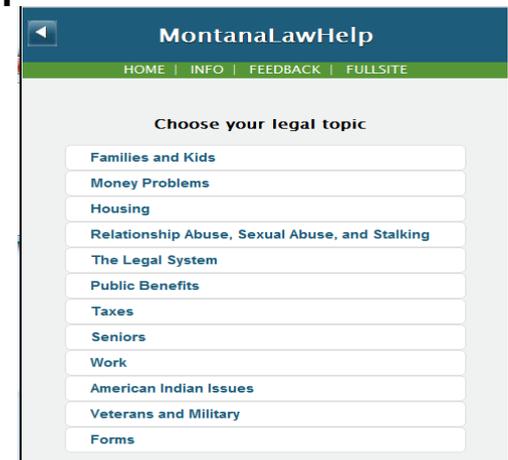


Use Mobile Devices to View Legal Resources

Cost: Depends on Service
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Examples of mobile legal info for attorneys and clients:

- Fast Case: Legal research mobile app
- LawBox
- WestLaw and Lexis mobile apps.
- LawHelp mobile
- Illinois Legal Aid online mobile app
- Arkansas mobile app



Learn about Mobile Efficiency Apps



Cost: Free/Minimal
Implementation: Easy
Policy Concerns: Low
Benefits: Low

Legal workers are increasingly working remotely, working while waiting for planes or calendar calls, and using tools to do everything remotely.

Examples:

[Tripit](#): Mobile app that compiles travel information and aggregates into one easy to use itinerary.

[Pocket](#): Web and mobile app that allows users to save articles, videos and any online content so that they can be viewed later, even if offline.

[MobileDay](#): **One-Touch into ANY conference call on ANY conference provider.** The app syncs with your phone's calendar and auto-detects the conference call details within your meeting invites.

Security





Security & Standards

“Consistent with its ethical and legal responsibilities, a provider must protect information relating to representation of a client from unauthorized disclosure.”
2006 American Bar Association Standards for the Provision of Civil Legal Aid Standard 4.3 on Protecting Client Confidence.

With the rising popularity of mobile technology and "bring your own devices", it is important that client information remains secure and confidential.

Use encryption for highly sensitive data



Cost: Free/Minimal
Implementation: Easy
Policy Concerns: Low
Benefits: High

Encryption--provides a means of securing information by ensuring that only an authorized user with a password has access to the data.

- Locally installed encryption software - 7-Zip, Truecrypt (free)
- Web-based services for sensitive emails - Enlocked (10 free per month) & ProtectedTrust.com (5 free per month),
- Microsoft Word has built-in encryption (not just password protection) **File > Info > Protect Document**

Adopt Password Policies and Audit Strength

Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: High

Don't use the same password for everything

Don't use obvious passwords. Hackers use dictionaries with huge lists of common usernames and passwords and can hack you quickly if your logins and passwords are common.

Most popular
passwords:

Are you using them?
([TIME Techland article](#))

baseball	password
111111	123456
iloveyou	12345678
master	qwerty
sunshine	abc123
ashley	monkey
bailey	1234567
password	letmein
shadow	trustno1

Circulate Password Tips to Workers

Cost: Free
Implementation: Easy
Policy Concerns: Low
Benefits: High

Don't use info linked easily to you (your name)

Consider long and nonsensical (but memorable):

antsflewrocketsin1888 or an7sflewrocke7sin1888?

But not too complex:

Q:Where would this password go? Mr8@Mxyzptlk76%5

A: on a sticky note

Consider two-factor authentication

Consider Password Manager Software

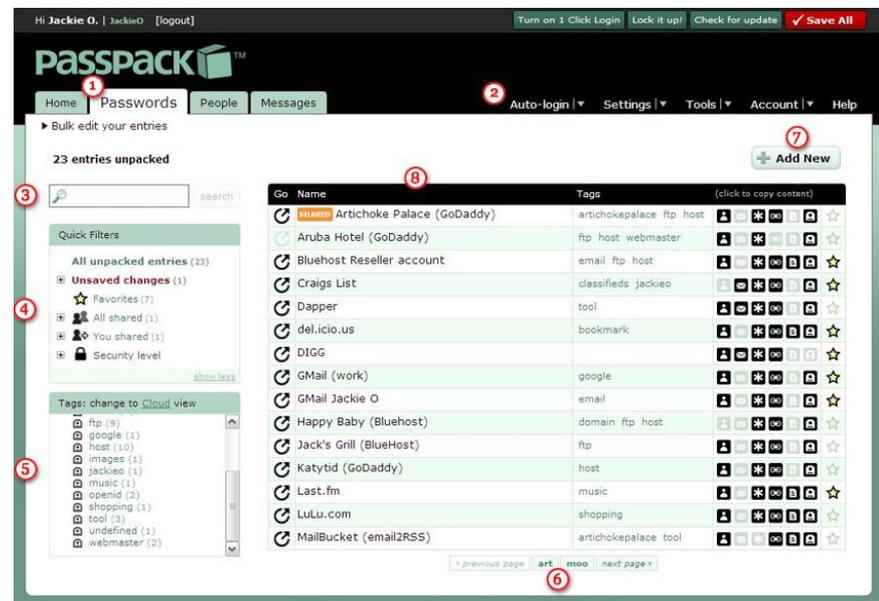
Cost: Free/Minimal
Implementation: Easy
Policy Concerns: Low
Benefits: High

Password managers let you protect and share passwords.

Keepass

Norton

A very strong master password is essential.



Use Data Wiping Software Mobile Devices

Cost: Paid for Service
Implementation: Medium
Policy Concerns: Low
Benefits: High

Stolen laptops and mobile devices - it will happen

see [FTC Recommendations](#)

If it does get stolen/you lose it- Loss/Recovery Software

Can be programmed to alert admin

Can be triggered to take webcam shots of their

Examples: Prey, MobileIron, AirWatch, ZenPrise

Whole-device encryption is also possible so nothing is readable on a lost device.

Without protection, mobile devices are a privilege/security/liability risk.

Keep Devices Clean and Protected



Cost: Depends on Service
Implementation: Medium
Policy Concerns: Low
Benefits: High

CCleaner - free software that cleans up Windows issues

Flash Cookie Cleaner -- removes Flash cookies (created by Adobe Flash, which is used by many websites)

Noscript for Firefox, NoScript for Chrome, WOT for Chrome - Free add-ons that restrict Javascript on websites

Malwarebytes Anti-Malware - the free geek tool of choice for fixing an infected computer.

Windows Updates - do them regularly.

Microsoft Security Essentials - free antivirus from Microsoft, that, at least until recently, has been faster and better than most paid anti-virus.

Corporate Antivirus - (lots of brands). If you aren't using MSE, use a firm-wide standard tool that forces all computers on the network to update and can be centrally managed.

Prepare for the Most Likely Threats

Big attacks and hacks get the headlines, but know the real (**most likely**) threats:

- Current workers (negligence or vengeance), naive browsing, intentional destruction
- Incomplete or infrequent backups
- Lost/Stolen equipment
- Weak passwords/Sharing passwords
- Out-of-date antivirus and security software



Create Tech Policies

Orgs need tech policies, and can use a peer's policy as a template.

- Social Media
 - who can publish for org
 - how users can use at work
 - work-related posts on personal social media
- Worker-owned devices (BYOD)
- Reasonable personal use
- Passwords
- Thumb drives and laptops
- Installation of unauthorized software
- Monitoring by agency of worker activity
- Minimum system requirements
- Minimum bandwidth for offices



Staying Up to Date on Tech



Stay Reasonably Up to Date



No one can keep up to date on all tech trends. We need to know what is dying, what got hacked, what is next, what saves oodles of money in the real world, and what is vaporware.

Great tech news resources:

- [LSNTAP](#)'s LS-TECH email list
- Custom [Google News](#) announcements
- [LifeHacker](#)

Find a Friend:

- LS-TECH email lists (again)
- NYS Statewide Tech Coordinators Group



Tech Trends to Watch

- Remote working, tech skills are required for more and more jobs
- Expansion of mobile technology
- Increasing variety of tools to help with security
- People bring tech skills and enthusiasm from personal tech use to the office
- Virtualization - moves workstation complexity to the server
- Data Visualization - tools to make data we collect

Consider Free and Open Source Software



Lots of terrific programs are free and/or open source.

Function	Commercial Product	Open Source
Word Processor	MS Office	Libre Office
Photo Editor	Adobe Photoshop	GIMP
Vector Graphics Editor	Adobe Illustrator	Inkscape
Audio Recorder/Editor	Sony Sound Forge	Audacity

Appendix: Additional Resources & Tips

Additional Resources & Tips

If you do any task **repeatedly**, there is a tool that may help you do it faster, better, and more uniformly.

If you publish or consume any **web content**, there are definitely tools and methods to help you perform those tasks faster, better, and more uniformly.

Tools exist for any task you can think of, but diligently testing and researching software (including free software) and hardware is very time-consuming. Ask for recommendations from others.

Virtual Fax Machines

Fax machines are less prevalent today. Online fax services, such as eFax, allow users to send and receive faxes via email (as attachments) or through mobile apps.

No need to maintain a machine or a dedicated phone line any longer.



Collaboration: Annotating the Web



Cost: Free/Minimal
Implementation: Easy
Policy Concerns: Low
Benefits: Medium

Using a webservice to read and pass material internally (e.g., law bulletins circulated around the office) allow for users to highlight segments and annotate websites for colleagues. No scanning is required!

Example: Scribble

The screenshot shows the Scribble web service interface. The top toolbar includes the Scribble logo, a user profile icon, a list of icons for various actions (highlight, eraser, text, bold, italic, link, unlink, zoom, print, share, etc.), and a close button. The main content area displays a document with several paragraphs of text. The first paragraph discusses landlord eviction actions. The second paragraph mentions a 30-day rule for rooming houses. The third paragraph asks "Can my landlord evict me without going to court?" and is followed by a highlighted yellow box containing the text: "NO! The landlord must go to court, must win the case, and must get a court order called the 'Warrant of Eviction'." Below this, a list of criminal violations for illegal eviction is provided, with the last item highlighted in yellow: "* Doing anything else that keeps you out of your house or apartment (Real Property Law Section 235)." A "Find Help" sidebar is visible on the left, and a yellow sharing window is open on the right, displaying the URL: "Read at http://codes.lp.findlaw.com/nycode/RPP/7/235-a".

Print Friendly

Make any web page print-friendly

*PrintFriendly cleans and formats web pages for perfect print experience. PrintFriendly removes Ads, Navigation and web page junk, so you **save paper and ink** when you print. It's free and easy to use. Perfect to use at home, the office, or whenever you need to print a web page.*

PrintFriendly.com

Electronic Signatures

Several services provide electronic signatures.

Sophisticated systems are far more than an image of a signature.

ex-> Adobe Echosign <http://www.echosign.com/>

On June 21, a New York state appellate court held that an electronically signed affirmation is admissible under state court rules. *Martin v. Portexit Corp.*, No. 303854/07, 2012 WL 2344889 (N.Y. App. Div. June 21, 2012).

Keyboard Shortcuts

Users could probably use existing tools more efficiently. Keyboard shortcuts are an example. Almost all software has keyboard shortcuts.

Browsers (most):

F 11 - (miracle screen enlargement) Ctrl + F - (find stuff!)

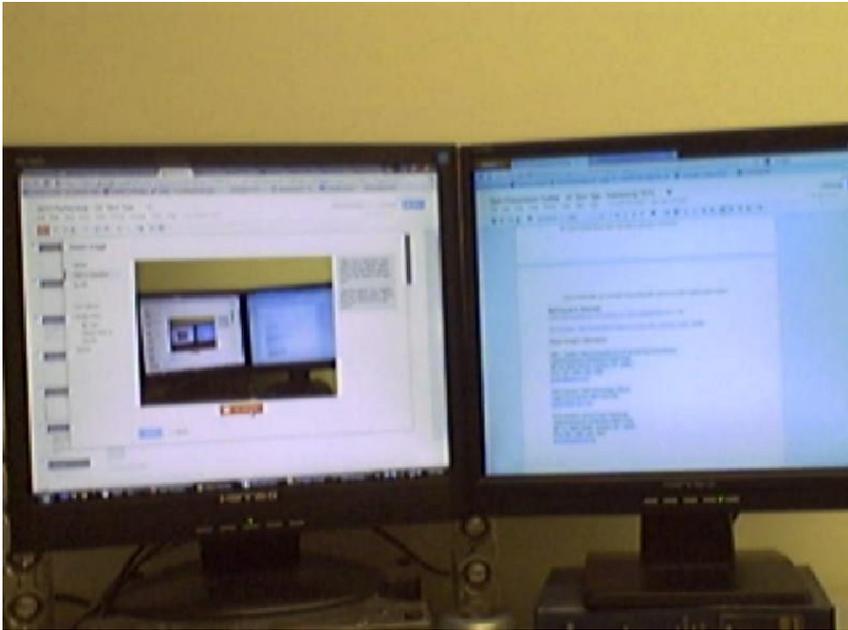
Windows

- Alt + Print Screen, paste a screenshot into your word processor
- Windows snipping tool

Wikipedia has a table of shortcuts. It looks confusing at first.

http://en.wikipedia.org/wiki/Table_of_keyboard_shortcuts

Use Two Monitors



Is there something you have to monitor or briefly switch to hundreds of times during work?

Do you often compare a document with a list of edits/suggestions/grant reporting requirements?

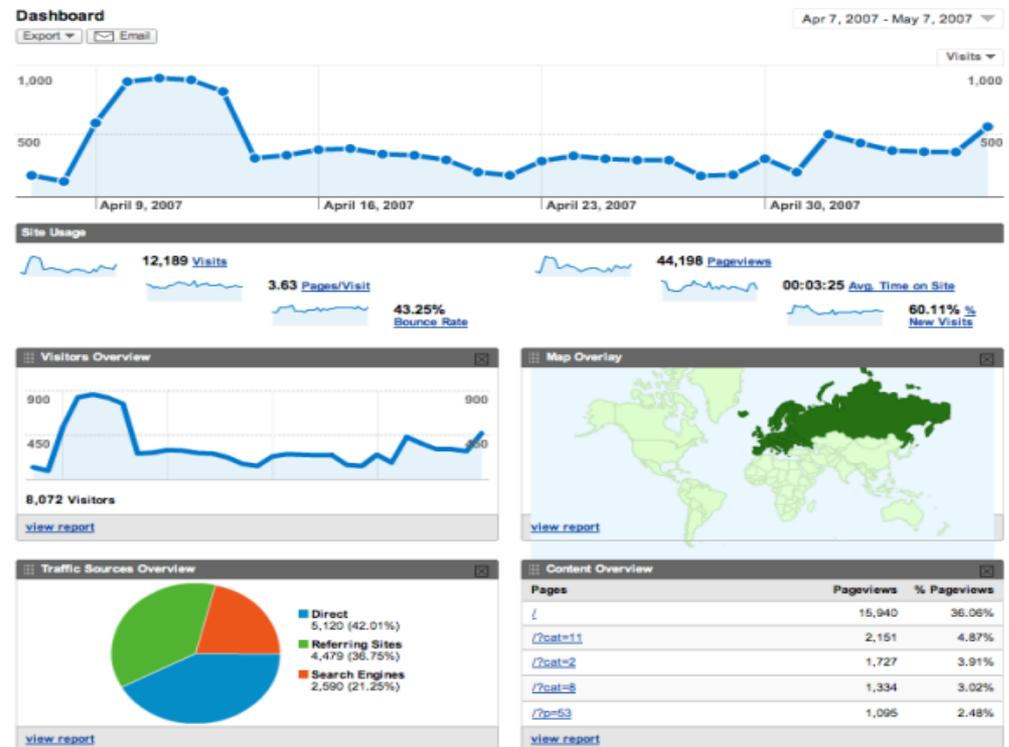
Google Analytics

If you have your own website, wouldn't it be nice to know exactly what people who searched for your firm most often searched for?

ex->

LSHV+eviction or
LSHV+divorce?

Partners can share direct access to this data as well by giving you viewing privileges.



Analytics in Real Time

Google Analytics jhogue@lawny.org Settings My Account Sign out

http://lawny.org - http://lawny.org
lawny.org [DEFAULT] Admin Help

Home Standard Reporting Custom Reporting

Real-Time ^{BETA}

- Overview
- Locations
- Traffic Sources
- Content
- Intelligence Events
- Dashboards
- + New Dashboard
- Shortcuts ^{BETA}

Overview

Right now
7
active visitors on site

NEW 100%

Pageviews

Per minute

Per second

Top Referrals:

Source	Active Visitors
There is no data for this view.	

Top Active Pages:

Active Page	Active Visitors
1. /index.php/can-lawny-help-me-helpsources-85	2 28.57%
2. /index.php/benefits-self-...istance-and-child-support	1 14.29%
3. /index.php/consumer/50-ba...22-bankruptcy-in-new-york	1 14.29%
4. /index.php/housing-self-h...of-rent-to-own-agreements	1 14.29%
5. /index.php/housing-self-h...eone-who-shares-your-home	1 14.29%
6. /index.php/housing-self-h...eral-eviction-information	1 14.29%

Top Keywords:

Keyword	Active Visitors
1.	3
2. bankruptcy, ny	1
3. does welfare put you on child support ny	1
4. eviction notice new york state word	1
5. rent to own	1

Top Locations:

LawNY.org RealTime [link](#)

Credits

Adapted from an original presentation for the
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APPENDIX 17:

**Report of the Task Force's Working Group on
Alternative Dispute Resolution**

**SUMMARY OF BACKGROUND RESEARCH
ON ONLINE DISPUTE RESOLUTION**

Prepared by Proskauer Rose LLP

August 2013

ONLINE DISPUTE RESOLUTION PROGRAMS

Introduction to ADR & ODR and Early Research

The concept of online dispute resolution (ODR), the use of online tools either in part or entirely to resolve conflicts, became a new concept for alternative dispute resolution (ADR) after the birth and rapid growth of the Internet in the 1990s. An inevitable consequence of Internet communications between individuals is the existence of virtual conflict.¹ Similar to conflicts that arise between consumers and sellers during the purchase of goods and services in person, consumer disputes can arise from online transactions. However, unlike in-person transactions, electronic sales do not require the consumer and seller to share a physical space. Thus, traditional methods of alternative dispute resolution involving in-person processes can prove difficult when an issue arises between parties that reside thousands of miles apart. This challenge inspired the creation of online dispute resolution systems.

ODR was originally conceived as a conflict resolution process only for disputes that arose online, particularly in areas of commerce, copyright, intellectual property, fraud, defamation, and libel.² However, ODR platforms can be effective in resolving disputes that arise both online and offline. Despite interest in ODR with the growth of the Internet in the late 1990s and early 2000s, little has been done to provide access to online dispute resolution services in recent years. While several private, online systems launched at the turn of the century, many no longer exist. For example, until recently SquareTrade was the leading provider of ODR services for consumer mediation, primarily due to its contract with eBay. However, in June 2008, SquareTrade stopped providing dispute resolution services to eBay consumers after changes

¹ Robert C. Bordone, *Electronic Online Dispute Resolution: A Systems Approach-Potential, Problems, and a Proposal*, 3 HARV. NEGOTIATION L. REV. 175, 175-6 (1998).

² *Id.* at 199.

were made to the eBay feedback system. SquareTrade shifted its business plan to providing warranties to consumers since the dispute resolution business made up only a very small percentage of the company's revenue.³ The ODR platforms that are operational are often underutilized due to inefficient systems, lack of consumer knowledge, and high fees associated with use.⁴ The resolution of small claims is often not worth the cost of the fees of private online dispute resolution services, leading to ongoing disputes existing in a lengthy litigation court process.

European Union Utilizes ADR and ODR to Solve Consumer Disputes

Although the promotion of ODR services to resolve these disputes outside of the courtroom has faded in the United States, it has seen a revival in Europe.

In June 2013, the European Parliament and the Council of the European Union published both a Directive and a Regulation regarding the management of disputes between consumers and sellers. These efforts were targeted at achieving the goal of Article 26(2) of the Treaty on the Functioning of the European Union (TFEU). According to the TFEU, "The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured..."⁵ The availability of an internal market within the EU should provide consumers with more options, leading to higher quality goods and more affordable prices. However, barriers such as distance and language can lead to unresolved consumer

³ Ina Steiner, *eBay Gives SquareTrade Pink Slip No More MFWs*, 2008, eCommerce, available at <http://www.ecommercebytes.com/C/abblog/blog.pl?/comments/2008/5/1210193147.html/3/40> (last visited Aug. 5, 2013).

⁴ Joseph W. Goodman, *The Pros and Cons of Online Dispute Resoution: An Assessment of Cyber-Mediation Websites*, 2 DUKE LAW & TECHNOLOGY REVIEW 1, 2-6 (2003).

⁵ Consolidated Version of the Treaty on the Functioning of the European Union art. 26, May 9, 2008, 2008 O.J. (C 155) 59.

disputes and decreased consumer confidence in the internal market. This can ultimately decrease growth, job creation, and competitiveness. Despite recommendations from the European Commission in 1998 and 2001 on the out-of-court settlement of consumer disputes, consumer knowledge regarding ADR processes and the establishment of functioning ADR programs have remained low throughout several geographic and market areas within the European Union.^{6,7} The Directive and Regulation aim to provide effective and efficient processes to resolve consumer disputes, thereby boosting consumer confidence in the internal market and benefiting the Union overall.⁸ Although the goals of the European Union in designing ADR and ODR systems are different from the goals of a program that could be launched in the New York Courts, which would focus on caseload and cost reduction instead of boosting commerce, the implementation of a comparable program in the EU demonstrates the feasibility of administering an ODR program for New York City's Civil Court.

Directive 2013/11/EU amends Regulation (EC) No. 2006/2004 and Directive 2009/22/EC.⁹ It extends ADR coverage to the European Union level, providing ADR procedures for all contractual disputes within each Member State and each market sector, excluding health and education. Member States are required to provide ADR entities that meet certain quality criteria to ensure they are trained, efficient, and fair. Sellers will be required to post information regarding ADR procedures on their websites and inform consumers about applicable ADR processes when a dispute cannot be settled between the parties directly.¹⁰ ADR services should preferably be free of charge and should never exceed a nominal fee. Additionally, the ADR

⁶ Commission Recommendation 98/257, 1998 O.J. (L 115) 31.

⁷ Commission Recommendation 2001/310, 2001 O.J. (L 109) 56.

⁸ Council Directive 2013/11, 2013 O.J. (L 165) 63.

⁹ *Id.* at 63.

¹⁰ Memorandum from the European Commission, A Step Forward for EU Consumers: Questions & Answers on Alternative Dispute Resolution and Online Dispute Resolution (March 12, 2013), 2.

entity should conclude dispute resolution proceedings and expedite an opinion within 90 days to promote efficiency. Participation in the ADR process does not bind the consumer to the ADR entity's conclusion, nor does it eliminate the consumer's right to bring an action before the court.¹¹

In addition to the Directive on alternative dispute resolution, the European Parliament and the Council of the European Union adopted a complementary Regulation on online dispute resolution. Regulation (EU) 524/2013 amends Regulation (EC) No. 2006/2004 and Directive 2009/22/EC.¹² The Regulation extends the resolution of consumer disputes to the online sphere. Consumers and sellers will be able to submit disputes arising from online transactions to an EU-wide online dispute resolution platform. The platform will link all Member State ADR entities, as outlined in the aforementioned Directive, and allow for the resolution of disputes via an interactive web-based system offered in all EU official languages and at no cost. The online platform allows consumers and sellers, who may not share a country or common language, to resolve disputes within 90 days due to the efficiency of submitting complaints, statements, and supporting documentation electronically. National contact points will serve as ODR advisers to ensure an effective and equitable international system that raises consumer confidence and promotes consumer transactions between parties EU-wide.¹³

The impetus for this action by the European Union is the financial consequences of operating without an effective dispute resolution process. Twenty percent of consumers in the EU experienced issues buying goods or services in the Single Market in 2010. Ultimately, these

¹¹ Council Directive 2013/11, 2013 O.J. (L 165) 67.

¹² Council Regulation 524/2013, 2013 J.O. (L 165) 1.

¹³ Memorandum from the European Commission, A Step Forward for EU Consumers: Questions & Answers on Alternative Dispute Resolution and Online Dispute Resolution (March 12, 2013), 2.

problems led to financial losses estimated at 0.4% of the EU's GDP. The adoption of a well-designed, available dispute resolution system could save approximately 0.19% of EU GDP, or 22.5 billion euro per year. While this figure is substantial, it only captures direct financial savings and does not include additional savings from improved business reputation, customer service, and consumer confidence.¹⁴ Tonio Borg, the Commissioner for Health and Consumer Policy, said, "ADR and ODR are a win-win for consumers...and also for traders...the agreement...will significantly improve everyday life for consumers across Europe."¹⁵ EU Member States have 24 months, or until mid-2015, to incorporate the provisions of the Directive into their national legislation. Six months following the conclusion of this period, the EU-wide online dispute resolution platform will become operational.¹⁶

ADR Programs Within New York State Unified Court System

In 1981, the New York State Unified Court System (NYSUCS) began utilizing alternative dispute resolution systems. Rather than operate its own ADR platform, the NYSUCS established the Community Dispute Resolution Centers Program (CDRCP), which provides funding to third-party not-for-profit agencies that deliver ADR services throughout the state's 62 counties.¹⁷ The Court System's Office of Alternative Dispute Resolution and Court Improvement Programs (ADRCIP) works with the CDRCs to ensure that New Yorkers have access to quality ADR services.

¹⁴ *Id.* at 3.

¹⁵ Memorandum from the European Commission, A Step Forward for EU Consumers: Commissioner Tonio Borg Welcomes Adoption of Out-of-Court Dispute Resolution (March 12, 2013), 1.

¹⁶ Memorandum from the European Commission, A Step Forward for EU Consumers: Questions & Answers on Alternative Dispute Resolution and Online Dispute Resolution (March 12, 2013), 2.

¹⁷ New York State Unified Court System, *Community Dispute Resolution Centers Program 2011-12 Annual Report* (2012), 1.

As a result of the \$170 million budget cut to the New York State Unified Court System in April 2011, resources allocated to the CDRCs were reduced from just under \$9 million for the 2010-2011 year to approximately \$5 million for the 2011-2012 year. This 41 percent decrease in funding resulted in the layoff of approximately 80 staff members, reduction in operations hours, office closures, and the consolidation of service areas.¹⁸ In 2010-2011, CDRCs served 96,056 individuals and screened 36,802 cases. Of those screened, dispute resolution processes were utilized in 19,522 cases. Of those that underwent ADR services, 75% (approximately 14,641), resulted in an agreement between the parties.¹⁹ Due to the funding reduction, these numbers decreased for the 2011-2012 year. In 2011-2012, CDRCs served 76,831 individuals and screened 30,502 cases. Of those screened, dispute resolution processes were utilized in 16,313 cases. Of those that underwent ADR services, 74% (approximately 12,071), resulted in an agreement between the parties.²⁰ Approximately 2,600 fewer CDRC cases were resolved in 2011-2012 than in 2010-2011. The most common matters brought to CDRCs in 2011-2012 were civil matters, followed by custody and divorce matters and public welfare and benefit matters.²¹

The reduction in ADR services due to decreased funding has impacted individuals statewide and in New York County. CDRCs were able to serve 4,812 New York County residents and resolve 820 matters through dispute resolution services in 2010-11.²² In 2011-12, CDRCs served 4,174 New York County residents and resolved only 646 matters through dispute

¹⁸ Doug Van Epps, *Public Funding of Community Dispute Resolution Centers*, A.B.A. DISPUTE RESOLUTION MAGAZINE 19 2013, 8.

¹⁹ New York State Unified Court System, *Community Dispute Resolution Centers Program 2010-11 Annual Report* (2011), 5.

²⁰ New York State Unified Court System, *Community Dispute Resolution Centers Program 2011-12 Annual Report* (2012), 1.

²¹ *Id.* at 2.

²² New York State Unified Court System, *Community Dispute Resolution Centers Program Statistical Supplement 2010-2011* (2011), 15.

resolution services.²³ CDRCs were able to resolve only 470 civil matters in 2010-11.²⁴ However, that number decreased to 421 in 2011-12.²⁵

Over 1,300 New Yorkers presently volunteer their time to mediate CDRCP cases. These individuals have been certified after completion of 30 hours of training and subsequent apprenticeships.²⁶ In addition to established mediators, attorneys, and other professionals throughout the state who would not require further training, these individuals would be employed to provide volunteer ODR services. Additionally, law students could be trained by professors through clinical programs to provide ODR services at no cost.

An online platform for dispute resolution would be consistent with other technology-based reforms made by the New York Courts in recent years, including the online Do-It-Yourself (DIY) Form program and the expansion of e-filing.²⁷ An ODR system can be accessible to New Yorkers because of the State's commitment to providing all residents with high speed, accessible Internet access.²⁸

In 2011, 1,535,214 civil cases were filed throughout New York State's trial courts. Many of these cases, including consumer debt matters, could be resolved through ODR, thus lifting a burden from the court system. The Civil Court of the City of New York handles approximately 25% of filings in the New York State Court System with only 6% of the court system's total work force. An average of 600,000 cases are filed in the City's Civil Court general Civil Part

²³ New York State Unified Court System, *Community Dispute Resolution Centers Program Statistical Supplement 2011-12* (2012), 10.

²⁴ New York State Unified Court System, *Community Dispute Resolution Centers Program Statistical Supplement 2010-2011* (2011), 24.

²⁵ New York State Unified Court System, *Community Dispute Resolution Centers Program Statistical Supplement 2010-2011* (2012), 19.

²⁶ New York State Unified Court System, *Community Dispute Resolution Centers Program 2011-12 Annual Report* (2012), 2.

²⁷ New York State Unified Court System, *Annual Report 2011* (2011), 7-10.

²⁸ New York State Agencies, New York State Broadband Program Office, *NYS Goals for Broadband Development and Adoption*, available at <http://nysbroadband.ny.gov/broadband-goals> (last visited July 12, 2013).

annually, due in substantial part to the high volume of consumer debt cases.²⁹ In 2010, debt collection lawsuits accounted for 201,126 of the City's Civil Court filings with 58% of cases resulting in default judgments, resulting in consequences such as garnished wages and frozen bank accounts.³⁰ The inability to reduce meaningfully the voluminous number of civil cases filed warrants consideration on a pilot basis of an ODR platform that would provide an alternative to litigating these hundreds of thousands of cases in court.

²⁹ New York City Civil Court, New York State Unified Court System, *Civil Court History*, available at <http://www.nycourts.gov/courts/nyc/civil/civilhistory.shtml> (last visited Aug. 1, 2013).

³⁰ New York City Bar, *Report on Legislation by the Consumer Affairs and Civil Court Committees* (2013), 1.

